Die Konzentration in der Wirtschaft

On Economic Concentration

Herausgegeben von Helmut Arndt

Schriften des Vereins für Socialpolitik

Gesellschaft für Wirtschafts- und Sozialwissenschaften

Neue Folge Band 20/II

Zweite, völlig neu bearbeitete Auflage

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Konzentrationstendenzen und Konzentrationspolitik
— Spezielle Probleme der Konzentration —
Konzentration als politisches und gesellschaftliches Problem

Tendencies of Concentration and Concentration Policy
— Spezial Problems of Concentration — Concentration as a
Problem in Politics and Society

DUNCKER & HUMBLOT / BERLIN 1971

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von

Helmut Arndt

unter redaktioneller Mitarbeit von Hans-Jürgen Scheler

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Gedruckt 1971 bei Berliner Buchdruckerei Union GmbH., Berlin 61
Printed in Germany
ISBN 3 428 02380 3

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IV.

Konzentrationstendenzen und Konzentrationspolitik in ausgewählten Ländern und in der EWG

Tendencies of Concentration and Concentration Policy in Selected Countries and in the E. E. C.

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Economic Concentration and Concentration Policy in Australia

By *V. G. Venturini*, Brisbane

I.

Mergers are often regarded as the major vehicle of economic concentration. Probably more important than any other single factor in the trend towards economic concentration in Australia are the mergers and take-overs that have taken place in recent years, for they have been carried out—with a comfortable sense of impunity—in the awareness that at the present time any merger is legal.

Under the influence of the United States example[1] an antimonopoly law was enacted in the early days of the Commonwealth.[2] However, the Act did not contain provisions for the regulation of mergers.[3]

It is impossible even to attempt, in a 'catalogue raisonné' of this size, to describe the misfortunes of the *Australian Industries Preservation Act*. Its constitutionality was first—and successfully—challenged in the case of *Huddart Parker & Co. Pty. Ltd.* v. *Moorehead*,[4] where it was held in conflict with s. 51 (xx) of the Federal Constitution,[5] "a paragraph [which] has been the subject of so much difference of judicial opinion that, beyond saying that it has a narrow meaning, it is quite uncertain what power it confers [on the Federal Parliament]. It is probable that the Commonwealth Parliament is not authorized to legislate generally with respect to the range of matters which are normally included in the

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[1] See: *Sherman Antitrust Act*, 26 Stat. 209 (1890); 15 U.S.C. Sec. 1—7.

[2] See: Commonwealth of Australia, *Australian Industries Preservation Act*, [No. 9 of] 1906.

[3] Even in the United States these came later with the *Clayton Act*, 38 Stat. 730 (1914); 15 U.S.C. Sec. 12—27 and were subsequently strengthened by the *Celler-Kefauver Antimerger Act*, 64 Stat. 1125 (1950); 15 U.S.C. Sec. 18.

[4] See: C.L.R., vol. 8 (1909), p. 330.

[5] "The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth." The Commonwealth of Australia, Constitution Act, 63 & 64 Vic., c. 12 (hereinafter cited as Constitution).

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Companies Acts of the States."[6] The judgement in that case made it clear that the Commonwealth could not rest its power on the 'corporations' power and would thus have to rest it on a restricted 'commerce' power and—by so doing—much of the effectiveness of the statute would be removed. It was an unnecessarily restrictive construction of the law and one which attracted much criticism.[7] This is not the only constitutional problem; serious difficulties derive from the interpretation given to section 92 which provides that "on the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free..."[8]

Legislation to prohibit restrictive trade practices was regarded as "consistent with the freedom of trade which Section 92 postulate" by the 1959 Report from the Joint Committee on Constitutional Review.[9] The Committee also recommended the reconstitution of the Inter-State Commission, inoperative for many years.[10] But the suggestion fell on deaf ears!

By 1913, with the decision in *Attorney-General for the Commonwealth of Australia* v. *Associated Northern Collieries,*[11] the willingness of the common law courts to assume that an agreement reasonable in the interests of the parties is also reasonable in the interest of the public had virtually sanctified the right of every individual to trade by means of his own choice.[12] The unwillingness of the government effectively to use the available legislation—particularly as amended[13]—was blatant.[14]

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[6] See: Appendix C to Commonwealth of Australia, Report from the Joint Committee on Constitutional Review—1959, Canberra 1959, para. 133.

[7] See for all: *G. Sawer,* Australian federalism in the courts, Melbourne 1967, p. 206, and *G. Sawer,* Cases on the Constitution of the Commonwealth of Australia, Sydney 1964, p. 430.

[8] See also: section 99 which provides that: "The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof", section 100 by which the Commonwealth is prevented from abridging the right of a State or of the residents therein to use waters of rivers for conservation or irrigation, and section 98 by which Parliament's power to make laws with respect to trade and commerce is extended to navigation and shipping, and to state railways.

[9] See: Report supra note 6, para. 871.

[10] On the fate of the Commission see: Report, supra note 6 para. 867, and *G. Sawer,* Australian federal politics and law 1901—1929, Melbourne 1956, at pp. 92, 152—153 and 204.

[11] C.L.R., vol. 14 (1911), p. 387. On appeal to the full High Court of Australia *sub nomine: Adelaide Steamship Co. Ltd.* v. *The King and the Attorney-General for the Commonwealth of Australia* C.L.R. vol. 15 (1912), p. 65, and to the Privy Council: *Attorney-General of the Commonwealth* v. *Adelaide Steamship Co. Ltd.,* C.L.R., vol. 18 (1913), p. 30.

[12] C.L.R., vol. 18 (1913), pp. 30 at 38, 39, 51 and 51—52.

[13] See: *Australian Industries Preservation Act,* [No 29 of] 1910.

[14] See: *G. de Q. Walker,* Australian monopoly law, Melbourne 1967, at p. 31.

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Defeated in the courts, successive federal governments resorted to constitutional amendment[15] in 1911,[16] 1913[17] and 1919[18] to gain additional powers over monopolies. They all failed—although very narrowly in 1919.[19] In 1926 the *Bruce-Page* Government made a further effort to extend the 'corporations' power and to convince the federal electors that the Commonwealth should have a power over combinations, trusts and monopolies in restraint of trade. The electors decisively repudiated these proposals.[20] In 1929, the Royal Commission on the Constitution recommended an appropriate amendment;[21] but there were also dissenting voices.[22] A 1944 referendum was equally unsuccessful. As *Sawer* concluded: "Constitutionally speaking, Australia is the frozen continent."[23]

Five Australian states have some form of anti-monopoly legislation;[24] yet none has antimerger provisions, and every one is a pale reflection of the Sherman Act type prohibitions.[25]

In 1964 the result of *Redfern* v. *Dunlop Rubber Australia Ltd.*,[26] the only other case since 1913, seemed to have extended the reach of the law, though it is hard to appreciate how far in view of previous decisions.[27]

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[15] See for all: *C. Joyner,* The Commonwealth and monopolies, Melbourne 1963.

[16] Ibid., at p. 13.

[17] Id., at p. 43.

[18] Id., at p. 62.

[19] An amendment of the Constitution would require a referendum of the people which would have to be won in a majority of states and with an overall majority throughout the Commonwealth. 26 amendments have been put by this procedure. Only 5 have passed. See: Constitution, s. 128.

[20] See: *G. Sawer,* Australian federal politics and law 1901—1929, Melbourne 1956, at pp. 280—281.

[21] See: Commonwealth of Australia, Report of the Royal Commission on the Constitution, Canberra 1929, pp. 273—274, as cited in Report, supra note 6 para. 795.

[22] Id., at pp. 298—299.

[23] See: *G. Sawer,* Australian federalism in the courts, Melbourne 1967, p. 208.

[24] See: New South Wales *Monopolies Act,* [No. 54 of] 1923, as amended and *Industrial Arbitration Act* [No. 2 of] 1940; recently New South Wales has enacted a *Consumer Protection Act* [No. 28 of] 1969 which commenced on 1 July 1969; Queensland *Profiteering Prevention Act* [No. 34 of] 1948, as amended; South Australia *Fair Prices Act,* [No. 1655 of] 1924, as amended, and *Prices Act,* [No. 2 of] 1948, as amended in 1963; Victoria *Collusive Practices Act* [No. 7353 of] 1965; Western Australia *Unfair Trading and Profit Control Act* [No. 30 of] 1956, amended by the *Unfair Trading and Profit Control Act Amendment,* [No. 47 of] 1958 and given the title of *Monopolies and Restrictive Trade Practices Control Act,* 1956—1958. The Act was then repealed and replaced by the *Trade Associations Registration Act,* [No. 79 of] 1959.

[25] See: *G. Barwick,* Some aspects of Australian proposals for legislation for the control of restrictive trade practices and monopolies, Canberra 1963, p. 15.

[26] See: [1964] *Argus Law Reports* 618.

[27] See: *King* v. *Gates and another; Ex parte Maling,* C.L.R., vol. 41 (1928),

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It can be said then that, despite the many legislative attempts to enforce competition, the economic life of Australia—at least in the first sixty-five years of federation—has been developing under protectionist policies giving rise to little concern that the country would become a breeding ground for monopolies. Protection might have been justified only in the early years of federation when it was a common complaint, in and out of Parliament, that 'infant industries' were in danger of falling into the hands of foreign corporations, particularly those of United States origin, as indeed had happened in the petroleum, tobacco and beef industries.

Recently, two unrelated events stimulated new interest in restrictive trade practices. One was the tabling of the Report on Constitutional Review, and the other was the wave of take-overs which began over ten years ago and has become a remarkable feature of the last years on the Australian stock exchanges—the years of the economic conquest of the country by international, more than internal, interests.

It had become even clearer by that time that legislation against restrictive practices was imperative in a country like Australia, by the smallness of the market highly prone to monopoly and oligopoly and afflicted by the presence of many trade associations, the normal vehicle to restrictions. They are euphemistically called 'orderly marketing'. This covers a wide range of business, including automotive parts, batteries, bread, building, carriers, catering, concrete, confectionery, decorating, dry-cleaning, electrical goods manufacture as well as distribution and installation, fibrous plaster, film exhibition, fluorescent tubes, footwear manufacture and distribution, fruit-growing, furs, glass and glass products, groceries, hair-dressing, hardware, ice manufacture, insurance, lifts, masonry, milk production and distribution, non-ferrous metals, nurseries, painting, pastry-making, petroleum products, pharmaceutical products, plumbing, printing, quarrying, radio valves, roofing tiles, rope and cordage, sporting goods, tanning, timber, tobacco, wool-broking.[28]

The precise number of trade associations in each State[29] or throughout Australia[30] was not known until the Reports of the Commissioner of Trade Practices were rendered public.[31]

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p. 519; *King* v. *Burgess; Ex parte Henry,* C.L.R., vol. 55 (1936), p. 608; *Wragg* v. *State of New South Wales,* C.L.R., vol. 88 (1953), p. 353.

[28] See: *A. Hunter,* Restrictive practices and monopolies in Australia, Economic record, vol. 37 (1961), p. 25. The article has been reprinted in *H. W. Arndt* and *W. M. Corden,* The Australian economy, Melbourne 1963, pp. 268 et seq.

[29] See: *A. Hunter,* supra note 28 at p. 30; see also: *A. Hunter,* Curbing monopoly, Dissent vol. 3 (No. 2) (1963), pp. 16 at 18; Western Australia, Report of Honorary Royal Commission on Restrictive Trade Practices and Legislation, 1958, Perth 1958; *R. D. Freeman,* The origins, objects, functions and economic impact of employers' associations in Victoria 1840—1958, B. Comm. thesis—

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Another restrictive factor is the tariff,[32] reinforced by import controls.

In March 1960 the Federal Government announced its intention to consider the introduction of legislation to protect and strengthen 'free enterprise'. Two and a half years later—in December 1962—the then Attorney-General, Sir Garfield *Barwick*, prepared a statement to be delivered to the House of Representatives, setting out proposals for legislation. It was the result of intensive research and examination of the trade practices legislation of other common law countries—especially Canada, the United Kingdom and the United States. The plan was directed against those "practices current in the community which by reason of their restrictive nature are harmful to the public interest."[33] It was to have become a 'registration type' legislation. Unlawful practices were to be: multilateral (horizontal) arrangements, bilateral and unilateral (vertical) practices and certain kinds of mergers and takeovers of companies, firms, etc.[34] Sir *Garfield* felt that control over corporate mergers was desirable, and could be achieved, in certain circumstances:

"There is one category in [the list of the practices required to be registered] to which I must direct the attention of the House—namely, mergers and takeovers. It will be obvious enough, and, indeed, experience abroad has demonstrated, that where two or more may not lawfully agree to engage in restrictive practices, they may, by merger so as to become one entity, do the very thing that was forbidden to be done by agreement.

.....

The scheme I propose would seek to deal with the situation by providing an opportunity for intervention by the commission, established under the act, through the registrar, before the merger took place.

.....

University of Melbourne—1959 Tasmania, Report of the roval commissioner on prices and restrictive trade practices in Tasmania, Hobart 1965.

[30] See: Australia, Commonwealth Bureau of Census and Statistics, Official year book of the Commonwealth of Australia, No. 16—1923, Canberra 1923, at p. 535; and *id.*, No. 33—1940, Canberra 1940, at p. 735; *R. D. Freeman*, Trade associations in the Australian economy, Public administration, vol. 24 (1965), p. 329; *G. Barwick*, Trade practices in a developing economy, Canberra 1963, pp. 9—10.

[31] See: Commonwealth of Australia, Commissioner of Trade Practices, First Annual Report—Year ended 30 June 1968, Canberra 1968; *id.*, Year ended 30 June 1969, Canberra 1969, and Year ended 30 June 1970, Canberra 1970.

[32] See: Commonwealth of Australia, *Tariff Board Act* [No. 21 of] 1921, as amended. Literature on the Tariff is voluminous. For some references, see: *J. B. Brigden et al.*, The Australian Tariff: an economic enquiry, Melbourne 1929; *D. F. Nicholson*, Australia's trade relations, Melbourne 1955 and *A. J. Reitsma*, Trade protection in Australia, Brisbane 1960. See also: *W. M. Corden*, The Tariff, in: *A. Hunter* (ed.), The economics of Australian industry, Melbourne 1963, p. 174.

[33] See: Commonwealth of Australia, Parliamentary debates, House of Representatives, 6 December 1962, vol. 37, Canberra (1962), at p. 3103.

[34] Ibid., at p. 3105.

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It will be apparent that if such a scheme were so universally applied as to require examination of every merger or take-over, however small the assets or capital involved, it might well become unmanageable. Accordingly, all mergers or take-overs which did not involve more than a certain aggregate amount of capital or assets would be excluded. I would not propose to fix that figure at present, but I would indicate that a figure of the order of £250,000 would probably be appropriate."[35]

An acute observer[36] commented:

„When the question ultimately arises as to which [approach, *i. e.* the *comprehensive* American or the *selective* British] Australia should adopt, it may prove to have no easy answer; but by examining the *backgrounds which have given rise to such differing solutions* and contrasting the actual legislative provisions involved, it is possible to develop criteria by which the projected legislation may be judged." (Emphasis supplied)[37]

The Attorney-General had indeed *examined the background.*[38] Reaction from business circles was immediate: they protested that the legislation was oppressive and unnecessary. But the Tariff Board could tell a different story.[39]

Despite the eager activism of the Attorney-General,[40] legislation was enacted only in December 1965.[41] In March 1964 Sir Garfield Barwick had been succeeded by Billy *Snedden* as Attorney-General. Though the latter has been described as "an enthusiastic protagonist of antitrust",[42] active lobbying 'watered down' the proposed act.[43]

Antimerger provisions have been omitted altogether. The ostensible reasons were given by Snedden during the second reading speech:

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[35] See: supra note 33, at pp. 3111—3112.

[36] See: *S. P. Stevens,* Australia: an anti-trust law or a monopolies and restrictive practices act?, Melbourne University Law Review, vol. 3 (1961), p. 32.

[37] See: *S. P. Stevens,* supra note 36 at p. 32.

[38] See: Commonwealth of Australia, Australian proposals for legislation for the control of restrictive trade practices and monopolies Table I, Canberra 1963, listing practices which came directly under the knowledge of the Attorney-General.

[39] Id., Table II, listing practices reported by the Tariff Board and other official bodies.

[40] Some of his speeches have been collected and published: Some aspects of Australian proposals for legislation for the control of restrictive trade practices and monopolies, Canberra 1963; Trade practices in a developing economy, Canberra 1963; Administrative features of legislation on restrictive trade practices, Canberra 1964.

[41] See: Commonwealth of Australia, *Trade Practices Act,* [No. 111 of] 1965, as amended.

[42] See: *G. G. Pursell.* The Australian Trade Practices Act 1965, Antitrust bulletin, vol. 11 (1966), pp. 543 at 546.

[43] See: *G. de Q. Walker,* supra note 14 at p. 5. See: Four business groups seek changes, Australian financial review (18 February 1964), pp. 3 and 20. The four organizations were the Associated Chambers of Manufactures, the Associated Chambers of Commerce, the Federal Chamber of Automotive Industries and the Australian Council of Retailers.

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"Apart from the problem of devising a satisfactory criterion for deciding whether a merger or takeover should be permitted or prohibited, there is a very real problem of the mechanics by which any system of control should be implemented ... In addition ... the Government has been conscious of the developing nature of the Australian economy and the need, in our present circumstances, for businesses in some industries to be able to expand in size so as to be able to take advantage of such economies of scale as will enable them to compete effectively on world markets."[44]

Such decision has found more criticism than favour amongst writers.[45] Recently a commentator put it this way: "May one ask whether this Act is not yet another frightening example of Parliament finding that it has not the wit, or perhaps the patience, or even the courage, to say what it really intends, in language which the subject can understand?"[46]

In fact, as early as in 1963 *Hunter* had warned that "the degree of concentration of Australian industry is great and before it becomes much greater, by process of merger, we certainly should set in motion some machinery which examines proposed mergers against the background of technology, economies-of-scale, advantage to the economy and the presence or absence of competition."[47]

II.

No specific and comprehensive study of concentration in Australian industry exists. But there is no reason to believe that the degree of industrial concentration is less in Australia than in the United Kingdom[48] or the United States.[49] As mentioned earlier, the smallness of the

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[44] See: Commonwealth of Australia, Parliamentary debates, House of Representatives, 19 May 1965, vol. 46, Canberra (1965), at p. 1656.

[45] See: *M. Brunt,* The Trade Practices Bill. II. Legislation in search of an objective, Economic record, vol. 41 (1965), p. 357; *J. Hutton* and *J. P. Nieuwenhuysen,* The Trade Practices Bill. III. The tribunal and Australian economic policy, Economic record, vol. 41 (1965), p. 387; *J. E. Richardson,* The Trade Practices Bill. I. The Legal framework, Economic record, vol. 41 (1965), pp. 341 at 354.

[46] See: Comments by *McEwin,* a delegate to the 14th Legal Convention of the Law Council of Australia, on a paper presented by *C. C. Trumble,* The Trade Practices Act Part 2. The public interest, Australian Law Journal, vol. 41 (1967), pp. 310 at 326.

[47] See: *A. Hunter,* Curbing monopoly, Dissent, vol. 3 (No. 3) (1963), pp. 23 at 24.

[48] See: *H. Leak* and *A. Maizels,* The structure of British industry, Journal of the Royal Statistical Society, vol. 108 (1945), p. 142, and *R. Evely* and *I.M.D. Little,* Concentration in British industry, London 1960.

[49] For the views of a number of economists, see: United States, Senate Hearings before the Sub-committee on antitrust and monopoly of the Committee of the Judiciary, Economic concentration, Part I, 88th Cong., 2nd Sess. (Washington, D.C. 1964); *M. A. Adelman,* The measurement of industrial concentration, 1940—1947, Rev. of ec. and stat. vol. 33 (1951), p. 269; *R. L. Nelson,* Concentration in the manufacturing industries of the United States,

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Australian market and its protection from import competition encourage an even greater degree of concentration than in the United Kingdom or the United States.

In 1956 *Penrose,* a visiting American scholar, observed that "[t]here is a very high degree of 'concentration' in the economy—the largest seventy-five firms owning nearly 45 % of the total fixed assets in manufacturing. [footnote omitted] The steel industry and the glass industry are each in the hands of a single firm, 70 % of the paper industry is in the hands of another, 50 % of the rubber industry is in the hands of still another, and so on for many important industries."[50]

Penrose added that her calculation of the degree of concentration was made by taking the largest manufacturing firms listed on the stock exchanges and comparing their fixed assets net of depreciation with the net fixed assets in manufacturing as given by the Commonwealth Statistician. Because some subsidiaries of foreign firms did not publish balance sheets there was no information about their fixed assets, and for this reason Penrose thought her calculation was subject to a fair margin of error. But at least another test of the relative dominance of the Australian market by a very small proportion of the total number of firms operating in it corroborates her result. From income tax statistics it can be shown that, for the assessment year 1967—1968, there were 333 large companies which accounted for 42 per cent of the total taxable income of 77,630 companies, both public and private. 324 of these large companies were public; the 10,027 public companies accounted for the lion's share of all corporate taxable income—almost 70 per cent. Within this public company sector, the dominance of the 324 largest ones is even more pronounced, for they accounted for 60 per cent of all the taxable income of those ten thousand odd companies.[51]

The vehicle to the conquest of this dominant has been corporate merging.

In 1961, *Bushnell,* another American scholar, published the findings of four years' detailed study of corporate mergers in Australia.[52] The work provided the first compilation of a comprehensive and continuous series on company mergers, a lengthy list of reasons[53] and a discussion

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New Haven, Conn. 1963 and *B. Bock* and *J. Farkas,* Concentration in manufacturing, New York 1966.

[50] *E. T. Penrose,* Foreign investment and the growth of the firm, Economic journal, vol. 66 (1956), pp. 220 at 222.

[51] See: Commonwealth of Australia, Texation statistics 1967—68, second supplement to the forty-seventh report to Parliament of the Commissioner of Taxation, Parliamentary paper No. 54, Canberra 1969, at pp. 120—181.

[52] See: *J. A. Bushnell,* Australian company mergers, 1946—1959, Melbourne 1961.

[53] Id., at pp. 26 *et seq.*

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of the effects of mergers on the competitive structure and concentration of individual industries, and a brief examination of mergers and the law with some comparisons with the United States.

The findings relative to the first period from January 1947 to October 1956 were originally published in an article[54] in which the author analysed 673 mergers and noted that "[m]ergers have led to the development of an oligopolistic set-up with strong potential for monopoly advantages in three fields—container manufacturing, Melbourne milk distribution and newspaper publication. Mergers in several other fields which were oligopolistic and only slightly competitive at the beginning of the period have decreased that competition even further, especially in paper, rubber, chemicals, and banking. Mergers were most prominent in fields which were characterized by many relatively small firms at the beginning of the period, but in which several large integrated companies had taken the dominating positions, partly through mergers, by 1956. These fields—the timber industry, tanning and leather manufacturers, electrical manufacturers, pastoral suppliers and agents, and city emporiums and chains—are still competitive and mergers have probably improved their efficiency. However, the danger of mergers among these integrated firms is now great; such mergers could drastically reduce competition".[55]

The second period considered is that of 'restrained prosperity', from September 1956 to mid-August 1959.

Bushnell summed up his findings thus: "One of the outstanding features of postwar industrial and commercial development in Australia is the large number of company mergers in almost every field." Over the period 1946—1947 to 1955—1956 "the annual number of mergers quadrupled, and the annual value of acquisitions increased by sevenfold".[56]

The total number of mergers increased year by year from 1946 to a peak in 1951. At this point a sharp decline occurred, but renewed activity raised the number to a new peak in 1954. Mergers identified in the period 1947—1955 were 603. In 1947, the figure was 32, while in 1948, it was 34. By 1955, it had risen to 121.[57] The three year period 1956 to 1959 (September to September) saw 484 mergers, more than two-thirds of the number recorded in the nine year period 1947—1955.[58] Some slackening occurred in 1956, but subsequent years saw new

[54] See: *J. A. Bushnell,* Company mergers in Australia 1945—56, Economic record, vol. 33 (1957), p. 361.
[55] Ibid., at p. 375.
[56] See: *J. A. Bushnell,* supra note 52 at p. 3.
[57] Id., at p. 16, Table I.
[58] Id., at p. 180, Table VII.

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records established. For 1958, 178 mergers having a total value of £45.8 million were recorded. In 1959, 136 mergers of the value of £50.2 million were recorded up to 15 August, which marks the end of the author's investigation. The value of mergers followed the same pattern, but was influenced greatly by some very large individual mergers.

Bushnell's figures are:

Table 1

Australian Company Mergers, 1947—1959

Year	Number of mergers
1947	32
1948	34
1949	59
1950	76
1951	84
1952	44
1953	63
1954	90
1955	121
1956	112
1957	128
1958	178
1959	136

Of the 673 mergers examined by Bushnell from 1947 to 1956 less than 10 per cent had as a major cause the reduction of competition in the relevant market.[59] The same conclusion is reached for the period 1956 to 1959.[60] Bushnell quite properly distinguished attempts to limit competition from attempts to gain a competitive advantage; the latter was much more common. He noted, however, that the cases of mergers for the purpose of reducing competition generally occurred in industries already highly concentrated, and that the reason why mergers to limit competition were not very numerous was that competition was already limited by agreement, a much more satisfactory method of achieving the same result.[61]

By 1961, clearly no one could have doubted that mergers, concentration and reduction of competition in Australia are a self-perpetuating problem!

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[59] Id., at p. 77.
[60] Id., at p. 185.
[61] Ibidem.

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A 1961 study[62] indicated that the merger movement was continuing unchecked. *Potter* compiled the following table of figures from the Melbourne Stock Exchange records:[63]

Table 2

Melbourne Listed Companies and Mergers, 1955—1962

Year	Industrial companies on list	Paid up capital £M	Mergers or take-overs
1955	706	620	30
1956	711	693	28
1957	726	794	20
1958	735	852	25
1959	717	919	44
1960	721	1045	43

The author noted that since 1958, the actual number of companies listed on the Stock Exchange had declined, while the *quantum* of capital issued by the listed companies had grown by over 20 per cent. The main reason for this, he claimed, was the mergers referred to in the last column of the table. While it is appreciated that there could be many reasons for the dramatic increase in paid up capital during this period, some perhaps more important than mergers, these figures may just confirm the trend pointed out by Bushnell.

Barton made a survey of take-overs of all public companies listed on the Sydney Stock Exchange by other public companies listed on that exchange and by overseas companies, during the period 1957—1962.[64] Such a study is, of course, of limited application, because of its narrow scope, but some data confirm Bushnell's findings. The number of mergers ocurring in each year of the six-year period is shown in table 3.[65]

The year by year figures compiled by Barton for the period 1957—1962 show the same generally upward trend, but as with Bushnell's 1952 figures, occasionally there has been a reversal. There was one in 1962. The 'horror' budget of 1961 was responsible for putting a sharp

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[62] See: *W. I. Potter,* The urge to merge, Australian Accountant, vol. 31 (1961), p. 418.

[63] Ibid., at p. 419. The figures do not vary greatly from those of the Sydney Stock Exchange.

[64] See: *A. D. Barton,* Company take-overs in Australia, 1957—62, Australian Accountant, vol. 34 (1964), p. 79.

[65] Ibid., at p. 80.

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Table 3

Sydney Listed Companies Take-Overs, 1957—1962

Year	Number of mergers
1957	18
1958	28
1959	40
1960	48
1961	48
1962	18

brake on business activity—there followed several spectacular company failures, and the consequent loss of business confidence.[66]

The Australian government of course denies that there is any intervention in the economy. Indeed, Australians are encouraged to think that no intervention is needed, for there are no economic problems—just natural 'phenomena'! There seems to be an immutable law of nature whereby the economy moves at an irregular pace. The cost of maintaining this attitude is enormous. *Lydall* calculated that when the 1961 'phenomenon' took place, "Australian gross national product fell by about 5 per cent, industrial production by 11 per cent, retail sales by 5 per cent, new vehicle registrations by 30 per cent, houses and flats commenced by 20 per cent, and gross private fixed investment in plant and equipment by 15 per cent."[67]

A fair number of mergers in more recent years have been very large; of the 484 mergers identified in 1956—59, 45 were over £600,000 in value;[68] and two of the largest mergers in Australian history occurred in 1960 when two of the biggest retailing firms made substantial acquisitions. *Karmel* and *Brunt* explained why the largest firms enjoy a substantial advantage in take-over operations. They have the motivation and the means. They also can afford to pay a better price. "In a growing economy not very many large firms will have a surplus of investible funds and payment will typically be made in shares,[69] normally carrying a market value considerably above par. The use of high share premiums

[66] It was only many years later, on 19 March 1970, after some scandalous manipulations of the market had taken place, that the Senate of the Commonwealth of Australia agreed, on motion of the Leader of the Opposition Sen. L. K. Murphy, Q.C., to the appointment of a Senate Select Committee on Securities and Exchange. Senator Murphy spoke in favour of a type of regulation of share trading in public companies similar to that of the *American Securities and Exchange Commission*. The Committee was appointed on 16 April 1970.

[67] See: *H. F. Lydall*, The Australian economy, February 1962, Economic record, vol. 38 (1962), pp. 1 at 7.

[68] See: *J. A. Bushnell* supra note 52, at pp. 180 and 193.

[69] Ibid., at p. 19.

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does not in itself make an acquisition 'cheap', but it may carry with it certain associated advantages... Irrespective of what form the payment takes, however, the large firm has this key advantage over the small: in the consideration offered it is in a position to include a sum representing a partial capitalization of the monopoly, monopsony and other strategic advantages anticipated from the merger."[70]

Analysing the reasons why Australian public opinion seems more favourable to monopolies than American opinion, *Bushnell* put forward the view that the Australians tend to associate all big business with the Broken Hill Proprietary Co. Ltd., while Americans think of big business as the railway, steel and oil trusts and the fortunes they made for Harriman, Morgan and Rockefeller. There are two reasons for this difference in public opinion: 1) In most industries the Australian economy cannot support nearly as many firms large enough to use the most modern techniques of production as the larger American economy, and 2) Australia did not experience the ruthless profit-making tactics which were prevalent in the United States during the last quarter of the nineteenth century. "Australia's secondary industry developed later than America's; the states owned the railways which were historically the most obnoxious monopolists in America; labour organizations, foreign competition, modern standards of fair play, and the knowledge that governments had intervened in many other countries all helped to limit monopolistic exploitation. Nationalization, not anti-monopoly legislation, is the usual Australian answer when *laissez-faire* seems wanting.

Prest has pointed out another anti-monopoly measure: 'One very effective method of monopoly control, quite without parallel in Britain or America, has, however, been developed by the Commonwealth. This is the estabishment of Commonwealth-owned undertakings to compete with privately owned ones... Government competition represents the Australian version of the two concepts that have been developed in America, namely Workable Competition and Galbraith's theory of Countervailing Power.'[71]

Close examination reveals, however, that cases of this government competition are very few. Aside from a few wartime ventures in manufacturing which have now been sold to private enterprise, they are

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[70] See: *P. H. Karmel* and *M. Brunt*, The structure of the Australian economy, Melbourne 1962, p. 61. There is a reprinted revised edition (Melbourne 1966) to the pages of which reference is made hereinafter.

[71] See: *A. R. Prest*, The future of private enterprise, Presidential Address to Section G of the Australia and New Zealand Association for the Advancement of Science, in A.N.Z.A.A.S. Report of the twenty-ninth meeting, Sydney 1953, p. 176.

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essentially the Commonwealth Trading Bank, Trans-Australia Airlines, and the broadcasting and television stations, which do not compete in a true commercial sense since they receive their revenue from compulsory taxation. The bank and the airline are both in fields where the government itself exerts considerable control in other ways, such as special accounts and mail contracts."[72]

Writing on Australian attitudes towards economic development, *Gates* said that "[t]here is some warrant for attributing even the modest growth achievement of the Australian economy since the late 1940s more to its natural endowments and to the political stability that it has offered to foreign investor than to the kinds of skills, energies and commercial cunning that are supposed to have brought economic strength to Britain in the nineteenth century and America in the first half of the twentieth, and that are currently propelling Japan and Germany into making the pace. The corollaries are two: Australia could have done better if she had taken more active control of her destiny; and she cannot expect to maintain her position among the most affluent of peoples unless she undergoes a change of attitude."[73]

The watershed in educated Australian thinking came in 1965 with the release of the Vernon Report.[74] The Committee of Economic Enquiry, under the chairmanship of (later Sir) James *Vernon*, had been set up in 1963 when the economy was still feeling the effects of a recession which was largely attributable to too-late and too-severe federal government action to restrain the boom of 1960. The appointment of the Committee was generally seen as an attempt to ward off criticism of the government's performance in the field of economic stabilization. But by the time when the Committee's Report was presented, the economy had recovered to near-stability at full employment, and the government no longer urgently needed an answer to electoral complaints of stop-go

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[72] See: *J. A. Bushnell*, supra note 52, at p. 167. For some works on Australian public enterprise, see: *T. H. Kewley*, Australian Commonwealth Government corporations, Public administration (London), vol. 28 (1950), p. 199; *G. Sawer*, The public corporation in Australia, in: *W. G. Friedmann* (ed.), The public corporation I, Toronto 1954; *Kewley*, Commonwealth enterprises, in: *A. H. Hanson* (ed.) Public enterprise, Brussels 1954, p. 469; *Williams* and *Campbell*, State enterprises, in: *A. H. Hanson* (ed.) Public enterprise, Brussels 1954, p. 482. *Kewley*, Some general features of the statutory corporation in Australia, Public administration (Sydney), vol. 16 (1957), p. 3; *S. Encel*, Public corporations in Australia; some recent developments, Public administration (London), vol. 38 (1960), p. 235; *Kewley*, The statutory corporation, in: *Spann* (ed.), Public administration in Australia, Sydney 1962, p. 102; *Davies* (ed.), The government of the Australian states, Melbourne 1960, pp. 146—153, 184—193, 312—331, 394—403, 464—469 and 540—543.

[73] See: *R. C. Gates*, Development, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 494 at 495.

[74] See: Australia, Report of the Committee of Economic Enquiry, Canberra 1965 2 Vols.

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and stagnation. As *Cairns* noted, "The [Australian] economy moves in fits and starts, stop and go. There is 'inflation'; then 'inflation' is stopped by a 'credit squeeze'; then there is a 'recession', and finally a 'recovery'."[75]

With 'recovery just around the corner', the Committee's insistence on purposiveness instead of drift, and its occasional and mild criticisms of past policies and present policy instruments, were embarrasing to the government and uncomplimentary to its administrative advisers. Thus, in releasing the Report, the then Prime Minister, Sir Robert *Menzies*, set out to question publicly the wisdom of the Committee and to belittle its contribution to thinking on economic policy.[76]

Such incredible arrogance is even harder to justify,[77] for the Chairman of the Committee—Sir James *Vernon*—was also the Chairman of Colonial Sugar Refining Co. Ltd.[78]—hardly a coincidence, unlikely in any case to arouse the suspicion of a conservative Prime Minister![79]

On its findings the Committee reported: "The extent to which Australian manufacturing industry is competitive with that of other countries is a matter of high importance for the future growth of the economy and for the successful development of exports of manufactured goods."[80]

Having considered the comments made by a number of writers[81] on the relatively high degree of concentration of ownership of manufacturing industry in Australia, high concentration being indicated when one or a few firms supply the major part of the market in a sector, and drawn attention to the fact that manufacturing industry is relatively more concentrated in Australia than in the United States, the United

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[75] See: *J. F. Cairns*, Living with Asia, Melbourne 1965, pp. 113—114.

[76] See: Australia, Commonwealth Parliamentary Debates, 47 House of Representatives, First Session, 21 September 1965, at pp. 1078—1086.

[77] It was, however, not unusual of the former Prime Minister. Addressing a Liberal Party rally in Sydney on 7 August 1961 he said: "I have had a lot more practical experience in dealing with the economics of Australia than the theorists have. Six Cabinet Ministers are at this meeting, and not one of them is a theoretical man. The Government policy has worked. It has produced the most magnificient results. It has saved our international balances."

[78] See infra text at note 109.

[79] *G. R. Palmer* suggests that Sir James might have incurred the wrath of Sir Robert for having advocated in the Report „the setting up of a permanent advisory council along the lines of the Canadian Economic Council". Such suggestion was "totally rejected by the government on the grounds that [it] implied an undue degree of intervention in the functioning of the economy". *G. R. Palmer*, Background, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 417 at 434.

[80] See: Vernon Report supra note 74, para. 8.211.

[81] See: *A. Hunter* (ed.), The economics of Australian industry, Melbourne 1963, and *P. H. Karmel* and *M. Brunt*, The structure of the Australian economy, Melbourne 1962.

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Kingdom or Canada, and to the suggestion that the degree of concentration and the trends evident have implications for the competitive situation, the Committee observed:

"Concentration would in general be expected to be greater in Australia than in the United States or other large industrial economies by reason of the relatively small size of the Australian market and the requirement for minimum economic size of plants, particularly those of the capital-intensive type. The number of suppliers is inevitably small in certain sectors of industries such as chemicals, paper and iron and steel, and this likely to be true for a long period.

A high degree of concentration in a sector of industry cannot, therefore, be regarded as undesirable in itself; in many instances it is essential if economic and efficient manufacture is to be undertaken. The existence of high concentration, however, raises two questions which are of importance for future growth and which bear on the public interest:

— Do highly concentrated sectors of industry tend to be less vigorous and progressive, less receptive to change and innovation and, therefore, in the long run less efficient than the more dispersed sectors?

— Does the existence of high concentration permit a few companies to increase prices too readily and make unreasonable profits?

Answers to these questions could only be framed after detailed enquiry. In considering applications for tariff assistance, the Tariff Board is in a position to form judgments as to the performance of companies and, to an increasing extent, of industry groups. We think that such reviews provide the best means of testing the attitudes of companies or industry groups to innovation and competition, and of reaching conclusions as to the economic effects of concentration or dispersion. Not all sectors of manufacturing industry come before the Tariff Board, but the Board's coverage is now sufficiently wide for this mechanism to be effective.

The rapid rate of growth and the entry of overseas companies have resulted in a substantial number of new entrants and reduction of concentration in some sectors of manufacturing industry. There are, indeed, indications of some undesirable fragmentation and overcapitalization, a situation which has been commented on not infrequently by the Tariff Board as giving rise to economic inefficiency. The position in manufacturing industry as a whole is likely to remain fluid; it is difficult or impossible to predict the course of events, and still more difficult to express a general view as to the effects of changing concentration or dispersion on the economic performance of different sectors."[82]

III.

No study similar to *Bushnell's* has been attempted for the twelve year period 1959—1970. However, all available indications suggest that merger activity has continued to increase. The aim is of course market dominance.

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[82] See: Vernon Report supra note 74 paras. 8.232 to 8.235.

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What are the effects of this dominance? What are the meaning and the likely results of a situation where, in most major industries, one or two firms take the lion's share of the market and clearly set the tone for the whole industry? The meaning is, first of all, that within quite wide limits, pricing becomes not a question of meeting the requirements of the market, but of policy. As *P. T. Menzies*—financial director of Imperial Chemical Industries—was reported saying, "for a wide range of manufactures, particularly the heavier and bulkier basic products, prices can be varied over a substantial range without affecting unduly the level of activity either of the manufacturer himself or of his principal customers".[83] This is undoubtedly true of the majority of key manufacturing industries in Australia.

Substantially released from the discipline of the market by virtue of their relative size, these companies have also been substantially released from the discipline of their shareholders. Thus *Wheelwright* revealed in his investigation of one hundred and two of the largest Australian public companies, that for over 90 per cent of the group of companies, both by number and wealth, ownership and control had been separated, shareholders possessing individually insufficient shares to be able to have any substantial effect on the policies of the managers of the companies.[84] But Australian public companies are also substantially independent of the capital market for funds for expansion.[85]

As the dependence of the management of the large companies—calling as they do the tune for the industries they dominate—on the market forces of competition, on the shareholders and on the capital diminishes, what, one might ask, are the restraining forces likely to be? Is there any restraint at all?

Heinz W. *Arndt* expressed one view which has found some support among modern economists when he said: "Great as the potential power of big business is in this country, it is not the only powerful sectional interest, or 'syndicate', to use *Miller's* useful term. 'We must view the Australian political system as one in which a variety of syndicates are struggling to enjoy the favours of government.'[86] If big business uses its

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[83] See: Theology of bigness—A just price?, The economist, vol. 184 (24 August 1957), p. 642.

[84] See: *E. L. Wheelwright*, Ownership and control of Australian companies, Sydney 1957.

[85] *A. R. Hall* documented that—over the period 1946—1951—the largest Australian companies relied on the new capital market to a greater extent than was the case in the United Kingdom or the United States; between 15 and 20 per cent of the funds of the large Australian companies were obtained by the issue of new shares. See: *A. R. Hall*, Australian company finance, Canberra 1956, pp. 131—132.

[86] See: *J. D. B. Miller*, Australian government and politics, London 1954, p. 204.

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political influence, it does no more, though with a good head's start, than the other 'syndicates'. Big business, to use another recently coined concept, is subject to some restraint from the 'countervailing power' of organized labour, primary producers, small business and other groups, and not the least the bureaucracy".[87]

There is at least another restraint: the emergence of new products and new market demands which often bring forward new young giants to challenge the old.

Recent years, have, of course, seen a series of mergers and take-overs which have substantially reduced still further the degree of competition in important Australian industries. The dominance of the large companies is evident from available data; this of course is a well known fact of modern capitalist economies, and Australia is no exception. Because the Australian economy is relatively so small, their dominance and concentration in key areas are probably more pronounced than in larger economies.

For example, *Hunter*[88] found that manufacturing industry in Australia shows a greater incidence of monopoly and oligopoly than most countries. No particular measure of this 'degree of monopoly' was produced in evidence; for this is not a phenomenon amenable to precision of thought, let alone measurement. But it was possible to gain some relative measure of the extent of monopoly and oligopoly by comparing the concentration ratios of manufacturing industry with those of other countries.[89]

On the degree of significance to be given to the comparisons set out Hunter concluded[90] that, "it would appear that concentration [in Australia] is, in the oligopolized and monopolized industries... on average twice as great as in U.K., and three times greater than in the U.S.A." and that "concentration of industry in Australia has gone further than in most countries; and, perhaps more significant, very much further than in certain countries which have found it desirable to institute legislative control of big business."

There is no limit to what firms in such oligopolistic or monopolistic position may do; they will have a large discretion with respect to investment, pricing and production policy, research and innovation, product variation and advertising.

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[87] See: *H. W. Arndt,* The dangers of big business, Australian quarterly, vol. 29 (No. 4) (1957), pp. 80 at 88—89.

[88] See: *A. Hunter,* supra note 28.

[89] Hunter supplied a table which goes some way in this direction by arraying certain selected industries in order of their concentration ratios and comparing them with the appropriate census industries in the United States and the United Kingdom. See: *A. Hunter,* supra note 28, at p. 35.

[90] Ibid., at p. 37.

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Karmel and *Brunt* too investigated the concentration of economic power[91]—analytically distinct from market concentration (the extent to which a small number of large firms dominate an industry)—in a section of their book,[92] not directly concerned with matters of competition and monopoly but with the discussion of what may loosely be termed 'big business'.[93]

The authors made it quite clear that their conclusions were based on data which could not be absolutely reliable, for 1) they did not know the precise number and size of firms in Australia, 2) statistical data were not rationally gathered and processed and 3) published financial reports are notoriously uninformative, rarely showing total sales, and in some instances using such conservative valuation procedures as to be positively misleading. In addition, some of the largest firms in Australia are subsidiaries of overseas companies and no reports at all were available from these before the new Companies Acts, enacted between 1961 and 1963. Nevertheless they felt confident in listing

"a number of rough indexes of the degree of concentration within various sectors of the economy.

(i) In 1959 the first ten manufacturing companies listed on Australian Stock Exchanges accounted for over 18 per cent of manufacturing[94] fixed assets,[95] the first 25 for over 25 per cent.[96]

(ii) In 1961—62 the four largest retailing organizations probably handled between 8½ and 9½ per cent of total retail sales.[97]

(iii) In 1960 the four largest mining firms accounted for roughly 30 per cent of the value of mine output (exmine, excluding primary treatment).[98]

(iv) In 1961 the four largest financial enterprises owned around 40 per cent of total assets in the financial sector.[99]

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[91] See: *P. H. Karmel* and *M. Brunt*, supra note 70.

[92] Id., chapter 3 on business organization.

[93] See also: *E. L. Wheelwright*, Bigness in business, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 463 et seq.

[94] The term includes newspaper publishing but excludes public utilities.

[95] The expression means the depreciated value of land, buildings, plant and machinery: for the firms as reported in their balance sheets, for the aggregate as reported in the factory statistics.

[96] The corresponding percentages for 1951 are over 16 per cent and over 24 per cent.

[97] This figure must be approximate since two of the organizations did not publish their sales.

[98] Computed on the basis of information published in Department of National Development, The Australian mineral industry 1960, Review Canberra 1961.

[99] The Australian assets of the leading financial enterprises were obtained for the most part from published financial reports. *R. F. Henderson*, The Australian share market revisited, [1961] Growth (September 1961), pp. 13 at 14. The computation was made for 31 May 1960.

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(v) In 1960 the first 27 quoted public companies accounted for 42 per cent of total market value of ordinary shares quoted on Australian Stock Exchanges.[100]

It is a fact of the greatest significance in Australian industrial organization that the high concentration of economic power is largely a reflection of the high degree of market concentration; it is to a much lesser extent the reflection of diversification and financial empire-building. This is not to deny that there are examples of financial holding companies, or that in the last decade the activities of large firms have not become increasingly diversified. It is simply to stress that in Australia over the last twenty-five years Big Business and positions of market dominance have gone hand in hand. The one has served to reinforce the other."[101]

All but one of the fifteen largest companies listed by the authors possess a high degree of monopoly or monopsony in one or more important markets.

"From information readily to hand a somewhat different test is also possible. This is to examine the activities of the 20 largest listed manufacturing firms (again, largest in terms of total assets at 1961 balancing date).[102] It turns out that every firm, with the possible exception of [one] is a monopolist of a leading product or is a leading firm in a fairly concentrated industry (defined ... as one in which the first 8 firms account for at least 50 per cent of employment)."[103]

"In Australia a handful of firms, certainly no more than a couple of hundred, dominate the private sector of the economy"—observed *Karmel* and *Brunt*.[104]

"It would be simple-minded to suggest that it is this handful of large firms which 'really' controls government policy and public opinion. For one thing other pressure groups exist, notably labour and agriculture, and to a lesser extent small business. For another, the interests of Big Business are too diverse for there to be a single coherent voice—at least on many concrete

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[100] See also the revised table of the first twenty-five manufacturing, mining and trading companies: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 152—154.

[101] Some evidence for these propositions is offered in a table (see: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 58—59) which shows the activities of the 15 largest manufacturing and distribution companies listed on Australian Stock Exchanges in 1961. See: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 55—57.

[102] These were (in order) The Broken Hill Pty. Co. Ltd., The Colonial Sugar Refining Co. Ltd., Imperial Chemical Industries of Australia and New Zealand Ltd., British Tobacco Co. (Australia) Ltd., Australian Consolidated Industries Ltd., Australian Paper Manufacturers Ltd., H.C. Sleigh Ltd., John Lysaght (Australia) Ltd., Carlton and United Breweries Ltd., Tooth and Co. Ltd., Dunlop Rubber Australia Ltd., Felt and Textiles of Australia Ltd., Ready Mixed Concrete Ltd., Electronic Industries Ltd., Metal Manufacturers Ltd., Associated Pulp and Paper Mills Ltd., Olympic Consolidated Industries Ltd., John Fairfax Ltd., Clyde Industries Ltd., and McPherson's Ltd.

[103] See: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 57—60.

[104] Id., at p. 62.

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issues, if not on the predominantly 'free enterprise way of life'. Nevertheless a situation does exist where the success of crucial aspects of government policy may be dependent upon the cooperation of a small number of large firms; and consequently it is not uncommon on a number of issues to find Government and Business (or the relevant section of Business) bargaining on somewhat equal terms. Nor is it fanciful to suggest that, to an unusual extent in a developed economy, a handful of men are in positions of very great economic and political power; and that quite irrespective of how they use that power, they are accountable to no one. Wheelwright established that in 1953 less than 200 family groups (directors and their families) owned 10 per cent of the capital in his 102 large firms,[105] and there is no doubt that they would have controlled a considerably higher percentage."[106]

The economic consequences of 'big business' are seen in its effects upon the availability of business opportunity and upon the nature of the competitive process. Generally speaking, the competitive advantages of the large firm stem chiefly from its financial strength but partly also from the leverage obtained through its presence in more than one market. Having examined the special factors at work in the economy which give this general proposition a particular meaning in the Australian context, the authors stated that the leading firms in a number of strategic industries have established positions of virtually impregnable strength, at least as far as conquest by domestic firms is concerned.

Karmel and Brunt concluded that, on certain definitions, one-third of Australian manufacturing industry is highly concentrated and one-half is at least fairly concentrated. About thirty-two industries were identified as highly concentrated.[107]

"Of these thirty-two cases,—*Hunter* commented—[108] fourteen old-fashioned, single firm monopolies can be identified. The term old-fashioned is used since single firm monopoly, in most industrial countries, occurred only in the nineteenth century and has since largely disappeared. The fourteen include the basic steel industry, the steel-sheet industry, refined sugar, glass and glass products, newsprint, heavy paper and paper board, industrial gases, explosives, etc. These monopolies are among the longer-established of Australian industries; and they are mainly Australian-owned.

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[105] See: *E. L. Wheelwright*, supra note 84, at p. 118.

[106] See: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 62—63.

[107] See: *P. H. Karmel* and *M. Brunt*, supra note 70, at pp. 78—79. The situation was no better in other fields. The financial sector was highly concentrated (*Ibid.*, at pp. 27—32). In commercial banking 7 banks held 90 per cent of total assets; in savings banking 4 banks (3 government) held almost 90 per cent of total assets; in life insurance the leading 5 offices held around 90 per cent of total assets. The first 8 hire-purchase companies accounted for over 85 per cent of the balances outstanding. Throughout the economy, one did not have to go beyond the largest three firms in order to account for at least 50 per cent of the industry's business. (*Id.*, at p. 66). For agriculture, see at pp. 66 et seq. for mining—highly concentrated—, see at pp. 69 et seq., for retailing—also highly concentrated—, see at pp. 72 et seq.

[108] See: *A. Hunter*, supra note 29, at p. 16.

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The remainder of the thirty-two highly concentrated industries are oligopolized. A small number are Australian-owned, such as brewing, newspapers and shipbuilding. The majority of our oligopolists however are subsidiaries of overseas firms. The most notable examples are in the motor vehicle industry, chemicals, tobacco, paint, soap, petroleum and agricultural equipment. The large overseas firm, with its ample capital resources, access to new products, to licences and exchange of patents, to superior technology and marketing techniques has experienced little difficulty during the post-war expansion in establishing itself as one of a few dominating producers in these industries.

It may be argued that these firms are harmless monopolies since they are small by comparison with many overseas firms. It is true they are smallish. The [Broken Hill Proprietary Co. Ltd.] has only 72nd place in a list of the world's one hundred largest companies; and the [Colonial Sugar Refining Co. Ltd.] doesn't quite qualify in this list."

This, of course, is no longer true now. Throughout the years those two companies have made remarkable steps up the ladder!

Table 4

Ranking of the Australian Companies Included in the 200 Largest Industrial Companies Outside the U.S.[109]

	1961	1962	1963	1964	1965	1966	1967	1968
B.H.P.	72	77	35	38	37	51	49	31
C.S.R.	—	97	71	87	89	101	92	85

Hunter's comments were written in 1963, based on evidence which is now almost ten years old. To what extent has the situation changed? The evidence of the dominance of large companies in the economy, and broad sectors thereof, deduced from the latest taxation statistics, and already noted,[110] indicates that overall, the situation is much the same. As might be expected the number of large firms, defined in terms of taxable income of a million dollars and over, has increased, for a number of reasons. These include the simple fact of the economic growth of long standing firms, so that more have now reached the defined size, coupled of course with some erosion of the value of money in the intervening period; the fact that there have been a large number of mergers and take-overs, often involving overseas companies; and the fact that new

[109] See: *Fortune*, infra note 140, years 1962—1969.
[110] See text supra at note 51.

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large companies have come into existence, sometimes in industries that hardly existed before, such as petro-chemicals and aluminium. Consequently whereas in 1961, Karmel and Brunt referred to some 200 large companies dominating the private sector, the number now would be closer to some 300.

An 'Anatomy of Australian manufacturing industry' prepared by *Wheelwright* and *Miskelly*[111] bears out some interesting facts. The results of their study on 299 companies are set out in the following table elaborated from the authors' work to take into account Australia's conversion to the decimal system in 1965[112].

Evidence here of a very high concentration of ownership is ample for the twenty largest holdings for each company when aggregated account for 57.7 per cent of total shareholders' funds, *i.e.*, 3,683 holdings out of the many thousands of holdings have almost three-fifths of the equity. The 299 largest holdings alone account for two-fifths, or A$1,670 million. The major reason for this heavy concentration is the extent of overseas ownership.[113] Overseas companies owned A$1,480 million, or 36 per cent of the total shareholders' funds of A$4,108 million held in 299 companies. This foreign equity was held in 193 companies, the remaining 106 having negligible foreign ownership—less than one per cent. 108 of the 193 companies were British owned (45 wholly) and 74 were American owned (40 wholly); 47.5 per cent of all companies were wholly owned, 41.7 per cent of 'British' companies were wholly owned, and 54 per cent of 'American' companies were wholly owned. In these large companies there was therefore a significant difference between the U.K. and the U.S.A. in the pattern of outright ownership of the equity. Also more of the U.S.A. companies were majority owned (58 out of 74, or 79 per cent) than was the case with U.K. companies (61 out of 108, or 57 per cent). It follows that there were more minority British holdings than American, and this was concentrated in holdings of less than 20 per cent; however, this category was relatively unimportant as it accounted for only about A$46 million of the total foreign equity.

Although there were fewer American companies than British, they owned the same foreign equity, A$704 million each in each case. 47.6 per cent of the foreign equity was American and 47.6 per cent British. The great concentrations of American capital were in petroleum and chemicals (A$198 million) and non-ferrous metals (A$72 million), in

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[111] See: *E. L. Wheelwright* and *J. Miskelly*, Anatomy of Australian manufacturing industry, Sydney 1967.

[112] See: Commonwealth of Australia, *Decimal Currency Board Act* [No. 94 of] 1965 and *Currency Act* [No. 95 of] 1965.

[113] Adapted from *E. L. Wheelwright* and *J. Miskelly*, supra note 111, at p. 18.

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agricultural equipment (A$44 million), and—by far the largest—in motor vehicles (A$242 million). The largest concentration was in food processing (A$44 million). British equity was concentrated in petroleum and chemicals (A$198 million), non-ferrous metals (A$90 million) and iron and steel (A$80 million), electrical engineering products (A$44 million), and food processing (A$66 million) and textiles (A$46 million).[114]

The foreign equity was heavily concentrated, 54 per cent of it being held by 10 per cent of companies having overseas ownership (20 out of 193). Ten of the twenty companies were American, and ten British owned, but the ten American companies accounted for A$466 million or 58 per cent of the total equity held by these 'giants'. Only 18 of the Australian owned controlled companies were in this 'giant' category, with shareholders' funds in excess of A$20 million, but the two largest were very large indeed. Broken Hill Proprietary had A$476 million, and Colonial Sugar Refining A$170 million (parent company only).

"It would appear—remarked Wheelwright and Miskelly—that those who write in terms of 'The sixty families who own Australia',[115] are describing an era which is long past, at least as far as the big companies in Australian manufacturing industry are concerned. If any single category can be said to 'own' these, the most likely candidate is the overseas companies . . ."[116]

In 1968 *Sheridan* published the results of a survey encompassing one hundred and four manufacturing industries employing about 60 per cent of the national work force.[117] The study dealt with 1961—1962 statistics. The findings showed that the high level of concentration remained and —when compared with *Hunter's*[118] or *Karmel* and *Brunt's* figures[119] where applicable—the trend in certain industries appears to have been towards greater concentration.[120]

As the author writes, "Australian manufacturing industries provide several examples of text-book type monopoly and duopoly."[121] Six single-firm monopolies and an equal number of two-firm duopolies,

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[114] Adapted from *E. L. Wheelwright* and *J. Miskelly,* supra note 111, at p. 21—22.
[115] See: *E. W. Campbell,* The 60 rich families who own Australia, Sydney 1963.
[116] See: *E. L. Wheelwright* and *J. Miskelly,* supra note 111, at p. 43.
[117] See: *R. B. Sheridan,* An estimate of the business concentration of Australian manufacturing industries, Economic record, vol. 44 (1968), p. 26.
[118] See: *A. Hunter,* supra note 28.
[119] See: *P. H. Karmel* and *M. Brunt,* supra note 70.
[120] The conclusions of Sheridan's investigations have been tabulated at p. 41.
[121] Ibid., at p. 31.

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representing together 7 per cent of employment in the 104 industries considered and 4.2 per cent of the total manufacturing work force in 1961—62, were identified. During 1961—62, monopolies and duopolies employed 17.7 per cent of the work force of the 104 industries. Oligopolistic industries—whether high, moderate or low—were found to be very common in Australia. They accounted for 47.1 per cent of the industries considered and employed 35.1 per cent of the work force of the 104 industries. As much as 52.8 per cent of the work force was employed in monopolistic, duopolistic or oligopolistic industries.

Such high degree of concentration was reached through restrictive practices. Although the real extent of such practices is much larger than indicated in the available sources on which Sheridan's study is based, the author acknowledged that it is not surprising to discover that many examples of restrictive practices have been detected in industries with relatively low concentration ratios.[122]

Table 5

Summary: Ownership (Twenty Largest Holdings) of all Companies (1965)

Category	Shareholders' funds A$ million	% of total shareholders' funds
Companies	1,748	42.6
Persons	266	6.4
Financial institutions	246	6.0
Nominees	110	2.7
Twenty largest holdings	2,370	57.7
Largest holding	1,670	40.6
Overseas	1,480	36.0
Total shareholders' funds	4,108	100.0

"Where high concentration is not available to encourage parallelism of policy, price leadership, etc., it is only to be expected that an industry will fall back on restrictive agreements if the legal position permits.

In practice there may be some examples of concentrated industries which are competitive. The widespread existence of a high degree of monopoly power in the broad sense of the term in Australian manufacturing industries is nevertheless indisputable."[123]

The most recent work on concentration in the manufacturing industry has not yet been published; the latest year covered is 1963—64.[124] Its major conclusion is that there has been little change in the level of concentration in Australian manufacturing industry as a whole in the

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[122] See: *A. Hunter*, supra note 28.
[123] See: *R. B. Sheridan*, supra note 117, at p. 32.
[124] See: *P. Brown* and *H. Hughes*, The market structure of Australian manufacturing industry, 1914—1963—64, a paper read at the 40th Congress of the

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previous fifty years. Some industries have become more concentrated, others less so.

In their study *Brown* and *Hughes* write that "concentration of ownership of industry [in Australia], suggests that there is also a strong tendency towards vertical integration, horizontal cross ownership of industries, and an overlap between the ownership of manufacturing and other, notably service, firms,[125] all supported by interlocking directorships.[126] This too might be expected to restrict the mobility of factors of production by distorting the competitive mechanism."[127]

Although in Australia, as in other countries, there is no simple correlation between concentration and the degree and nature of competition,

"[i]t is generally accepted that Australian industry is particularly, and probably exceptionally, prone to restrictive practices in those sectors of industry in which large numbers of firms operate.[128] Sub-groups in which more than 30 plants are required to account for 80 per cent of the work force, that is sub-groups employing some 70 per cent of the total work force, are prone to trade association and other price and marketing agreements[129] which can impair competition as effectively as concentration. Such practices are as much in the Australian tradition as monopolies and oligopolies, going back at least to 1900s when price agreements commonly included importers as well as local manufacturers.[130] Many restrictive agreements are state based, and some operate on an even narrower regional scale, since in many industries which are unconcentrated on a national basis there is a strong element of local monopoly. A business climate in which orderly marketing has enveloped agricultural product after agricultural product until wool is the only major one not subject to government regulation is conducive to marketing controls throughout the economy; uniform wage determination through the arbitration system probably helps to nurture attitudes of uniformity; the procedures of the Tariff Board which seek principally to prevent undue profiteering do nothing to deter them.

Australian and New Zealand Association for the Advancement of Science held in Christchurch, New Zealand in January 1968.

[125] See: *E. L. Wheelwright,* supra note 111.

[126] See: *H. A. Rolfe,* The controllers, Melbourne 1966, p. 77 and passim.

[127] See: *Brown* and *Hughes,* supra note 124, at p. 12.

[128] See: *A. Hunter,* supra note 28; *M. Brunt,* supra note 70 and *J. Hutton,* Restrictive trade practices legislation, trade associations and orderly marketing schemes in Western Australia, Economic record, vol. 40 (1964), p. 187.

[129] See: *Freeman,* Trade associations in the Australian economy, Public administration, vol. 24 (1965), pp. 329 at 339—343, showed that there is no simple correlation between the existence of trade associations and restrictive practices, and pointed out that the degree to which restrictive practices are enforced is not known.

[130] When a price ring of agricultural producers and importers broke up at the turn of the century the Australian producers turned to tariff protection in a sequence of events which eventually led to the Harvester wage award and the establishment of the basic wage. For details of the price ring see: 'Royal Commission on Customs and Excise Tariffs, Progress Report No. 5, Agricultural Machinery and Implements', (No. 56) Commonwealth Parliamentary Papers, vol. 4 (1906, pp. 94—96.

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In the absence of detailed evidence about the extent of price and other agreements and the degree to which they are observed, it is impossible to draw conclusions about the extent to which competition in the unconcentrated sectors of industry is impaired. On the other hand it seems safe to conclude on the evidence available that workable competition is frequently absent, with consequent technical inefficiency, the lack of a progressive outlook and lost opportunities."[131]

The conclusions drawn by *Hunter*[132] and *Brunt*[133] on comparing the Australian economy with those of the United Kingdom and the United States are confirmed by Brown and Hughes. Given the relative size of markets this is only to be expected and comparisons with large West European countries would probably show similar results. "Comparisons with Canada, however, do not show very great differences in manufacturing concentration by firms. There are not as many monopolies in Canada as there are in Australia, but Canadian industry is much more highly concentrated than United States industry,[134] and concentration by firms seems to be parallel to Australian experience.[135]

"While Canada and Australia appear to have highly concentrated industries compared with the United Kingdom and the United States, this industrial structure is typical of many countries which have industralized at a late date or which are still in the process of industrialising, and this is particularly so if the domestic market is small and scattered, and if the country is far from other industrialized markets. The South African industrial structure is closely parallel to the Australian even to the point of a number of monopoly dominated industries covering the same fields of production as Australia. Thus in South Africa steel production, sugar refining and glass container production are all pure monopolies, while tobacco, pulp and paper, newspaper printing are duopolies, or tight oligopolies. A tight oligopoly structure behind high tariffs is characteristic of consumer durables, and particularly of motor vehicle manufacture.[136] It is perhaps not surprising that several Australian manufacturers venturing abroad have gone to South Africa were they have found the industrial climate familiar and congenial. Another major group of countries with a very similar and highly concentrated industrial structure are those of Latin America, and this is particularly true of Brazil, where the import replacement policy of the 1950s led to an industrial structure closely resembling Australia's[137]. Finally, and closer to home, the smaller industrial-

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[131] See: *Brown* and *Hughes*, supra note 124, at pp. 21—22.

[132] See: *A. Hunter*, supra note 28, at p. 35.

[133] See: *M. Brunt*, supra note 45, at p. 371.

[134] See: *G. Rosenbluth*, Concentration in Canadian manufacturing industries, Princeton, N.J. 1957, p. 80.

[135] This judgment is based on a comparison of 80 per cent concentration index by firms as calculated by *R. B. Sheridan*, supra note 117, and by *G. Rosenbluth*, supra note 134. *P. H. Karmel* and *M. Brunt* claim not only that Canada has fewer pure monopolies, but also that it has fewer tight oligopolies. See supra note 70, at pp. 87—88.

[136] See: Da Gama Publications Ltd., Industrial profile, Republic of South Africa (Johannesburg n. d.) and *O. P. F. Horwood* and *J. R. Burrows*, The South African economy, in: *C. B. Hoover* (ed.), Economic systems of the Commonwealth, Durham, N.C. 1962, p. 485.

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ising countries of South East Asia—Malaysia, Thailand and the Philippines—are showing a very similar pattern of industrial development with emphasis on tight oligopoly behind tariffs."[138]

By international standards, then, bigness in Australian business is relative.[139] This is brought out by the best known international survey. In 1963 the American magazine *Fortune* began publishing 'The Fortune directory' of 'The 200 largest industrial companies outside the U.S.'[140] The latest available directory was published on 15 August 1969 and, of course, the figures are for the year ending on 31 December 1968.[141] Among the first 48 companies (those companies with sales of over one billion U.S. dollars) there were: 11 British, 11 German, 11 Japanese, 6 French, 3 Italian, 2 Dutch and British, 1 Canadian, 1 Dutch and 1 Swiss; only 1 was Australian. Those 48 companies had combined sales of over 92 billion U.S. dollars—53 per cent of the total for the 200 companies. Among the first 100 companies (those with sales of just over half a billion U.S. dollars) there were 28 British, 25 Japanese, 19 German, 16 French, 7 Canadian, 6 Italian, 6 Swiss, 3 Dutch, 3 Swedish, 2 Belgian, 2 Dutch and British and 1 each from Argentina, Brazil, Luxembourg, Mexico and South Africa; only 2 were Australian.[142]

One can get another very rough picture of the size of Australian 'big' companies, compared with those in some other countries, from the 1969—70 issue of *The Times 500*.[143] The different size of the tranches of companies used reflects only in an imperfect way the factor of population differences.[144]

Apart from the population factor, one must also bear in mind that the figures for the United States—and to a lesser extent for the United Kingdom and Canada—are swollen because parent companies in those countries own international operations, some of them in Australia.

Nevertheless, a comparison of the average size of leading listed companies in Australia and other selected countries yields the following summary:[145]

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[137] See: *L. Gordon* and *E. L. Grommers*, United States manufacturing investment in Brazil. The impact of Brazilian government policies 1946—1960, Boston, Mass. 1962, at pp. 35—37.

[138] See: *Brown* and *Hughes*, supra note 124, at pp. 25—26.

[139] See: *E. L. Wheelwright*, Bigness in business, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 463—464.

[140] See: Fortune, vol. 80 (15 August 1969), p. 106.

[141] Id., at p. 107.

[142] See supra note 140.

[143] See: *The Times 500*—Leading companies in Britain and overseas 1969—70, London 1969.

[144] Australia 12,000,000; Canada 21,000,000; Japan 101,000,000; South Africa 19,000,000; United Kingdom 55,000,000; United States 203,000,000. These figures are approximate.

[145] See: *The Times 500*, supra note 143 at pp. 65, 67.

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Writing recently on 'bigness in business',[146] *Wheelwright* stated that —subject to a number of technical reservations—the conclusions of Brown and Hughes are correct and confirm that the situation in manufacturing industry described by Karmel and Brunt is not likely to have changed fundamentally. "In retailing, mergers seem to have predominated over new entrants, and this sector is probably more likely to be dominated by big business now than it was before. The only exception is mining, in which the number of new entrants has been considerable in recent years, so that this section may well be less concentrated now; most of the newcomers are overseas companies. On the other hand, the communications media are, if anything, more concentrated."[147]

The authors of the most recent study on concentration doubted that the *Trade Practices Act* may fulfil its role as defined: "An Act to preserve competition in Australian trade and commerce to the extent required by the public interest."[148] "Whatever the objective of the current restrictive practices legislation turns out to be,[149]—they wrote—if it is at all successful in improving attitudes in the direction of competitive vigour, it will be the marginal firm which can be expected to suffer and the inefficient plant which will have to be eliminated. The overall effect is likely to be a movement of firms and plants out of the unconcentrated sector of industry into the concentrated sector."[150]

The Tribunal and the Commissioner of Trade Practices were established during 1966—1968. All trade agreements had to be registered by 1 November 1967. There were 12,649 of them on the register as at 30 July 1970; by then the Commissioner was able to report on a grand total of 71 cases!

On 28 January 1969 the Commissioner instituted proceedings in the Trade Practices Tribunal against Tasmanian Breweries Pty. Ltd., alleging that the company was engaging in the examinable practice of monopolization and asserting his opinion that it was contrary to the public interest. This followed unsuccessful section 48 consultations with the company.[151] The company refused, for reasons it considered in the

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[146] See: *E. L. Wheelwright,* Bigness in business, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 463 at 468.

[147] See also: *Western,* Mass media, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 393 et seq.

[148] See: Commonwealth of Australia, Act No. III of 1965 as amended.

[149] *Brown* and *Hughes* noted: "Although the passing of the Trade Practices Act in 1965, fifty-nine years after Australia's last national attempt at dealing with restricted competition with an Industries Preservation Act, was a landmark, it is still far from clear what the effects of the act will be." at p. 23. *Brunt* entitled her contribution: 'Legislation in search of an objective'.

[150] See: *Brown* and *Hughes,* supra note 124, at p. 23.

[151] Section 48 makes it compulsory for the Commissioner to consult the parties with a view to avoiding proceedings.

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public interest, to supply draught beer to licensees who sell draught beer brewed by other brewers; neither the licensees nor their licensed premises were tied by any contract to sell only the company's beer. After procedural skirmishes the company brought a challenge to the constitutional validity of the Act so far as it relates to the Trade Practices Tribunal.[152] The issue was whether the powers vested in the Tribunal are administrative or judicial, as Tasmanian Breweries contended. In the latter case some sections of the Act would have been repugnant to the provisions of Chapter III of the Constitution—The Judicature. On 30 April 1970 the High Court held that the powers conferred on the Tribunal are not within the concept of the judicial power of the Commonwealth.[153]

It has taken the Commonwealth exactly ten years to translate intention into action! What picture does one get from the operation of the machinery?

Table 6

Comparison of the Average Size of the Leading Listed Companies in Australia and Other Selected Countries (1969)

company assets	average per company U.S.$
Leading 20 Australian companies	265
Leading 20 Canadian companies	792
Leading 30 Japanese companies	778
company capital employed	
Leading 20 Australian companies	194
Leading 20 South African companies	65
Leading 100 United States companies	1,672
Leading 50 United Kingdom companies	637
company net profit (after tax)	
Leading 20 Australian companies	11
Leading 20 South African companies	5
Leading 30 Japanese companies	24
Leading 100 United States companies	149

Analysis of the Register—reported the Commissioner, for the Register is *not* public[154]—shows that agreements cover a very wide range of commodities, both producer goods and consumer goods, and transport

[152] See: supra note 31, *1969 Report,* para. 2.1 and supra note 31, *1970 Report,* para. 2.6.

[153] See: *The Queen* v. *The Trade Practices Tribunal and others; Ex parte Tasmanian Breweries Pty. Ltd.,* A.L.J.R., vol. 44 (1970), p. 126.

[154] See: supra note 31, *1970 Report,* paras. 3.7—3.14.

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and other services relating to them. Agreements directly affect commodities in every one of the 56 divisions in the Standard International Trade Classification (Revised); horizontal agreements directly affect commodities in 52 of them. By no means are all activities of each industry shown to be affected, but in many industries the reach is wide.

All the restrictions on competition mentioned in section 35 of the Act are to be found exemplified in the Register, but by far the most common is restriction on price competition. It is also very common to limit or control the channels of distribution, and often the two restrictions run together. Control of prices and channels is often secured by horizontal agreement. Distribution agrements achieve the same purpose, sometimes complementing horizontal agreements for this purpose. Discounts, and discount structures, often seem as important as, or more important than, the basic prices to which they apply. Agreements on discounts and margins, and the persons in an established marketing structure entitled to receive them, are claimed to protect stability and standards of service. The agreements recognize and seek to protect the respective trading functions of persons within the structure; persons outside the structure cannot get the particular goods at prices that would permit them to sell direct or to reduce selling margins.[155]

During 1970, as in 1969 and 1968, the most common forms of *registered* agreement were trade association agreements, distribution agreements and other horizontal agreements. But there were also miscellaneous agreements. The main types under this heading were licensing agreements, supply agreements, agreements for the sale of businesses, lease agreements tying the use of business premises, and bailment agreements whereby resellers of motor vehicles obtain their finance from an exclusive source. Licensing agreements are usually between an overseas licensor and a licensee who is given a right to exclusive manufacture of a product in Australia. Most licensors provide technical information and some supply plant and equipment also. There is usually a franchise market area that does not go beyond markets adjacent to Australia. Some licensors expressly undertake not to compete with the licensee in the franchise area.[156]

Two Australian economists had sounded a very early alarm and drawn attention to the seriousness of the restraint that such practices put on export trade expansion.[157] In 1959 they had revealed that "[o]f some 650 Australian firms which are subsidiaries of, or have a manufacturing agreement with U.S. firms, about 275 recorded their interest

[155] See: supra note 31, *1970 Report*, paras. 3.29 and 3.30.
[156] See: supra note 31, *1969 Report*, para. 4.6.
[157] See: *H. W. Arndt* and *D. R. Sherk*, Export franchises of Australian companies with overseas affiliations, Economic record, vol. 35 (1959), p. 239.

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in export. Of this latter group, about 40 per cent are restricted by their principals from export to certain areas. (Nothing is known about franchise restrictions, whether academic or effective, on firms which have not expressed any interest in exports.)

There are 560 Australian companies which are subsidiaries of or financially linked to British firms. The number of Australian companies linked to British firms by licensing agreements is not known, nor is the number of Australian companies with British affiliations which have an export interest. Of the 71 companies with British affiliations which have reported restrictions on their export franchises, 60 are subsidiaries of or financially linked to British firms."[158]

Such restrictions—commented *Fitzpatrick* and *Wheelwright* in 1965—

"appear to be good business from the point of view of a multinational corporation headquarters whose concern is overall profit. Obviously, if (say) General Motors can make more profit by supplying the Asian market from Detroit rather than from Dandenong in Victoria, Detroit on its huge scale being capable of low-cost long runs, the sensible thing for the moment is to forbid its Australian branch from exporting to Asia.

In a memorable statement some years ago, Charles Wilson (of General Motors, *and* of the then U.S. President's Cabinet) said, 'What is good for General Motors is good for U.S.A.'.

Be that as it may, what is good for General Motors is not necessarily good for Australia.

This has been realized, for years past, by a number of Australian economists and officials, some business men, publicists, and at least one Commonwealth Minister, McEwen. But McEwen, although Deputy Prime Minister of Australia, has for five years or so given a passable imitation in Cabinet, of the voice crying in the wilderness."[159]

The consequences of big business in this sense are in many respects more political and social than economic.

And so the last link in the chain: high concentration—dominance of the economy by two or three hundred companies—restrictive trade practices—interlocking directorates, becomes an ever-tightening relationship between business and government. Towards the Corporate State!

McFarlane has written about what he called the hydra-head planning in Australia.[160] *Playford* has well documented[161] a whole range of regulatory and advisory bodies, on which the representatives of government and big business sit cheek by jowl, and the extent to which former top

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[158] See also: *Palmer*, Background, in *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 417—428.

[159] See: *B. Fitzpatrick* and *E. L. Wheelwright*, The highest bidder, Melbourne 1965, p. 79.

[160] See: *B. J. McFarlane*, Economic policy in Australia, Melbourne 1968, chapter 5.

[161] See: *J. Playford*, Neo-capitalism in Australia, Melbourne 1969.

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public servants have moved into those sections of industry with which they have been dealing. Incidentally, the French have a word for this: *pantouflage* (from *pantoufle*—meaning a slipper).[162] The fear is not unwarranted that—as *Edwards* said for France—the legislation against restrictive practices become "a law of prohibition administered as a law of abuse".[163] Or—to paraphrase *Shonfield*—that economic concentration policy may be viewed "as an act of voluntary collusion between senior civil servants and the senior managers of big business."[164]

Exploding the three myths about Australian economy—that it is 1) rapidly developing, 2) highly egalitarian and 3) a preponderantly free enterprise—*Newton* observed that

"there has developed an intricate pattern of political and industrial relationships whose result has been a great extention of the degree of regulation of economic activity in Australia. ... On the political level, the effect of regulation through the tariff has been largely to by-pass parliament as an effective forum for the discussion of ... economic issues. In part this is a reflection of the general failure of parliament as a body for supervising the public interest in the regulation of the economy. In addition, a sort of subterranean political system has developed where industry pressure groups maintain steady liaison with Commonwealth officials and ministers in furthering their own interests. The result is that great decisions are being taken, affecting the direction of the whole economy and the profitability of individual companies, spasmodically and to a large extent beyond the knowledge of the mass of the people and beyond the reach of public criticism. When it is also recognized that many tariff decisions have the effect of bolstering domestic restrictive practices against the main form of competition that is left — competition from abroad — it can be seen that there is room for enormous improvement in the administration of the tariff and in the institutions and means by which the public interest is served and can be seen to be served in the decisions that are made.

It seems reasonably certain that the Tariff Board is carrying out a function analogous to that of a national planning body in making recommendations about the direction of resources in the community. Yet it is essentially a rather amateurish body, ill-equipped with secretariat and research staff, and confused about its objectives. The Federal Government, through its responsibilities for the tariff, is also deeply committed to a form of economic planning. But the Liberal government, which has been in power since 1949, is not willing to face this issue squarely. It wants to maintain the myth that "competitive private enterprise" is the dominant force in the economic life of the nation and to treat tariff matters as aberrations from the norm which can be treated in an *ad hoc,* random fashion. The community at large knows that economic planning is taking place but has no way of being confident that its interests are being looked to.

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[162] See: *S. Encel,* Equality and authority—a study of class, status and power in Australia, Melbourne 1970, p. 365.

[163] See: *C. Edwards,* Trade regulations overseas, Dobbs Ferry, New York 1966, p. 45.

[164] See: *A. Shonfield,* Modern capitalism, London 1965, p. 128. See also: *V. G. Venturini,* Monopolies and restrictive trade practices in France, Leyden 1970, pp. 330—339.

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But regulation of industry—and *de facto* economic planning—goes much farther in Australia today than the mere ramifications of the tariff. Concentration of industry, restrictive trade practices, economic planning and direction of resources through the tariff—these are only part of the pattern of regulation in Australia."[165]

After a detailed examination of practices regulating economic life, Newton concluded:

"Summing up, it is clear that economic planning and the manipulation of markets is the order of the day in Australian economic life. There is regulation by business itself—through the use of concentrated economic power and restrictive practices. There is regulation by governments—through the tariff, through regulation of transport, through regulation of money markets, through regulation of primary industry. There is interaction between governments and industries, between governments and individual firms, where the interests of government administrators and of sectional pressure groups are resolved. It is here that the real substance of political activity is to be found."[166]

All these pressures[167] lead "towards consensus politics; there are trends pushing the trade unions headlong into the new corporatism alongside the establishments in the public bureaucracy and the private corporations. In industry the trend is towards monopoly and merger. The levers of industrial power are in the hands of unrepresentative and irresponsible controllers... Economic business ... is now settled with only the barest reference to the parliamentary representatives of the electors ... [while] ... the organs of propaganda are in the hands of unrepresentative proprietors and executives," writes Playford.[168] If—in the words of *Crossman*—"the motive force which drives a modern capitalist economy is neither the Government nor the Government Departments but the decisions of those who direct the great combines which now dominate the private sector",[169] may one conclude that Australia is heading towards a corporate system which unless checked will see the creation of a 'consensus' including only the powerful and the ruthless? Will its people, equipped with an egalitarian myth, fed with pop accounts of their mateship society, limited by their understanding of the processes by which they are governed, immersed in a social *milieu* rigged with divisions in education and income, become a country of unchallenged rule by the unqualified few?[170]

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[165] See: *M. Newton,* The economy, in: *A. F. Davies* and *S. Encel* (eds.), Australian society, Melbourne 1965, pp. 230 at 240—241.

[166] Id., at p. 247.

[167] For a recent study of pressure groups, see: *Loveday,* Pressure groups, in: *V. G. Venturini* (ed.), Australia—a survey, Wiesbaden 1970, pp. 377 et seq.

[168] See: *J. Playford,* supra note 161, at p. 47. See also: *B. J. McFarlane,* Interest groups and economic policy, Dissent vol. 8 [1967] (No. 20).

[169] See: *R. Crossman,* The lessons of 1945, in: *P. Anderson* and *R. Blackburn* (eds.) Towards socialism, London 1965, p. 104.

[170] See: *L. Cleggett,* review of *S. Encel,* supra note 162, The Australian, 30 May 1970, p. 21.

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Concentration in Benelux

By *H. W. de Jong*, Amsterdam

I. Introduction
II. The Rise of Dutch International Companies
III. Financial Concentration in Belgium
IV. The Evolution of Numbers and Types of Concentrations
V. Growth and Profitability of Companies

I. Introduction

Benelux is not more than a customs union. The three small countries which have taken this first step on the road towards economic integration at the end of the Second World War therefore do not constitute an economic unity in a sense more profound than that expressed by the common external tariff barrier and the absence of obstacles to free internal trade.

In particular there are many differences in fiscal, legal and financial arrangements, apart from the economic, historical and sociological reasons which may account for the divergent trends in industrial development. This has left its imprints on the structure of economic activity.

Curiously enough, the countries of Benelux have a common origin as far as industrialization is concerned. It was *King William the First*, who, after the devastations brought about by the Napoleonic wars laid the foundation for a new economic expansion. In order to achieve industrial development such as he had seen from closeby during his exile in Britain and perceiving that some stimuli were necessary, he promoted the foundation of two banks: The Société Générale pour favoriser l'Industrie Nationale at Brussels (1822) and the Nederlandse Handel Maatschappij at Amsterdam (1824). The aim was to further economic activity in a very general sense; thus the idea took hold that the banks had to be of the mixed type. This constituted an innovation for that time in so far as they represented an assembly of capital resources on a far larger scale than private banks could master, to be employed on a long-term basis for investment by the managing directors on a wide and diverse scale in an unrestrained manner. The Société Générale (S.G.) was intended to be an instrument for the pro-

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motion of the cotton industry at Ghent and the coal and metallurgical industries in the southern part of Belgium. To this end, the King sent the founder of a Rotterdam dockyard, *Roentgen,* an engineer, to Britain, in order to study the process of iron making and coal mining and to make recommendations. The engineer's report drew attention to the modern techniques used in Britain's metallurgical industry, to the coke-ovens which were in general use in that country, in contrast to the charcoal works being operated in Belgium, to the choice of mineral inputs (clay iron stones instead of ores drawn from alluvial earth) and to the larger British blast furnaces. Equally he noted the alternative methods for processing the molten iron; and after a journey, through the Belgian provinces of Liège, Namur and the Borinage, Roentgen proposed a list of changes. Among these were the gradual reduction in import duties in order to enliven competition, financial support for a number of advanced industrialists, such as Cockerill at Liège and Hamponnet-Gendarme in the Namur province, and the payment of wages by results instead of a fixed daily wage.

These reports laid the foundations of Belgian heavy industry; the Dutch State devoted large capital resources to Belgian industrial development and the Société Générale occupied a pivotal position in this process. The thirties witnessed an industrial boom in Belgium (the number of blast furnaces rose from 10 in 1830 to 47 in 1838, the coal industry became the largest on the continent of Europe and the textile industry flourished) and, notwithstanding the political break-down of 1839, which resulted in the constitutional separation of the three countries, Belgium experienced an industrial expansion lasting nearly a century. It is said that, in the years between 1835 and 1850 practically no important economic activity in Belgium was started without the participation of the S.G. The new banking conception was soon imitated: mixed banks were founded in 1835 (Banque de Belgique and Banque Liègoise) and 1841 (Banque de Flandres) whereas several private deposit banks equally started to penetrate the commercial and industrial sectors. The S.G. also initiated the policy of creating branches which had as its main goal the enhancement of its influence in industrial enterprises along more or less homogeneous sectors. Another innovation were the investment companies. The S.G. founded one in 1836, the Banque de Bruxelles another one a few years later. These companies accumulated the savings of Belgian private investors, who had a preference for fixed-interest securities and alloted chunks of varying sizes of this capital to the industrial enterprises. The great industrial expansion absorbed these resources either in a direct way or indirectly; in the latter way it meant a consolidation of the commercial credits extended by the S.G. (which was in that time Belgium's bank of circulation and other

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banks to industrialists: the securities issued to this end were taken up by the investment companies. Thus the mixed banks, constituting a double innovation, and preceding similar developments in France (Crédit Mobilier, 1852) and Britain (the investment banks of the sixties), grew with the development of Belgian heavy industry (railways, coal and iron/steel) and increased their hold over them. They provided both the financial means and the managerial direction and control, but gave free scope to emerging entrepreneurs. The many innovations carried through in these Belgian industries testify the availability of such men[1], who found the basis of their activities in the rich natural resources of the country.

In King William's conception the purpose of industrial acitivities of the "Nederlandse Handel Maatschappij" (N.H.M.) was to serve as the commercial enterprise which had to sell the Belgian industrial products in world markets and in particular the textile products of Ghent in the Netherlands East Indies. The old Dutch East India Company, a concentration of the fiercely competing trading companies of the seventeenth and eighteenth centuries (1602—1798) and having a monopoly in the trade in the Indonesian Archipelago, had been the pattern upon which the N.H.M. was modelled. But the political rupture of 1830—1839 also broke the economic logic of this action. Moreover, the monopolistic system was no success in the promotion of modernised activities, nor was the N.H.M. very fortunate in its world-wide commercial activities. For the small economies of Benelux foreign markets were essential, but difficult to gain and to keep in the face of the dominant position of British industry. Belgium and Luxemburg therefore turned their faces towards customs unions, of which the German Zollverein had set the successful example. Trials to form a union with France were disappointed, but some advantages were gained from the Zollverein. And, the liberal climate which prevailed after 1860 all over Europe at least did not hamper their industrial growth.

The Dutch case was different. Though the N.H.M. succeeded in the establishment of an own textile industry in the eastern part of the Netherlands, and shipping and insurance activities in the main ports were stimulated, the main thrust to Dutch industrialization came only with the rise of Germany after 1870. During the years between 1830 and 1870 commerce with the Indies was the main pillar of economic prosperity in the Netherlands. Textiles were exchanged for colonial products. Such a "colonial pact" had great advantages: for the N.H.M. which made monopoly profits, for the subsequent activities (shipping, insurance)

[1] *D. Landes,* The Unbound Prometheus. Technological change and Industrial Development in Western Europe from 1750 to the present, Cambridge University Press 1969, chapter 3.

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which were promoted, but gradually the disadvantages came to predominate and the spread of liberal ideas terminated the N.H.M.'s privileged position after 1870. The bank chose to transform itself into a deposit bank, and has continued its existence since then in this way. In recent years, after a series of banking mergers, the company has become Holland's largest bank, the Algemene Bank Nederland.

Thus, notwithstanding similar origins, the outcome after half a century was radically different. In Belgium and Luxemburg, continous industrial expansion was going on, a symbiosis between the financial and the industrial communities had been created and the country was oriented towards European markets. Dutch industry on the contrary was in its infancy, mainly confined to the textile industry and some shipping and auxiliary activities, not closely connected to let alone directed by financial interests, and oriented towards the colonies. These different backgrounds also explain the course of concentration during the century which followed and towards which we now call our attention.

II. The Rise of Dutch International Companies

The final decades of the previous century and in particular, the first one of the present have been the ones during which several Dutch firms of international stature have arisen. In their present form, all these companies are the result of many mergers and take-overs, carried out alongside internal expansion. But apart from this fact and its international character, these companies differ as to the dates of their birth, their ways of growth, their typical fields of action, goods produced, diversification and degree of specialization, etc. The companies meant are Royal Dutch-Shell, Unilever, Philips, AKZO, Royal Dutch Blast Furnaces and Steel Mills (K.N.H.S.), and some companies, smaller in size, but large in their trades. We confine our attention to the four main companies first mentioned, who dominate the Dutch business scene.

Shell and Unilever are twin companies, having British partners in a structure which was founded mainly for fiscal reasons. But though these concentrations are of old standing, dating back to the early decades of the century, they were inaugurated for different reasons and executed in various modes. Royal Dutch-Shell arose out of a combination of five Dutch oil companies, competing, fiercely in the Netherlands East Indies, the British Shell Transport and Trading Company and a group of Russian firms, united in a cartel. In 1907 these three groups decided to form an exclusive sales company: the Asiatic Petroleum Company Ltd. which also was to own the control of the tank

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installations and shipping facilities of the participating companies. The Asiatic Petroleum Company was soon dominated by *Deterding,* an entrepreneur with particular ideas of his own, who lost no time in gaining control of the combine on terms favourable to Royal Dutch (60 % Dutch and 40 % Shell) and in buying out the Russian interests (1913).

Thereafter the Royal Dutch-Shell group expanded internally in the following decades, mainly by means of building up its organisation and sales in nearly all countries of the world. But during the fifties the company started to diversify into the chemical industry. It began to utilize its by-products (refinery gases, etc.) in chemical operations and achieved this by internal expansion and some joint-ventures. In recent years, the company has started to penetrate the natural gas and mining industries, first by a find of natural gas and non-ferrous metal deposits in the Northern part of Holland, then by a take-over of Billiton company (1970). Billiton is an old tin-mining concern, which after the post-war Indonesian troubles has reoriented itself to the aluminium and other non-ferrous metal trades. Its experience and continuing vertical integration no doubt were an attractive complement to Shell's own endeavours.

Unilever—Lever Brothers, on the other hand, was the outcome of a series of competitive battles between Dutch margarine producers, who were neighbours, but extented their rivalries all over the world. Their successors put an end to the warfare and shortly afterwards, formed two holding companies: Margarine Unie in Holland and Margarine Union, Ltd. in Britain. The British holding company soon passed into the hands of Lever Brothers Ltd., the well known Liverpool company. Lever Brothers had grown big on its soap business in less than twenty years and dominated the British market already in the twenties. The merger of 1929 between Margarine Unie and Lever Brothers thus coupled two companies which came from different branches and which had their expansion periods behind them.

The history of Philips is different again. Three decades of vigorous internal expansion (1891—1920), marked by the formation of non-effective cartels, were followed by concentration activities during the twenties and an equally vigorous push towards international extension of the business. Accompanying horizontal take-overs, vertical integrations, both forward and backward took place, mainly because of increased competition in those markets. By the end of the decade Philips had become a large producer of electric lamps as well as of radio sets and apparatus. Thereafter, but mainly since the Second World War, the company has diversified into many other fields, by means of

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internal growth and by means of take-overs. However, the companies taken over were of modest dimensions until the middle sixties. Since then Philips has taken control of several large firms, both in the Netherlands and abroad.

The fourth international firm, AKZO is a chemical combine, which resulted from a series of mergers during the sixties, culminating in the tie-up between AKU and KZO (1969). One pillar of the new group are the Royal Dutch Salt Works (KZO) existing since 1918, but starting an accelerated growth during the fifties. This was due to the technical solution of some difficulties connected with the method employed: vacuum evaporation; this method was very economical but necessitated the purification of the brine, in order to avoid the calcification of the pipes. Also, it gave not so many possibilities to vary the dimensions of the cristallized salt grains and the fine grains had a tendency to adhere and harden. The company therefore has had a long initiation period and was formerly known as a producer of salt for human consumption. But the solutions found have opened numerous new applications for its products in industrial and public uses and output has quadrupled since 1955. In the early sixties horizontal and vertical mergers and take-overs have occured in the salt business of the Netherlands, Germany and Denmark. In 1969 KZO took control of the International Salt Company in the United States. But soon after the opening of the Common Market, the company also undertook diversification mergers, (sulfuric acid, paints and lacquers, food products, etc.) which may be seen as endeavours to build up an integrated chemical group. The merger in 1969 with AKU, the international artificial fibres group, was of the complementary type, but will not be the last one. Reorganisations, split-offs and restructuring of interests have followed the series of mergers, which for this company alone amounted to more than a quarter of the number of Dutch concentrations in the chemical industry during the 1958—1968 period.

A review of the concentration policies of these international firms, based in the Netherlands, would have to pay more attention to the differences than to the resemblances:

— Horizontal concentrations early in the life of the company (Shell) followed by decades of internal expansion. Then, both demand and supply factors prompt the firm to diversify in order to utilize by-products. Following a discovery of non-ferrous mining deposits, the group acquires control of a large mining concern.
— Internal expansion for several decades after the foundation of the company (Philips), followed by the absorption of small companies as a means of complementing internal diversification. In its turn this

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policy had a sequel in a number of large take-overs of a horizontal and vertical nature. These would seem to be connected with the internationalization of national markets.

— A merger of fiercely competing firms, who afterwards conclude an international concentration agreement with a foreign dominant firm, which has a rich merger history (Unilever). This merger is then sustained by a systematic policy of take-overs, the rate of which increases after the Second World War. The take-overs are mainly diversifications and concern smaller companies. Numbers are so large (between 15 and 20 per annum after 1958) because traditional markets hardly grow at all and the share of markets is already large.

— Finally, a complex pattern of concentrations (AKZO) probably inspired by the necessities of a specific branch—and the desire not to loose the chance to develop into an integrated and diversified chemical firm, even though the chances in the traditional field are bright.

Table 1 gives a summary of the development of these firms during the past decade. It will be noted that growth has been very uneven. Moreover, the firm with the slowest development (Unilever) is at the same time probably the most merger-prone. The last column indicates that these companies can hardly any longer be called Dutch except for historical reasons and for the fact that the companies have their headquarters in the Netherlands.

Table 1

The Giants of Dutch Industry

Sales figures (in millions of Florins) 1960—1969 and Employment 1969

	1960	1962	1964	1966	1968	1969	Employment[c] 1969
Royal Dutch-Shell[a]	21.157	22.197	25.105	27.198	32.368	34.121	173.000 17.500
Unilever	14.757	14.972	17.115	19.189	20.032	21.829	326.000 16.650
Philips	4.762	5.535	7.002	8.069	9.721	13.023	339.000 93.000
AKZO[b]	—	—	—	4.309	5.260	6.366	100.300 34.600

a) Total of sales after deduction of sales taxes.

b) For the years 1966 and 1968, combined sales of AKU and KZO, who merged in 1969.

c) The first figure gives total employment; the second employment in the Netherlands.

Source: Annual Reports.

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III. Financial Concentration in Belgium

The origins of the widespread concentration in the Belgian—Luxemburg economy have been exposed in the introduction. But the roots of this ancient phenomenon are no sufficient explanation for its deep though varying penetration into most sectors of these economies. These penetrations took place in successive waves during the nineteenth and twentieth century. After 1850 the banking system—of the mixed type—played the predominant role in the construction of the railwaysystem in Belgium, and in Southern and Central Europe. Since 1870 many Belgian industrial enterprises were founded abroad by the banks and after 1900, the financial groups penetrated the Congo (the Société Générale only after 1908). The period between 1870 and 1914 was one of general industrial expansion and prosperity for the country and the banks participated fully in the enlargement of the capitals of the companies concerned. Between the world wars until 1934, the banks favoured the creation of new industries such as artificial textiles, chemical products, mechanized glass production, shipbuilding, etc. During the inflationary period of the twenties the principal banking activity was the subscription of capital emissions by controlled firms while the necessity of reequipment of Belgian companies made itself felt. In these ways the financial groups—holdings companies, or better groups of holding companies with a bank heading them—came to dominate entire sectors of industry, especially in heavy industry: steel, coal, transport, mining, glass and electricity, and in foreign and overseas activities. The groups—two of which, the Société Générale and the Banque de Bruxelles held the main positions—vied with each other in the newly emerging sectors where the positions had not yet cristallized; but for the rest, they respected each others's mutual interests, shared and exchanged participations, while there were very often close relationships among the leading personalities. These links were reinforced by the many professional organizations, cartels and syndicates, of which the Central Statistical Office counted 858 in 1941 (534 industrial and 324 commercial); in the metal, chemical and food and textile branches such "economic groups"[2] were most numerous.

Already in 1903, professor *de Leener* drew attention to the numerous associations, cartels and syndicates which had grown up in many base industries during the second half of the nineteenth century. Many, he said, had the simple function to regulate prices or output by means

[2] Under this concept were taken all associations constituted with a view to organize and regulate output or distribution or joint services, to "remedy an excess of competition" and to protect and promote the interest of participant. *R. de Vleeschauwer*, L'organisation professionelle de l'économie, Brüssel 1950. The figures have been taken from the tables presented by this author.

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of quotas, with more or (often) less success[3]. Some forty years later, another Belgian economist explained the frequent occurrence of collusion and the tendency towards monopolization as follows[4]:

First, Belgian industry, dependent on the world market for its sales, has under normal competitive conditions, no possibility to make equivalent profits to its counterpart in other countries, which enjoy a large home market and frequently dump excess output abroad.

Secondly, competition in the world market has meant the creation of many new enterprises in newly industrializing countries, with an accompanying overinvestment of productive means. The industries of old industrialized countries, such as Belgium, are the designated victims of successive investment waves, occurring abroad, and their industrialists defend themselves preferably by means of cartels regulating investment activity *a priori* and—but only as a second best solution—by means of price and output cartels once the overinvestment has taken place.

Stripped of its defensive tones, this explanation has much to recommend. It highlights not only the high concentration of productive activity which has come to exist in Belgian industry, mining and commerce (see below), but also the symbiosis of financial and economic interests. For there exists no better way of regulating and controlling (over)investments by productive enterprises than through coordination at the level of mixed banks and other financial groupings. At the same time it suggests a stifling influence which the symbiosis may have had on Belgian economic growth—which has been notoriously slow in the decades before the foundation of the Common Market. Such a deduction however would not be wholly justified for an earlier period, for several of the large financial groupings, such as the Société Générale and the Banque de Bruxelles, promoted activities in newer industries during the twenties (electricity, chemicals, petroleum, glass, etc.). The financial groupings through their participations in industry and commerce, have always had an interest in profitable enterprises, which explains their close survey and interference with the companies where necessary. A decrease in industrial profitablility would hurt the value of their participations and increase the risks of the credits extended. A downturn may therefore threaten both their liquidity and profitability. It is easy to see that the financial groups:

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[3] *G. de Leener,* L'organisation syndicale des chefs d'entreprise, Institut de Sociologie Solvay, Bruxelles 1903. By the same author: Les syndicats industriels en Belgique Bruxelles 1904[2].

[4] *L. Sermon,* Etude sur le comportement actuel des marchés qui furent organisés avant la guerre par des Ententes des Producteurs, International Chamber of Commerce, 1948. M. Sermon was economic adviser to the Banque de Bruxelles.

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a) promote cartellization during fiercely competitive periods, both in national industry and internationally. Also the cooperation between the groups takes on a more pronounced vigour, whereas prosperity may do much more for rivalry;

b) promote rationalization and concentration among the enterprises of their groups and between such companies and those belonging to other financial interests, in less prosperous times;

c) have an interest—like the modern American conglomerates—in a rising stock exchange. The general public favours mergers during prosperity periods and provides the merged companies with capital on a large scale; this benefits the banks directly, but also gives them the possibility to mobilize credits furnished previously to industry and the chance to launch new businesses. Overexpansion is therefore a real threat. This is reinforced by the policy of the banks to inflate credits by means of an undue credit expansion and by a wanting organization of the stock exchange.

In the twenties, the Banque de Bruxelles was the victim of this tendency towards overexpansion, but between 1955 and 1965 the decline of the stock exchange prevented a recurrence. A Government Commission voiced an unexpected criticism of the financial holdings at the end of 1967, by saying that (1) their network of cross holdings and multiple directorships effectively preserved them from the influence of private shareholders and (2) their strong establishment in traditional sectors of industry continued and that they had shown little or no inclination to move into more modern industries.

It should not astonish that the practically uninterrupted expansion of the symbiosis during more than a century has left its imprint. One research study of 790 concentration ratios according to output found a predominance of monopoly and oligopoly positions with the monopolistic positions being the most frequent of all classes (20 classes with intervals of 0.049 points in the arranged *Herfindahl* indices being taken), namely 8,2 % of all classes[5].

Concentration ratios were also calculated on the basis of employment, and cooperately owned resources, the results of which were rather similar. But, because they were less detailed than those based on output and the approach based on cooperately owned resources had some limitations, they are not further discussed here. The three approaches sug-

[5] *M. A. G. van Meerhaeghe,* Marktvormen, Marktgedrag en Marktresultaten in België. Wetenschappelijke Uitgeverij, Gent 1963, p. 147. The *Herfindahl* indices were calculated by the National Institute of Statistics and arranged by the Institute of Economics of the University of Ghent. They were made on the basis of the output statistics for the years 1959—1960.

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gest that in most industries many goods are made only by a small number of producers and that the degree of inequality among producers is unusually high.

Asymmetric oligopolies and partial monopolies are therefore the most frequent market forms. Together with the more symmetrically formed oligopolies, these market structures were present in 77 % of all concentration coefficients; monopolies took up 8.2 % and atomistic market structures only 4.8 %. Partial monopolies accounted for at least 16 % and asymmetric oligopolies for 25 % of the coefficients. The rest was in a transition zone.

Much more instructive was the research on concentration at the financial level. Financial control was understood to mean not only absolute domination by means of a majority of shares held by the controlling financial group, but also practical domination through an important participation. The research was carried out in the following manner:

The own resources of the companies controlled by a certain financial group (such as the S.G., Brufina, Cofinindus, Coppé, Boël, Empain, etc.), were calculated as a percentage of the resources of all companies in the branch concerned. If the control was exercised by a holding company directly, the own resources of the controlled company were taken into consideration. If indirect control (i.e. the controlled companies controlled again other companies) was exerted, the own resources were summed. This study also related to 1960, and was based on the resources of the firms as reported in Le Receuil Financier of 1960 and 1961 and in the Belgian Official Journal (appendices). The results were found not to differ appreciably from a study made by the Belgian Labour Union some years before, which was based on production figures (a more extensive, but also cruder method).

The general findings were that:

— the financial groups control in 23 of the industry branches enumerated more than half of the own resources of the branch. In sixteen branches this share is more than 75 %, in 31 branches more than 25 %. Financial concentration in the Belgian economy is seen to be a pervasive phenomenon;
— financial concentration rises in heavy industries, in the energy and banking sectors;
— the Société Générale is by far the most dominant financial group. In 27 of the 38 industry branches, the S.G. is the controlling group or belongs to such an entity. In 11 branches it is the only controlling group. The group Launoit—having the main interests in the

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holding companies Brufina, Cofinindus and in the Banque de Bruxelles—is in second place and often operates jointly with the S.G.

It is impossible within the context of an article to give a review of all interests, cross participations, and liaisons of the Belgian financial groups. With some notes we finish the discussion of these groups, the importance of which remains large, notwithstanding a certain relative decline during the past decade; a result of the opening of the Common Market and the establishment of many foreign companies in the Belgian market.

1. *The Société Générale:* "This group has seen its government renewed by means of cooptation and never by way of real and disputed elections"[6]. The astonishing stability of its administration is assured in three ways: the increasing dispersion of share-holders, the choice of managing directors and the particular technique of cross-participations. The last method assures the managers absolute control. The absence of shareholder influence is of a long standing:

General assembly of shareholders	Present	Number of shares total emitted	%
July 25th 1875	2,914	31,000	9.4
November 24th 1903	1,360	21,000	4.4
April 19th 1929	12,447	320,000	3.9
December 21th 1954	34,826	716,000	4.8
December 28th 1961	50,136	800,000	6.2

Source: Morphologie financière, op. cit., p. 78.

As to the second reason, one encounters in the administration of practically all important Belgian companies representatives of S.G. She has a portfolio of shares in all kinds of companies and directs her interests in an active manner. She mostly gives her participations a permanent character and entertains close and durable relations on the basis of these shareholdings with a great number of firms in widely varying branches of industry, commerce, finance, transport, and mining. This vast conglomerate exerts by means of its leading managers a financial steering function, viz. the allocation of liquid financial means and the control of results, as well as an industrial task, that is the economic expansion of the subordinate companies and the promotion of new activities. Both tasks are of course, closely intertwined, and this means that the S.G. does not

[6] *Centre de Recherche et d'Information Socio-Politiques,* Morphologie des Groupes financiers, Université Libre de Bruxelles, Brussels, 1966, p. 78.

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restrict itself to the traditionally passive attitude of an investment company, observing trends, buying and selling interests in companies according to their current values and revenues, but interferes actively with the operations of the companies under its control. The participations of the S.G. extend to:

A. The Financial sectors:
   - — Insurance
   - — Banking
   - — Investment companies and Mortgage financing

B. Energy:
   - — Coalmining
   - — Electricity & gas
   - — Nuclear energy
   - — Petroleum

C. Metallurgy & mining:
   - — Iron & steel production
   - — Metal construction & mechanical engineering
   - — Non-ferrous metals
   - — Precious metals & stones

D. Construction Materials:
   - — Stone & clay production
   - — Cement
   - — Glass
   - — Refractory and brick materials
   - — Wood, plastic, gypsum, pipe and other building materials and products.

E. Chemicals:
   - — Coaltar chemicals
   - — Petrochemicals
   - — Powder chemicals
   - — Non-ferrous metals chemistry
   - — Industrial gases
   - — Iron alloys, resins, potash, etc.

F. Construction:
   - — Building & civil engineering
   - — Industrial installations & equipment
   - — Leasing

G. Transport:
   - — Maritime transport, navigation & towing
   - — Air and roadtransport

H. Textiles:
   - — Cotton textiles (spinning, weaving and finishing)

I. Paper & packaging:

J. Foodstuffs:
   - — Sugar, canning, refrigeration, fruit production

On a regional basis, the emphasis of S.G.'s activities is concentrated in Europe, Africa and Canada.

2. The origin of the second, main conglomerate, *the group Launoit,* is the Bank of Brussels, founded in 1871. Until the crisis of the thir-

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ties, this bank continued to interest itself in banking and industrial enterprises. In 1934, under the new banking law, the Bank of Brussels repelled its deposit banking branch to a new bank called the Bank of Brussels, while the ancient company became a holding society under the name: Société de Bruxelles pour la Finance et l'Industrie "Brufina". On the other hand, a holding company called "Cofinindus" assured the management of the financial and industrial participations of the Launoit group. In 1935, under the influence of the economic crisis, Brufina, the Bank of Brussels and Cofinindus created mutual ties under the direction of the Launoit family. In 1937 Cofinindus took the controlling position in Brufina and together they control the Bank of Brussels and Cometra, a financial group for the management of foreign operations. There is close operation between the Launoit group and the S.G. The division of the interests of the two holding companies is as follows:

Division of the Holdings of Cofinindus and Brufina (in percent of total)
1965/1966

	Cofinindus	Brufina
Banks and financial companies	22.3	54.4
Iron & steel	52.5	17.8
Metal processing & other metallurgy	10.2	—
Mechanical and electrical construction	—	2.9
Electricity	—	14.5
Glass	—	3.7
Transports	—	2.8
Real Estate & Tourism	5.2	—
Other	9,8	3.9
	100.0	100.0

Like the S.G., the Launoit group has a broadly extended spectrum of interests. It controls banks (deposit and special banks, among them the main Luxemburg bank, a very active holding company and Luxemburg's bank of issue), leasing societies, investment societies, insurance companies, and tourism and is also engaged in the energy, steel, metallurgy, building, chemical, commercial, press, and other sectors. But the two holding companies have their specializations, as can be seen from the table. The group pursues a policy of diversification towards newer sectors (real estate, tourism) since the early sixties.

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3. *La compagnie d'Anvers and the Petrofina group,* formed in 1957. The first is a holding company, having close relationships with the S.G.; the latter is Belgium's main petroleum company diversifying a. o. in the Dutch paint and coating materials industry.
4. *The Solvay—Jansen group,* dominating several of Belgium's subsectors of the chemical industry and the two families who control Belgium's most important chemical industries (Solvay and the Union Chimique Belge). Relationships with the S.G. are close (a.o. in glass) and several regroupings have taken place in the past.
5. Several other and smaller financial groups, such as *Banque Lambert, Empain, Coppé, Boël, Electrobel* operate mostly in specialized fields (Boël and Coppé in industry, Electrobel in electricity generation, Petrofina in petroleum, etc.) and a few have no industrial base.

A general evalution of the role and impact of the financial groups on Belgian economic development would have to depart from their old established position in the country's main industries: energy, steel, nonferrous metals, rail transport, and colonial affairs. The aging of these sectors has become apparent progressively during the sixties. The groups, which had done relatively little during the period 1930—1960 to promote new activities and to penetrate alternative sectors have thus seen a slackening of their growth and a decline of their profitability. On the other hand, an important restructuring imposed itself on many of these aging sectors because of scale requirements, shifts in markets and the appearance of new end products. As the position of the financial groups had traditionally been weak in the production of end products, their contacts with consumer markets were loose, and several newer developments were missed. International economic integration, trade liberalization and the widening of markets have brought these weaknesses to the fore. The reactions differed but can be summarized under the following headings:

1. a gradual retrenchement from traditional bases, which implied too broad diversifications, too meagre growth prospects or a shift in case foreign activities were more promising. Coal, steel, glass and cement are typical here;
2. a reorientation towards the formerly neglected sectors, such as commerce, real estate, tourism, food production;
3. a retreat from African endeavours because of political reasons, in favour of European activities;
4. an exchange, regrouping and coordination of the business of the various groups amongst each other. The methods used were the merger of subordinate enterprises, the creation of joint-companies, especially in the newer sectors and often in concord with foreign

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(American, British and German) firms, exchanges of interests and cooperation agreements between subordinate firms.

The regroupings have aimed at (a) the acquisition of new technologies, in which the financial groups have, notwithstanding their size and financial means, been rather weak, (b) a certain amount of streamlining in order to develop "specialization areas" and (c) an attempt to come closer to the final consumer market.

Nevertheless, it is not an exaggeration to say that the majority of new activities in the Belgian economy since the end of the fifties has been inaugurated by foreign enterprises bringing in new technologies, new marketing methods and new management styles. If the reorientation of the financial groups is accelerating during recent years this is more the result of the adversities which have struck them and the competition delivered or threatened by outsiders, than by the fact that the groups themselves have been in the vanguard of progress. The symbiosis has not manifestly shown itself to be a dynamic engine.

IV. The Evolution of Numbers and Types of Concentrations

A. On the basis of registrations of mergers and other forms of cooperation between companies, established by the Belgian National Institute and the Dutch Ministry of Economic Affairs we have made table 2 giving the totals and their course during the last fifteen years. It has to be underlined that these figures are neither officially tabled nor communicated in official publications on a regular basis. But on at least one occasion (in January 1966) they have been used to publish an incidental whitepaper on concentration in the Netherlands.

The general policy regarding mergers and concentrations in the Benelux countries is one of laissez-faire, notwithstanding two laws, which have laid down the possibility to intervene in cases of "abuse of economic power", (its possibilities for intervention are practically never invoked); and this clearly influences the amount of fact-finding and reporting which is being undertaken. Any observer of the Benelux scene therefore has to depart from an insufficient factual background. The figures reported do not account for all concentrations which have occurred. The Belgian data, for example, do not take into account those mergers in which a company takes control of another without the latter changing its name. The number of such cases does not seem to be large however. The Dutch figures consider both domestic and foreign companies, in so far as the companies involved merged their operations in the Dutch market. Finally, the figures for both countries are not comparable, as the Dutch data cover only mergers between mining, industrial, commercial and transportation enterprises, whereas

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Table 2

Numbers of Company Mergers in Belgium (1952—1967) and the Netherlands (1958—69)

	(1)	(2)	(3)		(1)	(2)	(3)
1952	15	50		1960	60	562	16
1953	12	73		1961	66	4513	53
1954	35	232		1962	64	1741	48
1955	47	3278		1963	47	461	37
1956	60	2729		1964	71	2284	42
1957	227	6369		1965	88	1873	65
1958	23	73	12	1966	95		98
1959	33	578	19	1967	70		89
				1968			219
				1969			323

(1) Number of mergers p.a. in Belgium.

(2) Liquidations of S.A.'s and S.a.r.l.'s for merger in millions of belgian francs.

(3) Number of company mergers and cooperations in Dutch industry and non-retail trade.

Sources: Institut National de Statistiques, Bruxelles, and Ministry of Economic Affairs.

Division of company mergers for broad sectors of the economy in percentages (1960—1965)

Belgium

1. Agriculture, horticulture, fishing	—.—
2. Extractive industries	4.9
3. Industrial enterprises	37.8
4. Artisan sector	2.9
5. Commerce	21.4
6. Banks and financial institutions	14.3
7. Service sector	8.9
8. Transportsector	4.6
9. Miscellaneous	5.2

Source: I.N.S.

the Belgian information pays attention to all branches of economic activity in the country. A rough idea of the divergence, because of this difference in the area covered can be deduced from table 2.

An important deviation concerns the evolution of concentrations. The Dutch series shows two accelerations respectively in the years 1961—1962 and after 1965. The merger movement acquired historically incomparable dimensions as from 1968. This is clear not only from the numbers registered but also from the magnitudes of the main mergers involved, which are listed in table 3. These again exclude foreign mergers and take-overs by Dutch international enterprises, such as the transfer of the Fabelta division of Union Chimique Belge to AKU which assured the Dutch artificial fibre group the first place in Europe.

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Table 3

Large Mergers in the Dutch Economy 1968—1969—1970 (January—July)

Companies	Industry	Sales in millions of Florins in 1968		
		1st. Comp.	2nd. Comp.	Total
1. Verolme — N. D. S. M.	Shipyards	400	140	540
2. Rijn Schelde — Wilton Feijenoord	Shipyards	406	47[a)]	453[a)]
3. Heineken — Amstel	Brewery	278	140	418
4. DRU — Daalderop	Metal industry	68	40	128
5. Texoprint — Hatéma	Textiles	153	80	233
6. Amsterdam Ballast — Nedam	Buildings & Construction			225
7. C. M. C. (a concentration of four participations)	Milkproducts			500
8. OGEM — Technische Unie	Conglomerate	150	200	350
9. Holec — Smit Nijmegen	Electrotechnical	153	119	272
10. AKU — KZO	Chemicals — fibres	3,320	1980	5,300
11. Internatio — Mueller	Conglomerate	1,255	500	1,755
12. K. J. C. P. L. — K. N. S. M. — Rotterdamse Lloyd	Maritime transports	270	312 135	717
13. Philips — Nederlandse Kabelfabrieken	Electrotechnical	9,721	801	10,522
14. Royal Dutch-Shell — Billiton	Non-ferrous mining & processing	33,386	57.5	33,418.5

a) 1969.

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Likewise, the manoeuvres of Philips in the European electric cable-industry are only insufficiently accounted for by the table, which lists the acquisition of the largest Dutch electric cablemaker, but not the gaining of control in Felten & Guillaume of Cologne, following a deal with Luxemburg's Arbed steel company.

Mention should also be made of a few "dual-country mergers" on the pattern of the Royal Dutch-Shell and Unilever—Lever Brothers mergers. Both are Anglo—Dutch companies in origin and organization, though nowadays of a multinational structure as far as ownership and operations are concerned. The two most notable examples of such "dual-country mergers" in recent years were the Agfa-Gevaert and the Fokker-Vereinigte Flugzeug Werke concentrations. The first was a Belgian-German merger (1964), the second a Dutch-German one (1969). The S.A. Photoproduits Gevaerts was one of the rare Belgian companies of international standing, being independent of the country's financial groups. The company was the second producer of photo-chemical products in the world and the merger with Agfa served the strategic goal of meeting Kodak's competition. It envisaged the establishment of a unified company, assembling and integrating the industrial, scientific, commercial and financial activities of the separate firms. But a formal merger being excluded, because of the legal impossibility to unite two companies of different national origins, a solution was found in the establishment of two new working companies, one of Belgian law, the S.A. Gevaert-Agfa, the other of German law, the Agfa-Gevaert A.G.

The Fokker—V.F.W. merger was of a slightly simpler nature only. Both partners have changed their firms into holding companies, carrying the previous names. The shares in the operating companies were transferred, as of january 1, 1969, by the holding companies into a central control company, in which both partners have an equal interest. In 1966 Fokker had gained control of Belgium's main aircraft producer SABCA.

In both cases of dual-country mergers the companies participating were largely complementary in their activities and previously had extensive international operations. They were engaged in sectors where international competition was predominant. The solutions found were therefore dependent on some special preconditions and should probably not be seen as forerunners for wholesale imitation.

It may be seen from the table that the evolution of Belgian concentrations was most irregular. The wave of 1955—1957, like that of 1959—1962, was due to tax laws excepting Belgian mergers from the taxation of reserves becoming apparent upon the winding-up of the participating

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companies and hitting these only in case of a realization, i.e. sale of the assets. The first laws stipulated a limited time interval during which such a regime would apply; but after the law of November 20th 1962, this system acquired a continuous standing and assured what is called "fiscal neutrality", a rather ambiguous term in such merger deals. The Dutch table tells its own tale. It should only be noted that the first branch of industry enumerated (metal processing, machinery construction and electrotechnical industry) is in fact a bundle of industries; but this assembly follows a long standing. Dutch usage and the separation of mergers in the various sub-branches would require a rather pain-staking and arbitrary division. The high number of paper and press mergers is due to numerous regroupings in the press and publishing business, where large and small newspapers and publishing firms have been unable to cope with the wage-explosion of 1964 and after.

B. As to the types of concentrations it is unfortunately impossible to make an evaluation in the case of Belgium. The absence of a descriptive statistical series as well as the fact that the majority of concentrations have taken place inside and between the financial groups are responsible here. The Dutch data do allow a classification in the familiar types of horizontal, vertical and conglomerate mergers, even though some reservations should be mentioned:

— there is sometimes a double (and exceptionally a triple) aspect connected with a certain merger operation. The solution was to avoid a double classification and to allot such a merger to what seemed to be the most important type or aspect;

— the delimitation of branches and sub-sectors was sometimes arbitrary, though this is only a minor weakness in view of the rather broad branches which the Ministry of Economic Affairs has taken for classification. More important was the allocation of the mergers to the various types. We have tried to take into account the realities of the market situations and to count as conglomerate those mergers where companies became involved in activities they did not undertake before and which were not of a vertical nature. If the products sold by the merging companies were nevertheless very closely related, the merger or cooperation was allotted to the horizontal category;

— the activities among foreign firms and among foreign and Dutch firms were included as long as they involved the Dutch market, as outlined above;

— concentrations and cooperations between firms were tabled separately. Cooperations were understood to comprise non-majority partic-

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ipations, agreements between companies covering a specific function such as marketing, production or purchasing, joint-ventures and similar arrangements, through which the companies concerned at least did not loose formally their independence. These cases may conceal a number of real concentrations, for example, if a company controls another one by means of a minority participation. There is however no other method to deal with such cases in a systematic way. The general impact of this methodic weakness is of course, a certain understatement of real concentration but the idea exists that this is probably not large.

Table 4 gives the results. The classification into three types has been applied to both concentrations and cooperations, but would be only marginally different if applied separately to each of the two categories. Whereas many cooperation agreements are of a horizontal nature, several others—mainly joint-ventures—have a conglomerate aspect. If real concentrations in the sense defined were taken separately, the share of vertical integrations would be slightly higher—but not more than two percentage points. The relative shares of the other types would be about proportionately diminished.

One recognizes the overwhelming majority of the concentrations, i. e. the associations between enterprises in which at least one of them loses its independence. This may be the outcome of a complete pooling of interests without the transfer of assets, the creation of a holding company, the take-over of a majority of the shares, the exchange of shares between companies, and other legal forms. Such concentrations constitute nearly three quarter of all registered cases, but there are differences according to the branches. In the chemical (and to a lesser extent in the metal and electrotechnical) sector, the joint-ventures play an important role. They are often started with foreign firms. However, their number is fairly constant in the course of time in all branches except metals and electrotechnical industry; and this means, in view of the increasing numbers registered, especially since 1965, that the share of cooperations has declined in the course of the past decade. For example, in the chemical industry the share of cooperations in the total was about two-third during the years 1958—1961. This share declined to one-fifth in 1967—1969. In the metal and electrotechnical industry—being the exception—the proportion was no more than stable. The spectacular rise in the registered cases therefore constituted a real concentration boom, not a mixture of concentrations and cooperations.

This boom had predominantly a horizontal character, more than 60 % of the merger cases during the period 1958—1970 being of a horizontal nature. Conglomerate concentrations came second with 26 % and

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Table 4

Types of Mergers and Cooperations in Dutch Industry and Non-Retailtrade 1958—1970

Industry branch	Total number of mergers and cooperations	Types of concentrations and cooperations							
		Horizontal		Vertical		Conglomerate		Cooperations, joint-ventures, etc.	
		Number	%	Number	%	Number	%	Number	%
1. Metals, machinery construction & electrotechnical industry	280	154	55.0	30	10.7	96	34.3	82	29.3
2. Textiles	175	121	69.1	22	12.6	32	18.3	44	25.1
3. Chemicals	168	82	48.8	20	11.9	66	39.3	67	39.9
4. Paper & press	115	75	65.2	24	20.9	16	13.9	16	13.9
5. Food & drinks	85	64	75.3	9	10.6	12	14.1	10	11.8
6. Non-retail commerce	61	42	68.9	1	1.6	18	29.5	7	11.5
7. Building materials & construction	48	32	66.7	6	12.5	10	20.8	14	29.2
8. Docks, wharfage & transport companies	29	24	82.8	1	3.4	4	13.8	7	24.1
9. Furniture & wood industries	15	10	66.8	2	13.2	3	20.0	4	26.7
10. Tobacco	13	13	100.0	—	—	—	—	4	30.8
11. Rubber & plastics	12	7	58.3	1	8.4	4	33.3	1	8.3
12. Ceramics & glass	11	8	72.7	—	—	3	27.3	4	36.4
13. Footwear	9	5	55.6	2	22.2	2	22.2	1	11.1
Total 1958—1970	1021	637	62.4	118	11.6	266	26.0	261	25.6

Note: The types add up to 100 % of the total number of mergers and cooperations. Cooperations are a % of the first column.

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vertical integrations third. The conglomerate types cover both the diversification mergers and the pure conglomerates, i. e. those mergers where the companies' products were totally unrelated and the companies themselves in different branches or sub-branches of industry and commerce. These pure conglomerates were not separately enumerated because of their minor importance. Only a handful of Dutch companies practise this method of external growth, and, though the number of their take-overs is larger than the average for all companies, the total weight of such conglomerate mergers is not considerable.

In the main, five or six pure conglomerates are active, three of which have their origin in the now quickly declining coal industry, whereas a fourth continues as a public utility in Dutch overseas territories. These pure conglomerates seem to spread their activities in a broad pattern of industries (ranging from retail trading, insurance, office equipment, pharmaceutical products, etc. to electrotechnical installations and central heating) mainly because of the defensive reason to make up for the decline of their traditional activities. And, not being in the possession of worthwhile patents or a fruitful research laboratory, they try to utilize their commercial and organizational capabilities for securing growth in the external way. The results of this policy appear to be good up till now: the companies concerned experience a quick growth in profits and sales, without having recourse to some of the doubtful methods associated with their American counterparts. But, though it is not excluded that some more stable and better organized type of European conglomerate may develop in the future, it remains to be seen whether these companies can avoid the many pitfalls of pure conglomerization once they pass certain thresholds of size and diversity.

Diversification—i. e. the penetration of a restricted number of more or less closely related sectors under a coherent policy—has been much more important so far, and is to be seen especially in branches such as chemicals, plastics and rubber, metal processing and electrotechnical industry. In the branches of lines 1 and 3 there is a bond between diversification and the high percentage of cooperations. Quick technical developments in these sectors no doubt explain the links: the chemical or electrotechnical firm of to-day has to face an increasing stream of new products and processes and—being incapable to find or realize all the required innovations—looks around for cooperative enterprises, mainly in the form of a joint-venture, both for financial and technical reasons. Such joint-ventures are often terminated after some years, not because of a failure, but in case of success. One of the participating companies retires altogether from the project or leaves control to the other and gets paid for the withdrawal in cash or by means of an exchange of interests in some other venture.

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Throughout the years such continuing regroupings may be discerned among some of the most active companies. These reorganizations would seem to serve the long-term strategies of the companies, who are intent on acquiring the key positions in growing industries. Also, they may serve the goal of an elimination of over-diversification, damaging for the efficiency of operations in the productive, managerial or distributive sense and which expose the company to an unwanted competition from more specialized producers. Such reorganizations are therefore an indicator of the flexibility with which diversified enterprises react on the changes occuring in a dynamic industrial society. In the construction and building materials sectors one notes a higher than average degree of cooperation of a mainly horizontal nature. Modern forms of construction and building, requiring the execution of great projects and an appreciable mass of financial means, seem to be at the origin of the forms chosen.

Vertical integration prevails in the paper and press sectors, and is to be accounted for by severe competition from integrated large scale Scandinavian producers in basic products such as newspaper and craft-paper. Benelux producers were unable to counter the competition in these fields and integrated forward into packaging and finer and specialized products. A real horizontal merger boom has developed in the press and publishing branches, as noted above; and, in order to avoid the exclusion from printing facilities, many of the newly emerged companies have integrated backwards.

The preponderant horizontal nature of mergers in the food, drinks and tobacco industries, as well as in textiles and maritime transport has both defensive and offensive reasons connected with international competition and the enlargement of markets. The penetration of (mainly British) breweries can be cited as an example of the prime cause of defensive horizontal mergers, both in Holland and in Belgium. On the other hand, most Benelux companies in the food and drinks sectors were rather specialized, as a Belgian study made clear some years ago[7]. The wider market of the European Economic Community has offered many of these companies the chance to get a foothold or to enlarge their sphere of operations in the other member countries. Most of these companies seem to consider horizontal tie-ups to be worthwhile, and marketing considerations may well have been the main determinant.

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[7] *Van Meerhaeghe*'s study, cited above, demonstrated that 471 Belgian food and drink companies were one-product firms, 85 two-product firms whereas only 28 and 9 firms produced respectively 5 or more than 10 products each. Similar tendencies prevailed in the Dutch food industries, as well as in the textile branches of both countries. See *M. A. G. van Meerhaeghe*, op. cit., p. 196—197.

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The same tendencies prevail in textiles. In both industries product differentiation has gained in importance during the sixties, a result of their role as direct suppliers to the ultimate consumer as well as of their advanced ages. The reduced elasticity of demand which they increasingly have to face, connected with relative saturation of the market, prompts many food, drink and textile producers to incur higher selling costs in order to carve out a differentiated market, and this induces concentrations.

A final word about the relative development of the types of mergers in the course of time. The average share of horizontal mergers increased from 52 % and 47 % of the total number of concentrations during the three consecutive years 1958—1960 and 1961—1963, to 55 % and 69 % on average for the periods 1964—1966 and 1967—1969. The great merger boom of the late sixties was therefore of a more pronounced horizontal nature than the concentrations of the earlier years. Vertical mergers, on the other hand, declined, often in an absolute sense and in nearly all branches as a proportion of the total.

The diversification movement, on the contrary was fairly stable when taken in a proportional sense, even though the number of conglomerate mergers rose in most branches of industry.

V. Growth and Profitability of Companies

The rather pervasive increase of competition which we have seen to mark the economic scene in the Benelux countries, especially during the sixties was accompanied by an accelerating economic growth. This occurred somewhat earlier in Holland than in Belgium; both factors operated in the same direction: a decline of the possibilities of self-financing on the part of most companies[8]. The quest for larger size apparent during these years may therefore have had as another general determinant the necessity to apply for outside financial means. In the eyes of many suppliers of capital, private and otherwise, the larger companies are also the more stable ones and there may be a presumption that they have a better profitability record. Moreover, certain thresholds have to be passed before a company can gain access to the stock exchange or to the institutional investment and medium-term loan banking markets, which have acquired the predominant importance as sources of external company capital.

[8] The degree of self-financing of Belgian companies declined from 82.7 % in 1958 to 64 % in 1966 and the decline has continued since, according to the *De Voghel* report. The Dutch figures — which may not be wholly comparable to the Belgian—were: 56 % on average during the 1957-1960 period, and 31 % in 1967/1968. See sources 14 and 15 from the Select Bibliography.

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What are the growth, stability and profitability aspects of the various company dimensions? The answer to this question may serve at the same time as a test of the widely prevailing notion that size brings about an increase in efficiency.

For some 120 industrial, commercial and financial enterprises of the Netherlands, quoted on the Amsterdam stock exchange an elaborate statistical comparison was made in 1969 by one of the Dutch banks. From this group of 120 companies, we have selected the 64 companies, for which a comparison can be made as to size, growth and profitability for the years 1964—1968. For the other companies, at least one of the required data for at least one of the years was lacking, so that they were eliminated. The group is nevertheless sufficiently representative, covering both small, large and giant enterprises in most of the important Dutch branches of industry. The two tables 5 A and B summarize the results.

The first table (5 A) gives the relationship between size and growth. It seems that small companies (sales below Florins 100 million per annum) and large ones (sales between Fls. 500 and 1,000 millions) grow most quickly.

Table 5 A

Relationship between Size and Rate of Growth of 64 Dutch Companies

Growth (in %) of sales 1964—1968	Size (sales in millions of Florins in 1968)					
	0—100	100—250	250—500	500—1000	>1000	Total
< 0	—	3	1	—	—	4
0— 25	2	2	6	—	1	11
25— 50	3	7	2	2	3	17
50— 75	6	5	2	3	1	17
75—100	2	2	5	—	1	10
> 100	1	2	1	1	—	5
Total	14	21	17	6	6	64
Percentage of companies having a growth of 50 % or more	64	43	47	67	33	61

The medium-sized companies show a weaker growth, but still higher than that of the giants. The figures may put the giants in a rather too unfavourable light, as the main share of their business is conducted outside the Netherlands and Dutch economic growth was above world average. But the result at least indicates that "multi-nationalism" is not

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a panacea for wanting growth. The same idea derives from the second table, exposing the relationship between size and company profitability. It again follows that small and large companies but not the giants or the medium-sized companies have the best positions. The percentage of

Table 5 B

Relationship between Size and Rate of Return in 64 Dutch Companies

Rate of return in % of own means 1964—1968	Size (sales in millions of Florins in 1968)					
	0—100	100—250	250—500	500—1000	>1000	Total
<5	3	4	3	1		11
5—10	5	10	7	2	4	28
10—15	3	7	7	2	—	21
15—25	2	—	—	—	—	2
>25	1	—	—	1	2	2
Total	14	21	17	6	6	64
Percentage of companies having a rate of return of 10 % or more	43	33	41	50	33	39

small and large companies having a growth of more than 50 % during the years 1964—1968 was twice as large as that of the giant companies and more of them had a net rate of return of 10 % or more on the company's own means: the relationship of net profits to company-owned capital plus reserves was used as a criterion of profitability.

— It follows that there does not seem to exist a correlation between size, growth and profitability, though in some branches economies of scale may prevail up to large size.

— The dispersion of growth rates and rates of profitability diminishes with the size of enterprises. It would seem that some threshold exists at a level of about Fls. 500 million.

— But it also seems that the dispersion is more marked in the case of growth rates than in that of rates of return. In the first table more than half of the companies having a dimension of less than Fls. 500 million fall into the categories of less than 25 % growth and more than 75 % growth. In the second table, this share is only a quarter. For the large and giant companies these proportions are only a quarter and a sixth respectively.

— Size therefore favours stability, which is an advantage as far as the supply and acquisition of financial means is concerned. It is not

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astounding that the banks are in favour of concentration and have undertaken themselves a number of concentration moves. But it is also clear that the efficiency of the economic process could be improved by more attention to the small dynamic companies with a satisfactory rate of return.

Moreover, if the tables have any bias it is towards the larger sizes of companies, for many smaller dynamic firms among the 120 were eliminated because one or more of the required data were missing.

The conclusions are not much different from those found for similar researches carried out in other countries and are conducive to the general proposition that it is not necessary, from an efficiency point of view, to constitute giant enterprises by means of series of mergers.

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Wirtschaftspolitik und Konzentration in der BRD

Von *Helmut Meinhold*, Frankfurt/M.

I. Vorbemerkung
II. Die Konzentration im Verfolg der allgemeinen Wirtschaftspolitik
III. Die Meinungsbildung zu Wettbewerb und Konzentration

I. Vorbemerkung

Die folgenden Ausführungen sollen die Beschreibung fortsetzen, die vor zehn Jahren vorgelegt wurde[1]. Dabei ist im Rahmen des Gesamtwerkes hier weder die tatsächliche Entwicklung der Konzentration noch sind ihre Ursachen und Wirkungen zu untersuchen, soweit sie nicht wirtschaftspolitische Maßnahmen herausgefordert haben, oder umgekehrt durch wirtschaftspolitische Maßnahmen herbeigeführt wurden. Gegenstand der Untersuchung ist also keine Konzentrationsproblemanalyse als solche, sondern eine deutende Beschreibung. Daraus folgt, daß es sich hier nicht um eine Neubearbeitung, sondern um den Versuch einer zeitlichen Fortsetzung der seinerzeitigen Beschreibung handelt. Dabei sind zudem weite Bereiche — und zwar die konkret entscheidenden Einzelbereiche — durch parallele Beiträge abgesondert, so vor allem die Beeinflussung der Konzentration durch Recht, speziell Steuerrecht, und Finanzpolitik.[1a] Hier steht daher der Zusammenhang von allgemeiner Wirtschaftspolitik und Konzentration sowie speziell die Wettbewerbspolitik im Zentrum der Betrachtung, letzteres allerdings nur, soweit dabei die Konzentrationsfrage berührt wird. Dem Charakter der Beschreibung entspricht es auch, wenn sich das folgende im wesentlichen auf amtliche Dokumentationen sowie Aussagen stützt und nicht auf die problematische Literatur. Da es dabei oft auf den Wortlaut amtlicher Äußerungen ankommt, verbindet sich damit eine an sich unwillkommene Häufung von wörtlichen Zitaten.

Die vor zehn Jahren vorgelegte Beschreibung schloß im allgemeinen Teil mit der Bemerkung über die damals im Zusammenhang mit der Konzentration bevorstehenden wirtschaftspolitischen Probleme: „Aus dem Begriff der sozialen Marktwirtschaft allein lassen sich diese Fragen

[1] *H. Meinhold,* Westdeutsche Wirtschaftspolitik und Konzentration, in: Die Konzentration in der Wirtschaft, Schr.VfSp. (NF), hrsg. v. *H. Arndt,* Berlin 1960, Bd. 2, S. 1333 ff.

[1a] Vgl. hierzu die Beiträge von *K. Ballerstedt, K. H. Biedenkopf, R. Lukes, H. Meilicke* und *D. Pohmer* im 1. Band dieses Werks.

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(der zu erarbeitenden Zielkonzeption und der damit bevorstehenden Entscheidungsprobleme) nicht mehr bewältigen ... Grundfragen wie die der Verbindung von ökonomischer und politischer Macht, Verhältnis der modernen Demokratie und des modernen Staates zum wirtschaftenden Individuum, Vordringen der Gemeinschaftsbedürfnisse und des individuellen Sicherheitsbedürfnisses nach Deckung der dringendsten Individualbedürfnisse lassen sich aus diesem Begriff allein nicht mehr lösen. So muß sich die Gesamtlinie dieses neuen Abschnitts erst klarer abzeichnen, ehe auch die nunmehr notwendige Konzentrationspolitik klarere Konturen gewinnt."[2]

Der Betrachter ist geneigt fortzufahren: Die seither vergangenen zehn Jahre sind gekennzeichnet durch intensive Bemühungen der wirtschaftspolitischen Instanzen um diese Klärung, doch liegt ein endgültiges oder auch nur vorläufiges Ergebnis — etwa in Form eines verabschiedeten Gesetzes, das die Problematik der marktbeherrschenden Unternehmungen und speziell der Fusionskontrolle definitiv regelt — noch nicht vor. Die Wirtschaftswissenschaft hat zu diesem Schluß nicht unerheblich beigetragen, indem sie — aus zwingenden Gründen — eine Reihe von Fragen erneut und vertieft aufwarf, welche die politische Klärung komplizierten[3]. Vor allem aber hat sich die politische Einstellung zum Konzentrationsvorgang und zu seiner Bedeutung gewandelt. Dafür mögen drei Hauptgründe maßgeblich gewesen sein, die hier zusammenwirkten: Zum einen ließ die zunehmende außenwirtschaftliche Verflechtung der BRD, vor allem die europäische Integration, im Zusammenhang mit dem technischen Fortschritt vielen die Konzentration auf dem Binnenmarkt als nicht mehr so gefährlich, ja umgekehrt als verstärkt notwendig erscheinen. Zum zweiten ist die Rolle des Wettbewerbs und speziell der Wettbewerbspolitik neben anderen Aufgaben der Wirtschaftspolitik wenn nicht zweitrangig geworden, so doch relativ zurückgetreten[4]. Zu nennen ist dabei zunächst die Konjunkturpolitik, zunehmend die Strukturpolitik und nicht zuletzt die Mitbestimmung. Damit verbunden, und drittens, hat sich eine Gewichtsverschiebung bei dem verstärkt fortgesetzt, was man vom Wettbewerb wirtschaftspolitisch erwartet; war das Wettbe-

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[2] *H. Meinhold,* a. a. O., S. 1337.

[3] Vgl. z. B. *H. O. Lenel,* Ursachen der Konzentration, Tübingen (1962) 1968[2]; *E. Kantzenbach,* Die Funktionsfähigkeit des Wettbewerbs, Göttingen 1966.

[4] Oder, anders und noch schärfer ausgedrückt, daß „der verfassungsähnliche Charakter des Gesetzes gegen Wettbewerbsbeschränkungen für die Wirtschaftspolitik abzulehnen ist". „Die Wettbewerbspolitik ist innerhalb der Ordnungspolitik zwar von überragender Bedeutung, im Verhältnis zu den anderen Instrumenten der Wirtschaftspolitik" — so der Konjunkturpolitik, Strukturpolitik, Außenwirtschaftspolitik — „ist sie jedoch nicht beherrschend, sondern interdependenter Bestandteil". *B. Griesbach,* Wettbewerbspolitik im Rahmen der allgemeinen Wirtschaftspolitik, in: Zehn Jahre Bundeskartellamt, Köln, Bonn, München 1968, beide Zitate S. 42.

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werbsgesetz[5] in seinen Grundgedanken, jedenfalls von vielen, noch von der Idee getragen, daß der Wettbewerb die grundsätzliche Ordnungskraft der Wirtschaft sein sollte, so wird ihm zunehmend nur noch die Rolle zugewiesen, Teilaufgaben zu lösen, nämlich die (mikroökonomische) Allocation der Ressourcen im Sinne der Herstellung von Marktgleichgewichten auf den Gütermärkten unter bestmöglichem Wachstum zu bewirken. Schon die konkrete Feststellung dessen, was dabei als optimale Allocation der Ressourcen zu gelten hat, wird aber zunehmend von der Wirtschaftspolitik autonom vorgenommen, als Rahmenbedingung für den Wettbewerb gesetzt; und das gleiche gilt für die Feststellung dessen, was zur Sicherung der konjunkturellen, strukturellen und sozialen Bedingungen dienen soll, unter denen der Wettbewerb die Marktgleichgewichte herstellt. All dies ist aber — nicht nur in der Wissenschaft, sondern wie für diesen Beitrag maßgeblich auch bei der politischen Meinungsbildung — wenn nicht so sehr in der Tendenz, so doch im Hinblick auf die konkrete Konzentrationspolitik heiß umstritten. So wird viel diskutiert, andererseits sind so harte Urteile gefallen wie: „Die Bundesregierung der BRD hat in den vergangenen Jahren wenig getan, um die wirtschaftliche Konzentration in einer Weise zu gestalten, die der Funktionsfähigkeit der Konkurrenzwirtschaft entspricht."[6]

II. Die Konzentration im Verfolg der allgemeinen Wirtschaftspolitik

Es wäre sicherlich verfehlt, wenn man behaupten wollte, daß im Zuge des Wandels wirtschaftspolitischer Konzeptionen im Verlaufe des vergangenen Jahrzehnts in der BRD der Wettbewerbsgedanke als solcher in den Hintergrund getreten wäre. An der betonten Feststellung: „Der Wettbewerb ist und bleibt die Grundlage unseres Wirtschaftssystems"[7] zu zweifeln, besteht kein fundiert zu begründender Anlaß. Wohl aber hat sich der Inhalt dieses Gedankens und damit speziell der Zusammenhang von Wettbewerb und Konzentration gewandelt. Zunächst ist das die Folge der umfassender gewordenen wirtschaftspolitischen Zielkonzeptionen. Schon *Erhard* betont — unter den Stichworten Gemeinschaftsaufgaben, Vermögensverteilung, gegen Verfolgung einseitiger Gruppeninteressen (formierte Gesellschaft): „Allein mit der Technik der sozialen Marktwirtschaft kommen wir heute nicht mehr weiter, sondern wir müssen ihr mehr und mehr gesellschaftspolitische Züge verleihen, um damit

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[5] Gesetz gegen Wettbewerbsbeschränkungen vom 27. Juli 1957, BGBl. 1957, I, S. 1081.

[6] *H. Arndt*, Macht, Konkurrenz und Demokratie, in: Kritik 2, Konzentration ohne Kontrolle, hrsg. v. *D. Grosser*, Köln, Opladen (1969) 1970², S. 60.

[7] *K. Schiller*, Vorwort zu Unternehmensgröße und Wettbewerb, Protokolle der Arbeitsgruppe Wettbewerbspolitik des Bundesministeriums für Wirtschaft, BMWi-Texte, Bonn 1970, 5.

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auch das ganze soziale Leben in einen wohlgegliederten und aufeinander abgestimmten Prozeß einzuordnen."[8] Und in anderem Bezug (Konjunkturpolitik), aber eben doch auch in der Grundrichtung einer veränderten Deutung des Wettbewerbs sagt *Schiller*: „Wir versuchen, mit diesen neuen Entwürfen den Freiburger Imperativ des Wettbewerbs mit der Keynesianischen Botschaft der Nachfragesteuerung oder Globalsteuerung zu verbinden."[9]

Betrachten wir zunächst die Wirkungen der allgemeinen Wirtschaftspolitik auf die Konzentration. Im Vordergrund steht dabei die Konjunkturpolitik. Ob die konjunkturpolitischen Maßnahmen als solche unmittelbar konzentrationsfördernd oder -hemmend gewirkt haben, ist schwerlich exakt nachzuweisen, weil die Konzentrationsursachen dazu nicht genau genug zurechenbar sind. Am ehesten wird noch vermutet, daß restriktive kreditpolitische Maßnahmen gerade mittlere Firmen am schärfsten treffen — umgekehrt wird aber dargelegt, daß inflationistische Entwicklungen eher konzentrationsfördernd wirken. „Die Klage, daß Kreditinstitute die Kleinunternehmen bei der Gewährung von Krediten im Vergleich zu Großkunden gleicher Bonität benachteiligen, ist in dieser Form kaum berechtigt"[10], heißt es auf der einen Seite, andererseits aber: „Unterschiedliche Kreditmöglichkeiten verschieden großer Unternehmen z. B. führen bei Inflation dazu, daß im Endergebnis der Substanzzuwachs der Großunternehmen nicht nur absolut, sondern auch relativ größer wird als bei mittleren und kleinen Unternehmen."[11] Eine im Sinne der Inflationsbekämpfung erfolgreiche Wirtschaftspolitik würde demnach auch konzentrationshemmend wirken. Auch eine im Hinblick auf die Gesamtnachfrageentwicklung verstetigende Konjunkturpolitik ist in ihrer Wirkung indessen vielschichtig. So wird einerseits konstatiert: „Beruhigung der Konjunkturlage in einzelnen Bereichen, die damit einhergehende Wandlung von Verkäufermärkten zu Käufermärkten und der allgemein nach wie vor bestehende Arbeitskräftemangel führen neben den ständig wirksamen, wirtschaftlichen und rechtlichen Konzentrationsursachen zu wachsender Bereitschaft mittlerer und kleiner Unternehmen, die Selbständigkeit aufzugeben und sich an Großunternehmen anzuschließen."[12] Andererseits stellte das Bundeswirtschaftsmini-

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[8] *L. Erhard*, Gesamtpolitische Ziele, in: Was müssen wir für die freie Welt tun, Arbeitsgemeinschaft Soziale Marktwirtschaft, Ludwigsburg 1965, S. 103.

[9] *K. Schiller*, Reden, BMWi-Texte 1967 I, 61.

[10] *L. Erhard* bei der Beantwortung der Großen Anfrage der Fraktion der CDU/CSU, DP, betreffend Wirtschaftskonzentration vom 4. 12. 58, Bundestagsdrucksache III/702 (1959).

[11] *Arbeitsgemeinschaft selbständiger Unternehmer e. V.*, Übermäßige Konzentration, ihre Gefahren und Möglichkeiten der Eindämmung, Bonn 1959, S. 12.

[12] Bericht des Bundeskartellamts über seine Tätigkeit im Jahre 1963, Bundestagsdrucksache IV/2370, 1964, S. 15.

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sterium aber auch fest, „daß der anhaltende wirtschaftliche Aufschwung — im Gegensatz zur wirtschaftlichen Entwicklung der zwanziger Jahre — den Unternehmen Absatzchancen bietet, die das Bedürfnis nach wettbewerbsbeschränkenden Vereinbarungen verringern"[13].

So wird das Urteil hier nicht eindeutig sein, auch scheint in bezug auf die Konjunkturpolitik ein anderer Zusammenhang wichtiger, der vor allem, aber nicht nur an der Konzertierten Aktion als Institution der Konjunkturpolitik sichtbar wird. Auch wenn es sich nur um Abstimmungsgespräche handelt — die Entwicklung wirtschaftlicher Machtstellungen, die sich aus der Einschaltung nichtstaatlicher Machtgruppen in diese Gespräche und dem Bestreben, Gesprächsergebnissen auch Geltung zu verschaffen, ergeben, kann auf die Dauer zu wirksameren Veränderungen der Wettbewerbsverhältnisse führen als es unmittelbare Kartellabsprachen tun. Es handelt sich um eine „Mitwirkung der autonomen Gruppen an der Vorbereitung der Wirtschaftspolitik, denn es wird ja nicht nur über Löhne und Preise gesprochen, sondern über viele andere Bereiche der gegenwärtigen und kommenden Wirtschaftspolitik"[14].

Unmittelbare Fragen der Unternehmenskonzentration werden dagegen in der Struktur- und Außenhandelspolitik angesprochen. Auch hier mögen einige Zitate deutlicher sprechen als allgemeine Ausführungen. Zur Bergbaupolitik äußert der Bundeswirtschaftsminister die Notwendigkeit, „daß sich die Unternehmungen im Bergbau zu optimalen privatwirtschaftlichen Unternehmensgrößen zusammenschließen... Subventionen... sollen jetzt von einem bestimmten Tag ab aufgehalten werden, wenn die betreffenden sich nicht dieser Bewegung zur Fusionierung anschließen... Es ist nicht etwa gegen die Marktwirtschaft gerichtet, im Gegenteil. Es soll den Bergbau für marktwirtschaftliche Betätigung in der dritten Phase des Dreiphasenprogramms vorbereiten."[15] Noch deutlicher tritt diese wirtschaftspolitische Grundausrichtung in der Äußerung zur europäischen Stahlindustrie hervor: „Die Aufforderung an die Unternehmungen, durch Spezialisierung und Konzentration die Voraussetzungen für moderne optimale Produktion zu schaffen... findet meine volle Zustimmung. Der Bericht des Ausschusses zeigt, wie sich das Bild der Gemeinschaft" (EGKS) „gerade in den letzten Monaten durch Zusammenarbeit und Konzentration verändert hat. Wenn diese Entwicklung abgeschlossen sein wird... werden wir in der Gemeinschaft eine Stahlindustrie mit einer übersehbaren Zahl großer integrierter Unternehmen haben, die den internationalen Ansprüchen gerecht werden"[16]; und endlich, unter Bezug auf die Bauwirtschaft: „Kooperation und Konzentra-

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[13] Stellungnahme der Bundesregierung zum Tätigkeitsbericht des Bundeskartellamts für 1964, Bundestagsdrucksache IV/3752, 1965, S. 2.
[14] *K. Schiller,* Reden, BMWI-Texte IV, (13. 5. 68), 123.
[15] *K. Schiller,* BMWi-Texte I, (26. 5. 67), 148/149.
[16] *K. Schiller,* BMWi-Texte I, (5. 6. 67), 154 f.

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tion sind gerade auf dem Baumarkt mit einer Vielzahl von kleinen und mittleren Unternehmen kein Widerspruch zur Forderung nach einem dynamischen Wettbewerb. Im Gegenteil, je stärker die Leistungsfähigkeit der einzelnen Wettbewerber durch Kooperation, um so stärker wird der Wettbewerb im Interesse aller intensiv durchgeführt und belebt werden können."[17]

Was sich bei alledem zeigt, ist also in der Tat keine Abkehr von der Idee des Wettbewerbs. Wohl aber hat sich das, was vom Wettbewerb als Funktion erwartet wird, allmählich — keineswegs sprunghaft etwa im Zuge der Regierungswechsel, wie schon das obige Zitat von Erhard andeutet — verschoben, und damit die Einstellung zur Konzentration. Das kann man auf zwei Wurzeln zurückführen: Einmal verlangt die hier zum Ausdruck kommende erweiterte wirtschaftspolitische Aufgabenstellung andere Lenkungsfunktionen — zum anderen hat sich aber gleichläufig die von der Theorie her kommende Ansicht von Aufgabe und Funktionsfähigkeit des Wettbewerbs gewandelt. Dieses wird hier zunächst im Wege der Beschreibung einfach festgestellt, nicht etwa wertend bejaht oder verneint. Diese Wandlung geschah nicht gerade in dem hier zu betrachtenden Jahrzehnt — wohl aber wurde sie in dieser Zeit besonders deutlich. „Eine Rezeption des Konzepts der ‚workable or effective competition' in die deutsche Wettbewerbstheorie ist erst Anfang und Mitte der 60er Jahre in zunehmendem Maße erfolgt."[18]

III. Die Meinungsbildung zu Wettbewerb und Konzentration

In ihrer Stellungnahme zum Tätigkeitsbericht des Bundeskartellamtes für 1966 macht die Bundesregierung diese Veränderung des Standpunktes deutlich. Nach der Feststellung, die Anwendung des Gesetzes gegen Wettbewerbsbeschränkungen habe „die Ordnung der Wirtschaft durch wirksamen Wettbewerb bisher in beachtlichem Umfang geschützt, dennoch" seien „einige wichtige wettbewerbspolitische Fragen ... noch nicht für die Dauer zufriedenstellend gelöst ... Daraus ist jedoch nicht zu folgern, daß eine Verschärfung des Kartellgesetzes nach dem Modell der sog. atomistischen Konkurrenz ratsam wäre ... Auf manchen Märkten mit sehr vielen Unternehmen könnte das Entstehen größerer potenter Unternehmenseinheiten den Wettbewerb intensivieren. Andererseits sollte geprüft werden, wie der Wettbewerb auf den Märkten, wo er wegen einer zu geringen Zahl von Wettbewerbern nachgelassen hat, besser als bisher geschützt werden kann."[19]

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[17] *K. Schiller,* BMWi-Texte II, (11. 10. 67), 164 f.

[18] *E. Günther,* Zehn Jahre Bundeskartellamt: Rückblick und Ausblick, in: Zehn Jahre Bundeskartellamt, a. a. O., S. 12.

[19] Stellungnahme der Bundesregierung zum Tätigkeitsbericht des Bundeskartellamtes für 1966, Bundestagsdrucksache V/1950, 1967, S. 2.

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Fast alle die Stichworte und Fragezeichen, welche die neuere wettbewerbs- und konzentrationspolitische Diskussion kennzeichnen, tauchen hier also gedrängt auf und werden mehr als Fragen denn als definitive Feststellung formuliert. Nach der Verabschiedung des Gesetzes gegen Wettbewerbsbeschränkungen hat sich damit die Diskussion um die wirtschaftspolitische Meinungsbildung zu diesem Problem eher verstärkt als daß sie einen vorläufigen Abschluß gefunden hätte. Als einige Kennzeichen dafür mögen hier, allein aus dem Blickfeld von Parlament und Regierung, angeführt sein: die große Anfrage der Fraktion der CDU/CSU, DP des Deutschen Bundestages vom 4. 12. 1958 mit der kennzeichnenden Frage: „Was versteht die Bundesregierung unter wirtschaftlich und gesellschaftspolitisch unerwünschter Konzentration?“[20] — das Gesetz über eine Untersuchung der Konzentration in der Wirtschaft vom 31. 12. 1960[21] — die „Kooperationsfibel“ über „Zwischenbetriebliche Zusammenarbeit im Rahmen des Gesetzes gegen Wettbewerbsbeschränkung von 1963“ — der Bericht über das Ergebnis einer Untersuchung der Konzentration in der Wirtschaft vom 29. 12. 1964[22], die Arbeit einer „Arbeitsgruppe Wettbewerbspolitik“ des Bundesministeriums für Wirtschaft in den Jahren 1968 und 1969[23] und nicht zuletzt die verschiedenen Regierungserklärungen.

Das wohl entscheidende Merkmal dieser Meinungsbildung ist die nunmehr nicht nur verbal, sondern auch in ihren Konsequenzen deutliche Abkehr vom Leitbild der atomistischen Konkurrenz. Die Funktionen des Wettbewerbs — der nach wie vor „die Basis unserer Wirtschaftsordnung“ sei, werden damit enger gefaßt. „Heute wird der Wettbewerb als ein Marktprozeß angesehen, der sich in Vorstoß und Verfolgung äußert. Seine dynamischen Funktionen (Förderung der Anpassungsfähigkeit, rasche Durchsetzung des wirtschaftlichen und technischen Fortschritts) kann der Wettbewerb aber nur erfüllen, wenn auf den einzelnen Märkten aktive, leistungsfähige Unternehmer vorstoßen und dadurch die Intensität des Wettbewerbs steigern.“[24] Ob diese Abkehr von der Idee der atomistischen Konkurrenz dabei mehr auf Resignation — im Sinne des doch nicht erreichbaren — beruht oder auf einer positiven Hinwendung zum Leitbild einer in den Gruppen abgestimmten Rahmenlenkung, wie es in der Konstruktion der Konzertierten Aktion liegt, mag hier dahingestellt sein. Jedenfalls ist damit ein entscheidender Schritt vollzogen. Der Wettbewerb hat nicht mehr Total-, sondern nur Partialfunktionen zu erfüllen. Die („gesellschaftspolitische“) Konzeption des klassischen Libe-

[20] Bundestagsdrucksache III/702.
[21] BGBl., 1961 I, S. 9.
[22] Konzentrationsenquête, Bundestagsdrucksache IV/2320.
[23] Protokolle siehe BMWi-Texte, September 1970.
[24] Stellungnahme der Bundesregierung zur Tätigkeit des Bundeskartellamtes 1967, Bundestagsdrucksache V/2841, 1968, S. 2.

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ralismus setzte voraus, daß kein Anbieter von Gütern — eben durch die atomistische Konkurrenz — einen Einfluß auf Preis und Gesamtabsatzmenge hatte, er war Vollzugsorgan der täglichen millionenfachen Wahlakte der Nachfrager und stand nur vor der Wahl, diese Willenskundgebung zu vollziehen oder seine Position zu verlieren. Ob das eine Organisationsutopie war oder ist, steht hier nicht zur Debatte — jedenfalls ist dieser Grundgedanke (als unrealistisch) aufgegeben, daß die volle Souveränität bei der Nachfrageentscheidung liegt und der Anbieter nur Vollzugsorgan ist. Die Souveränität ist nunmehr geteilt: Das Verhalten in der Gruppe der Anbieter eines Gutes (Vorstoß und Verfolgung, siehe das obige Zitat) bedarf zwar nach wie vor der Anerkennung durch die Nachfrager, jedenfalls bei Gütern mit elastischer Nachfrage, und es steht unter der (bei kapitalintensiven Produktionen geminderten) Gefahr des Eintritts neuer Anbieter in den Markt, andererseits ist dieses Verhalten der Anbietergruppen bestimmend für den Preis und setzt damit dem Nachfrager verhaltensbedingtes, nicht mehr „natürliches" Datum für seine Wahlakte.

Daß diese — im Vergleich zur liberalen Idee — veränderten Erwartungen von den Funktionen des Wettbewerbs auch in allen anderen Bereichen des Wirtschaftssystems Konsequenzen haben muß, die erst teilweise vollzogen sind, kann hier — unser Gegenstand ist die Konzentration — nur am Rande vermerkt werden. Auch die Faktorpreisrelationen, d. h. die originäre Einkommensverteilung, werden damit als gruppenverhaltensbedingt anerkannt, die (z. B. geld- und kredit-, konjunktur-, strukturpolitische) Datensetzung für das Gruppenverhalten und die Abstimmung der Gruppenverhalten zueinander rückt in den Vordergrund der Lenkungsvorgänge.

Zu diesen Daten des Gruppenverhaltens — mehr ist es nicht — gehört der Wettbewerbsgrad, und zumal der innerhalb der Gruppe, erst daneben der Wettbewerb zwischen den Gruppen und den (durch beschränkte Mobilität gekennzeichneten) Faktormärkten und um die (durch beschränkte und beeinflußbare Nachfrageelastizität gekennzeichnete) Käufermärkte. Eben dazu gehört aber auch die optimale Betriebsgröße, denn nur sie (siehe wieder obiges Zitat 24) befähigt zu Vorstoß und Verfolgung, also zu der erstrebten Form des Wettbewerbs.

Damit ist also — in vielleicht extremer, aber jedenfalls die Tendenz der Grundrichtung andeutender Interpretation — der Konzentrationspolitik der Rahmen gesetzt: Zulassung optimaler Betriebsgrößen einerseits — Verhinderung marktbeherrschender Positionen andererseits, welche den Wettbewerb innerhalb der Gruppe der Anbieter eines Gutes behindern würden. Die — von Anbeginn sichtbare — Schwäche des Gesetzes gegen Wettbewerbsbeschränkungen tritt verstärkt in den Vorder-

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grund: Während es bei der in den fünfziger Jahren vorherrschenden Wettbewerbskonzeption noch sehr viel mehr um die Verhinderung monopoloider Positionen und damit in erster Linie, da solche Monopole bei Einzelunternehmungen so selten sind, um Kartelle ging, richtet sich jetzt das Augenmerk mehr auf diese marktbeherrschenden Positionen — einerseits wohl, weil das Gesetz dagegen eben relativ schwache Handhaben bietet, aber zweitens auch, weil das Ansteuern optimaler Betriebs- und Unternehmensgrößen die Gefahr der Entstehung solcher Positionen verstärkt.

Entscheidend für den Ansatzpunkt solcher Politik wäre die genaue empirische Kenntnis der Konzentrationsursachen bzw. des tatsächlichen Gewichts der verschiedenen, theoretisch möglichen und bekannten Ursachen einerseits, der optimalen Betriebsgrößen andererseits. Die Konzentrationsenquete hat — aus Ursachen, die in ihrer Stellungnahme von der Bundesregierung der BRD dargestellt und gewürdigt werden — in dieser Beziehung enttäuscht.

„Der Bericht enthält keine zusammenfassende Würdigung und Darstellung der Konzentrationsursachen... Eindeutige Zusammenhänge zwischen konkreten Ursachen und bestimmten Konzentrationsformen und- entwicklungen ließen sich deshalb nicht nachweisen."[25] Und: „Für das Optimum der Betriebs- oder Unternehmensgröße können neben dem Stand der Technik noch zahlreiche andere Faktoren bestimmend sein, z. B. Finanzierung, Einkauf und Absatz, Sicherung gegen konjunkturelle Schwankungen und strukturelle Wandlungen."[26] So ist das Fazit schließlich zusammengefaßt: „Bei der Gestaltung des wirtschaftsrechtlichen Ordnungsrahmens muß dafür gesorgt werden, daß alle Rechtsinstitute, die zur Konzentration anreizen, beseitigt werden, um die Wettbewerbsbedingungen konzentrationsneutral zu gestalten. Daneben ist es Aufgabe der Wirtschaftspolitik, die kleineren und mittleren Unternehmen zu fördern und ihre Möglichkeiten erschließen zu helfen, die den Großunternehmen allein kraft ihrer Unternehmensgröße und Finanzstärke offenstehen."[27] Daneben gibt es „Förderung von Gegenkräften"[28]. Soweit 1964.

Diese Förderung von Gegenkräften erscheint freilich als im höchsten Grade problematisch. Zwar kann man in der Konzertierten Aktion eine Anwendung von Gegenkraftprinzipien auf wirtschaftspolitische Entscheidungen sehen, die dann auch auf einzelnen Märkten wirksam werden. Aber im ganzen muß man der Tragfähigkeit dieser Konzeption mit

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[25] Stellungnahme der Bundesregierung zum Bericht über das Ergebnis einer Untersuchung der Konzentration in der Wirtschaft, Bundestagsdrucksache IV/2320, 1964, S. 93.
[26] Bundestagsdrucksache IV/2320, 1964, S. 90.
[27] Ebenda.
[28] Ebenda, 101.

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großem Zweifel begegnen. So zitiert das Bundeskartellamt schon 1963 inhaltlich zustimmend die Äußerung des wissenschaftlichen Beirats beim Bundeswirtschaftsministerium, daß „ein solcher Zustand (gegengewichtiger Marktmacht) zwar denkmöglich ist, aber kaum jemals Aussicht hat, sich zu verwirklichen. Wo sich gegengewichtige Marktmacht bildet, pflegen die Partner nach aller Erfahrung sich auf Kosten dritter zu verständigen, die nicht in der Lage sind, ihrerseits wieder Gegenmacht gleicher oder ähnlicher Stärke aufzubauen."[29]

So wendet sich die aktuelle, auf konkrete Regelungen hinsteuernde Diskussion mehr und mehr der Frage „optimaler" Unternehmensgrößen einerseits, marktbeherrschender Positionen andererseits zu, zumal gerade in diesem Bereich — im Vergleich etwa zur Kartellregelung — das Gesetz gegen Wettbewerbsbeschränkungen, wie schon gesagt, schwächer ist. Dabei ist bei internem Wachstum der Unternehmungen die Mißbrauchsregelung, bei externem Wachstum die (vorbeugende) Fusionskontrolle der Ansatzpunkt der Diskussion[30]. Angesichts der auf den verschiedenen Märkten sehr unterschiedlichen Spannung zwischen optimalen Unternehmensgrößen einerseits und marktbeherrschenden Positionen andererseits[31] können dabei, zumal bei der Fusionskontrolle, die allgemeinen (gesetzlichen) Regelungen aber nur Eingriffskriterien bieten (Marktanteil, Beschäftigte, Umsatz), die Anlaß zu spezifischen Untersuchungsverfahren geben — außerdem ist eine regelmäßige Überprüfung der Konzentrationsvorgänge unter Beachtung dieser Untersuchungspraxis angesteuert, die Aufgabe der schon in der Regierungserklärung 1969 vorgesehenen unabhängigen Monopolkommission wäre. Nach vorliegenden Entwürfen wäre dabei die Feststellung der marktbeherrschenden Position Aufgabe des Bundeskartellamtes, doch führt diese nicht unbedingt zu Maßnahmen — vielmehr kann (abgesehen von den Rechtsmittelinstanzen) — Erlaubnis durch das Bundeswirtschaftsministerium erteilt werden, wenn überwiegende Gründe der Gesamtwirtschaft und des Gemeinwohls vorliegen.

Wie weit dabei ein solches Verfahren „rationalisiert" werden kann, wird weitgehend davon abhängen, ob es gelingt, die optimale Unternehmensgröße konkret in den Griff zu bekommen[32], und: „Konkrete, auf-

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[29] Bericht des Bundeskartellamts über seine Tätigkeit im Jahre 1962, Bundestagsdrucksache IV/1220, S. 14, direkt in: Der Wissenschaftliche Beirat beim Bundeswirtschaftsministerium, Gutachten vom April 1961 bis März 1966, 6. Bd., Göttingen 1966, hier Gutachten v. 23. Juni 1962 Punkt 15, S. 22.

[30] Vgl. dazu auch Jahreswirtschaftsbericht 1970 der Bundesregierung, Beilage zum JG 1969, Ziff. 62.

[31] Vgl. dazu *O. Schlecht,* Aktuelle Probleme der Wirtschafts- und Wettbewerbspolitik, Vortrag 26. 11. 69, BMWi-Texte 83 (3. 12. 69), 7 ff.

[32] Vgl. dazu *Prognos AG.,* Unternehmensgröße und internationale Wettbewerbsfähigkeit, Basel 1968; *H. Jürgensen, H. Berg,* Konzentration und Wettbewerb in der europäischen Automobilindustrie, Hamburg 1968.

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grund empirischer Untersuchungen gewonnene Vorstellungen über die Auswirkungen der Konzentration sind eine der wesentlichsten Voraussetzungen für eine rationale staatliche Konzentrationspolitik im Rahmen der allgemeinen Wettbewerbs- und Wirtschaftspolitik. Für die Bundesrepublik liegen umfassende Untersuchungen nicht vor."[33]

Summary

Economic Policy and Concentration in the Federal Republic of Germany

In the first ten years after the currency reform of 1948—or, at least in the years after the first reconstruction period in Germany—the problem of industrial concentration was considered in the Federal Republic of Germany primarily under the aspect of anti-monopolistic policy. Encouraged by the obvious results of competition after the period of rationing and direct planning before and during the war, there was a strong tendency in favour of perfect competition. A first and incomplete step in this direction was the „Gesetz gegen Wettbewerbsbeschränkungen" of 1957, the so-called anti-cartel-law.

It would not be true to say that this policy has been basically changed since then. But in general, more and more attention was given—in accordance with the anticyclical policy—to the stabilization of a high rate of economic growth and also to structural policies. Consequently instead of approaching more perfect competition, the tendency was to find a degree of concentration where on the one hand an optimal size of firms and on the other an enforced workable competition could be realized. The main questions now are to find a more exact definition of this optimum size in different branches and to inact an appropriate control.

[33] Bericht des Bundeskartellamts über seine Tätigkeit im Jahre 1968, Bundestagsdrucksache V/4236, 1969, S. 10.

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Konzentration in der DDR

Von *Karl C. Thalheim*, Berlin

I. Allgemeines
II. Betriebs- und Eigentumskonzentration
A. Landwirtschaft
B. Industrie
C. Handwerk
D. Handel, Bank- und Versicherungswesen
III. Konzentration der Herrschafts- und Verfügungsmacht

I. Allgemeines

Die Voraussetzungen, unter denen sich seit dem Ende des zweiten Weltkrieges in der SBZ bzw. DDR* der Konzentrationsprozeß vollzogen hat, waren und sind grundlegend andere als in der Bundesrepublik. Art und Grad der Konzentration sind hier eine unmittelbare Auswirkung des Wirtschaftssystems, das durch die Besatzungsmacht und die neben dieser für die staatliche Willensbildung entscheidende Sozialistische Einheitspartei Deutschlands (SED) eingeführt und das in allen wesentlichen Punkten, oft bis in die Einzelheiten, dem in der Sowjetunion entwickelten Modell nachgebildet wurde. Zwei Hauptmerkmale dieses Wirtschaftssystems sind das „sozialistische" Eigentum an den Produktionsmitteln und die zentrale Planung.

Eine so geartete Wirtschaftsordnung muß notwendig Kräfte zur Wirksamkeit bringen, die hinsichtlich der Eigentumsverteilung, der Betriebsgrößenstruktur und ganz besonders hinsichtlich der „Herrschaftskonzentration" stark konzentrationsfördernd wirken. Das „sozialistische" Eigentum ist im Wirtschaftssystem der DDR ganz überwiegend *Staats*eigentum; der dafür in der DDR verwendete Begriff des „Volkseigentums"[1] kann nichts daran ändern, daß der ganz überwiegende Teil der „vergesellschafteten" Betriebe sich in den Händen des Staates befindet und nach den Weisungen zentraler staatlicher Instanzen geführt wird.

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* Die Deutsche Demokratische Republik (DDR) besteht erst seit Herbst 1949.

[1] In Artikel 10 der Verfassung der DDR vom 6. April 1968 wird es „Gesamtgesellschaftliches Volkseigentum" genannt.

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Dieses staatliche Eigentum wurde lange Zeit als „die höhere Form" des sozialistischen Eigentums bezeichnet; es hat heute an der Gesamtwirtschaft der DDR den weitaus höchsten Anteil.

Daneben besteht als zweite Form des sozialistischen Eigentums das „genossenschaftliche Gemeineigentum werktätiger Kollektive". Abgesehen von den Konsumgenossenschaften und den Arbeiterwohnungsbaugenossenschaften, handelt es sich dabei um das Eigentum der sog. „Produktionsgenossenschaften" (hauptsächlich die Landwirtschaftlichen Produktionsgenossenschaften = LPG und die Produktionsgenossenschaften des Handwerks = PGH). Diese Produktionsgenossenschaften sowjetischen Typs unterscheiden sich ihrem Wesen nach von nahezu allen Genossenschaftsformen westlicher Länder. Denn während deren Hauptzweck die Verbesserung der ökonomischen Existenzbedingungen von Kleinbetrieben ist, der genossenschaftliche Zusammenschluß also der *Erhaltung* solcher Kleinbetriebe dient, ist der Hauptzweck der Produktionsgenossenschaft sowjetischen Typs, die in ihr zusammengeschlossenen Kleinbetriebe in einem Kollektivbetrieb mit gemeinsamer Wirtschaftsführung aufgehen zu lassen. Es handelt sich dabei also um eine Form betrieblicher Konzentration, die in westlichen Ländern auch gelegentlich versucht worden ist, bisher aber niemals wirkliche Bedeutung gewonnen hat. Man kann sie als die spezifisch sowjetische Form der „Vergesellschaftung der Produktionsmittel" in kleinbetrieblich strukturierten Wirtschaftszweigen bezeichnen. Neben der bäuerlichen Landwirtschaft und dem Handwerk findet sie auch in anderen ähnlich strukturierten Wirtschaftszweigen Anwendung, wenn auch mit wesentlich geringerer gesamtwirtschaftlicher Bedeutung, so im Gartenbau und in der Binnenfischerei. In einem ganz andersartigen Bereich bilden auch die — ebenfalls nach sowjetischem Vorbild ins Leben gerufenen — „Rechtsanwaltskollegien" eine ähnliche Form der betrieblichen Konzentration.

Bei diesen Produktionsgenossenschaften handelt es sich sowohl um eine betriebliche Konzentration als auch um eine solche des Eigentums. In letzterer Beziehung steht allerdings die DDR hinter dem sowjetischen Vorbild noch zurück. Zwar werden auch in den Produktionsgenossenschaften im Gebiet der DDR Neuinvestitionen aus dem sog. „unteilbaren Fonds" (Grundmittelfonds, bei den PGH: Akkumulationsfonds), finanziert, dem ein Teil der Einnahmen der Genossenschaft zugeführt wird; der eingebrachte Grund und Boden der Genossenschaftsbauern und die Produktionsmittel der Genossenschaftshandwerker der PGH Stufe 1 bleiben jedoch teilweise — wenigstens formalrechtlich — noch deren individuelles Eigentum. Die faktische Bedeutung dieses rechtlichen Tatbestandes ist jedoch gering; denn in der *Anwendung* dieses Eigentums haben die Genossenschaftsmitglieder nur eine sehr beschränkte Dispositionsfreiheit.

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Eine weitere Triebkraft betrieblicher Konzentration ergibt sich aus der Funktionsweise jeder Zentralverwaltungswirtschaft, ganz besonders einer solchen sowjetischen Typs; man kann von einer Affinität zwischen Zentralverwaltungswirtschaft und Großbetrieb sprechen, denn sowohl die Anleitung der Betriebe durch die zentralen Instanzen der Planung und Wirtschaftsverwaltung als auch die Kontrolle der Plandurchführung ist wesentlich leichter und einfacher, wenn diese zentralen Instanzen es mit einer relativ kleinen Zahl von Großbetrieben als mit einer großen Zahl von Klein- und Mittelbetrieben zu tun haben. Im Sowjetsystem kommt die aus den ökonomischen Lehren von *Karl Marx* entnommene Hochschätzung — und vielfach Überschätzung — der Vorteile des Großbetriebes hinzu, die in dogmatisch gebundener Weise generalisiert werden. Diese Tendenzen werden durch die vorrangige Entwicklung der Grundstoff- und Produktionsmittelindustrien verstärkt, in denen die optimale Betriebsgröße in der Regel wesentlich höher liegt als in den Konsumgüterindustrien. Letztere waren dagegen vor dem zweiten Weltkriege an der sächsisch-thüringischen Industrie wesentlich stärker beteiligt als z. B. im Ruhrgebiet. Gerade in der Industrie der DDR haben deshalb die dargestellten Tendenzen zu einer erheblichen Verstärkung des Großbetriebsanteils geführt.

Die im Jahre 1963 mit der Einführung des „Neuen Ökonomischen Systems der Planung und Leitung der Volkswirtschaft" (heute als „Ökonomisches System des Sozialismus" bezeichnet) begonnenen Wirtschaftsreformen sind nicht ohne Einfluß auf die Konzentration geblieben. Die durch eine beträchtliche Wachstumsverlangsamung zu Anfang der 60er Jahre sichtbar gewordenen Effizienzschwächen des bisherigen extrem zentralistischen Wirtschaftssystems führten (begonnen in der Sowjetunion durch die sog. „Liberman-Diskussion" seit September 1962) zu Vorschlägen einer wesentlichen Dezentralisation der Entscheidungskompetenzen über den laufenden Wirtschaftsprozeß, wobei zunächst vor allem an die Verlagerung solcher Kompetenzen auf der Ebene der Betriebsleitungen gedacht war. In der Praxis der DDR wuchs dadurch jedoch erheblich die Bedeutung einer intermediären Instanz, der „Vereinigungen volkseigener Betriebe" (VVB), in denen Betriebe des gleichen Wirtschaftszweiges zusammengefaßt sind; Ulbricht hat sie gelegentlich als „eine Art sozialistischer Konzerne" bezeichnet. Wesentliche Lenkungsfunktionen, die ursprünglich bei zentralen Instanzen lagen, sind im Zuge der fortschreitenden Wirtschaftsreformen von den VVB übernommen worden. 1968 bestanden 85 VVB im Bereich der Industrie und 20 VVB in anderen Wirtschaftsbereichen.

Die Übertragung von Leitungskompetenzen auf die Generaldirektionen der VVB stellte also im Verhältnis zum früheren System eine Dekonzentration im Entscheidungsbereich dar; diese ging zwar (beson-

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ders hinsichtlich der Entscheidungskompetenzen der Betriebsleitungen) nicht so weit, wie es viele Befürworter der Wirtschaftsreform in verschiedenen kommunistisch regierten Ländern vorgeschlagen hatten, hob aber doch grundsätzlich die organisatorische Selbständigkeit der zu einer VVB gehörigen Betriebe nicht auf. Dagegen geht diese Selbständigkeit durch die in den letzten Jahren in der DDR sehr geförderte *Kombinatsbildung* verloren, da im Kombinat die bis dahin selbständigen Betriebe zu einer wirtschaftlichen Einheit zusammengefaßt werden. Ziel ist dabei eine höhere Rationalität und Effektivität der Produktion durch „einheitliche Planung und Leitung horizontal und vertikal zusammenhängender Produktionsprozesse und die Möglichkeiten ihrer Automatisierung, Konzentration der Forschung und Entwicklung, Rationalisierung der Beschaffungs- und Absatzfunktionen, Einsparung von Transportkosten, komplexe Ausnutzung der Roh- und Hilfsstoffe, Beschleunigung des Produktionsprozesses und Sicherung eines kontinuierlichen Produktionsablaufs durch bessere Abstimmung der Einzelkapazitäten, Senkung von Verwaltungskosten“[2].

Für den bereits oben genannten Zusammenhang mit der Praxis der zentral geplanten Wirtschaft sind die Feststellungen in dem jetzt maßgebenden politökonomischen Lehrbuch der DDR wichtig, daß „die schrittweise Bildung und Entwicklung leistungsstarker Kombinate ein wesentlicher Bestandteil der komplexen Anwendung des ökonomischen Systems des Sozialismus“ ist und daß „die zentrale staatliche Planung der Grundfragen mit Hilfe der leistungsstarken Kombinate und ihrer Betriebe besser durchzuführen ist als bei einer Zersplitterung der Produktion ... Es geht ... um den planmäßigen Aufbau ganzer Forschungs- und Produktionsprozesse“[3].

In der DDR werden heute folgende 4 Grundformen eines Kombinats unterschieden[4]: 1. Kombinate mit aufeinanderfolgenden Stufen der Rohstoff- und Materialverarbeitung. 2. Kombinate, bei denen die einzelnen Produktionsstufen den Charakter von Haupt- und Nebenproduktionen haben. 3. Kombinate zur komplexen Rohstoffausnutzung (z. B. Erdölkombinate). 4. Kombinate aus gleichartigen technologischen Produktionsstufen und Erzeugnissen (z. B. Uhrenkombinat Ruhla). Die Kombinatsbildung sowie sonstige Formen des unternehmensmäßigen Zusammenschlusses „sozialistischer“ Betriebe sind wesentliche Ursachen dafür, daß in der Industrie seit längerem die Zahl der VEB ständig zurückgeht, während die Zahl der von ihnen beschäftigten Arbeiter und Angestellten etwas, ihre Bruttoproduktion beträchtlich zugenommen hat.

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[2] Wörterbuch der Ökonomie, Sozialismus, Berlin 1969, S. 420.
[3] Politische Ökonomie des Sozialismus und ihre Anwendung in der DDR, Berlin 1969, S. 697/698.
[4] Wörterbuch der Ökonomie, Sozialismus, a. a. O., S. 420.

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Die bisherigen Ausführungen dürften gezeigt haben, daß im heutigen Wirtschaftssystem der DDR Eigentums- und Betriebskonzentration in sehr engem Zusammenhang stehen. Diese sollen deshalb im folgenden für die wichtigsten Wirtschaftsbereiche zusammen dargestellt werden.

II. Betriebs- und Eigentumskonzentration

A. Landwirtschaft

Die Betriebs- und Besitzgrößenstruktur der Landwirtschaft war *vor* 1945 in den einzelnen Teilen der heutigen DDR sehr unterschiedlich. Während im Nordteil (Mecklenburg, Vorpommern, Teile der preußischen Provinzen Sachsen und Brandenburg, Anhalt) das Großgrundeigentum und der landwirtschaftliche Großbetrieb erheblich überdurchschnittlich vertreten waren — Mecklenburg stand unter den deutschen Ländern und den preußischen Provinzen hinsichtlich des Anteils der Betriebe mit mehr als 100 ha sowohl an der gesamten Betriebsfläche als auch an der landwirtschaftlich genutzten Fläche an der Spitze —, war in den Ländern Sachsen und Thüringen dieser Anteil erheblich unterdurchschnittlich; in diesem am dichtesten bevölkerten Südteil des Gebietes der DDR lagen vor allem die Anteile der mittelbäuerlichen Betriebe mit 5 bis 20 ha erheblich über dem Reichsdurchschnitt (vgl. dazu die Tabellen 1 und 2).

Tabelle 1

Zahl und Fläche der landwirtschaftlichen Betriebe 1933

(Betriebsfläche)

	Von 100 ha der gesamten Betriebsfläche entfielen auf die Größenklassen von				
	0,51 bis unter 2 ha	2 bis unter 5 ha	5 bis unter 20 ha	20 bis unter 100 ha	100 ha und mehr
Provinz Brandenburg ..	1,3	2,9	17,0	27,8	51,0
Provinz Pommern	0,8	1,8	18,2	22,1	57,1
Provinz Sachsen	2,8	4,5	23,4	30,5	38,8
Land Sachsen	2,2	5,2	30,7	29,4	32,5
Thüringen	3,8	7,8	30,3	22,3	35,8
Mecklenburg	1,1	2,1	10,4	22,0	64,4
Anhalt	2,7	2,6	20,6	22,5	51,6
Deutsches Reich	2,3	6,3	25,6	27,9	37,9

Quelle: Stat. JB DR, 1938, S. 82.

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Tabelle 2

Zahl und Fläche der landwirtschaftlichen Betriebe 1933

(Landwirtschaftlich benutzte Fläche)

	Von 100 ha der gesamten landwirtschaftlich benutzten Fläche entfielen auf die Größenklassen von				
	0,51 bis unter 2 ha	2 bis unter 5 ha	5 bis unter 20 ha	20 bis unter 100 ha	100 ha und mehr
Provinz Brandenburg ..	2,1	4,5	24,6	35,7	33,1
Provinz Pommern	1,1	2,5	25,2	27,9	43,3
Provinz Sachsen	3,7	5,8	29,7	34,6	26,2
Land Sachsen	2,9	7,0	39,6	36,2	14,3
Thüringen	5,9	11,8	43,8	27,3	11,2
Mecklenburg	1,5	2,8	13,8	27,8	54,1
Anhalt	3,7	3,6	28,4	28,4	35,9
Deutsches Reich	3,3	9,0	34,7	33,1	19,9

Quelle: Stat. JB DR, 1938, S. 83.

Im Gegensatz zu allen anderen Wirtschaftszweigen hat die im Bereich der DDR betriebene Wirtschaftspolitik nach 1945 ind der Landwirtschaft *zunächst* zu einer bedeutenden Dezentralisation sowohl hinsichtlich der Betriebsgrößen- als auch hinsichtlich der Eigentumsverteilung geführt. Ursache hierfür war die durch die sowjetische Besatzungsmacht bereits im Herbst 1945 veranlaßte *Bodenreform,* die ihre formale Rechtsgrundlage in Verordnungen der Landesverwaltungen der 5 damals noch bestehenden Länder der sowjetischen Besatzungszone fand. Durch diese wurden alle Landbesitzer, deren Eigentum 100 ha überstieg, „mit allen Bauten, lebendem und totem Inventar und anderem landwirtschaftlichen Vermögen" entschädigungslos enteignet. Der enteignete Boden wurde in einen „Bodenfonds" eingebracht, dem auch der größte Teil des „dem Staat gehörenden landwirtschaftlichen Grundbesitzes" zugeführt wurde. Enteignet wurden ferner über 4000 landwirtschaftliche Betriebe unter 100 ha mit der Begründung, daß ihre Eigentümer „Kriegsverbrecher, Kriegsschuldige, Naziführer und aktive Vertreter der Nazipartei und ihrer Gliederungen" gewesen seien. Über die Zahl und die Betriebsfläche der dem Bodenfonds zugeführten Betriebe gibt Tabelle 3 Auskunft.

Von den enteigneten Betrieben waren 7112 Betriebe mit einer Betriebsfläche von 2,505 Mill. ha (= 77,7 vH) vorher Privateigentum über 100 ha, 1203 Betriebe mit 0,329 Mill. ha (= 10,2 vH) waren Staatseigentum. Von der enteigneten Gesamtfläche entfielen 61,8 vH auf landwirtschaftliche Nutzfläche, 31,1 vH auf Wald.

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Tabelle 3

Zahl und Betriebsfläche der bei der Bodenreform von 1945 in den Bodenfonds überführten Objekte

Land	Betriebe		durchschnittl. Größe ha	Betriebsfläche	
	Zahl	in vH		insgesamt ha	in vH der Gesamtfläche
Brandenburg	3 263	23,8	276	900 690	27,9
Sachsen-Anhalt	3 102	22,7	231	715 644	22,2
Sachsen	1 975	14,4	175	346 132	10,7
Thüringen	1 535	11,2	135	206 506	6,4
Mecklenburg	3 824	27,9	276	1 056 392	32,8
Zusammen	13 699	100,0	235	3 225 364	100,0

Quelle: M. Kramer, Die Landwirtschaft in der sowjetischen Besatzungszone, Bonn 1957, Textteil, S. 18.

Für die Auswirkungen dieser Bodenreform auf die Besitz- und Betriebsgrößenstruktur war die Verwendung des dem Bodenfonds zugeteilten Bodens entscheidend. Er wurde nicht, wie es dem sowjetischen Vorbild entsprochen hätte, in seiner Gesamtheit zum Staatseigentum erklärt, sondern zu fast genau zwei Dritteln (66,4 vH) aufgeteilt und zur Schaffung von kleinbäuerlichen Betrieben (offizielle Bezeichnung „Neubauernstellen") sowie zu Landzulagen an „landarme Bauern", Kleinpächter sowie Arbeiter und Handwerker verwendet. Die Gesamtzahl der „Neubauernstellen" betrug 210 276[5], woran die Heimatvertriebenen (offizielle Bezeichnung „Umsiedler") mit 91 155 Betrieben beteiligt waren.

Etwa ein Drittel (1,108 Mill ha) der insgesamt dem Bodenfonds zugeführten Fläche ging zunächst in den Besitz der Länder bzw. zum kleineren Teil der Gemeinden über.

Durch die Bodenreform nahm die Zahl der klein- und mittelbäuerlichen Betriebe beträchtlich zu. Zwischen 1939 und 1946 erhöhte sich die Zahl der Betriebe mit einer Fläche von 0,5 bis 5 ha von 318 000 auf 332 000, ihr Anteil an der landwirtschaftlichen Nutzfläche von 9,0 auf 9,7 vH. Weit stärker noch wuchsen die Betriebe mit 5—20 ha: ihre Zahl von 188 685 auf 353 613 vH, ihr Anteil an der landwirtschaftlichen Nutzfläche von 31,8 auf 53,4 vH. Dagegen sank die Zahl der landwirtschaftlichen Großbetriebe von 6292 auf 1260, ihr Anteil an der landwirtschaftlichen Nutzfläche von 28,3 auf 5,1 vH.

[5] *E. Tümmler, K. Merkel, G. Blohm,* Die Agrarpolitik in Mitteldeutschland und ihre Auswirkung auf Produktion und Verbrauch landwirtschaftlicher Erzeugnisse, Berlin 1969, S. 27.

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Das Ergebnis der Bodenreform war also eine beträchtliche Dekonzentration in der Betriebsgrößen- und Eigentumsverteilung. Hingegen vollzog sich innerhalb der Gruppe der landwirtschaftlichen Großbetriebe eine Eigentumskonzentration in den Händen des Staates. Private landwirtschaftliche Großbetriebe verschwanden völlig; die noch bestehenden Großbetriebe sind ganz überwiegend Staatsbetriebe[6].

In der Folgezeit wurde die Dekonzentration in der landwirtschaftlichen Betriebsgrößenstruktur durch den bald einsetzenden Kampf gegen das Großbauerntum verstärkt. Die Zahl der landwirtschaftlichen Betriebe mit 50—100 ha, die im Jahre 1939 noch 8098 betragen hatte, war schon 1946 auf 7618 zurückgegangen und sank dann von Jahr zu Jahr weiter, so daß es 1958 in der gesamten DDR nur noch 938 Betriebe dieser Größenklasse gab.

Ein Vergleich mit der Entwicklung in der Sowjetunion mußte es jedoch als sehr unwahrscheinlich erscheinen lassen, daß die Besatzungsmacht und die SED wirklich eine dauernde Verstärkung der einzelbäuerlichen, individuell geführten Klein- und Mittelbetriebe beabsichtigten. Für die Annahme, daß es sich dabei nur um einen Übergangszustand handeln sollte, sprach auch die Wahl sehr kleiner Betriebsgrößen bei den durch die Bodenreform geschaffenen „Neubauernbetrieben"; sie betrug bei den Betrieben von „landlosen Bauern und Landarbeitern" 7,8 ha, bei den Betrieben von „Umsiedlern" 8,4 ha[7]. Die Mehrzahl der Betriebe dieser Größe konnte auf die Dauer schwerlich als existenzfähig angesehen werden.

Die These von der *generellen* Überlegenheit des Großbetriebes in der Landwirtschaft gehört ebenso zu den Grunddogmen des Sowjetsystems wie die weitere These, daß die Schaffung eines „sozialistischen landwirtschaftlichen Großbetriebes" *zunächst* durch die Zusammenfassung der klein- und mittelbäuerlichen Wirtschaften in „Produktionsgenossenschaften" sowjetischen Typs zu erfolgen hat. Im offiziellen Lehrbuch „Politische Ökonomie" heißt es hierzu folgendermaßen:

„Die sozialistische Umgestaltung der Landwirtschaft ist die schwierigste Aufgabe der Revolution, nachdem die Arbeiterklasse die Macht erobert hat. Die Landwirtschaft der kapitalistischen Länder hat nicht eine solche Stufe der Konzentration, der kapitalistischen Vergesellschaftung der Produktion, erreicht wie die Industrie. In ihr überwiegen zahlenmäßig die kleinen, zersplitterten Bauernwirtschaften. Solange die kleine Einzelwirtschaft die vorherrschende Form der landwirtschaftlichen Produktion ist, solange bleibt

[6] Die offizielle Bezeichnung lautet „Volkseigene Güter" (VEG); deren Zahl stieg von 1950 bis 1968 von 559 auf 700, ging dann aber — vor allem durch Betriebszusammenlegungen — bis 1969 auf 527 zurück; ihre landwirtschaftliche Nutzfläche stieg in der gleichen Zeit von 177 410 ha auf 434 035 ha. Vgl. Stat. JB DDR, Jg. 4 (1958), S. 418 und 436; Jg. 15 (1970), S. 184.

[7] *E. Tümmler* u. a., a. a. O., S. 28.

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die Grundlage der bürgerlichen Wirtschaftsordnung auf dem Lande, bleibt die Ausbeutung der armen Bauern und eines beträchtlichen Teils der Mittelbauern durch die Dorfbourgeoisie bestehen ...

Lenin ging in seinem Plan zur Errichtung der sozialistischen Gesellschaft davon aus, daß die Arbeiterklasse den Sozialismus im Bündnis mit der Bauernschaft aufbauen muß. Bestandteil des Gesamtplans zur Errichtung des Sozialismus ist der von Lenin ausgearbeitete Plan der Überleitung der Bauern von der auf dem Privateigentum beruhenden Kleinwirtschaft zur sozialistischen Großwirtschaft vermittels der Genossenschaften ...

In der Landwirtschaft gibt es zwei Wege zur Schaffung von Großbetrieben — den kapitalistischen und den sozialistischen. Der kapitalistische Weg besteht darin, daß in der Landwirtschaft kapitalistische Großbetriebe entstehen und sich entwickeln, die auf der Ausbeutung von Lohnarbeitern beruhen. Unvermeidliche Begleiterscheinungen dessen sind die Verelendung und der Ruin der werktätigen Massen der Bauernschaft. Der sozialistische Weg bedeutet die Vereinigung der kleinbäuerlichen Wirtschaften zu großen Kollektivwirtschaften, die mit moderner Technik ausgerüstet sind, die Bauern von Ausbeutung, Verelendung und Armut befreien und eine ständige Erhöhung ihres materiellen und kulturellen Lebensstandards sichern. Einen dritten Weg gibt es nicht."[8]

Da auch die die Wirtschaftspolitik in der DDR kompromißlos bestimmende SED diese Auffassungen teilt[9], mußte mit großer Wahrscheinlichkeit erwartet werden, daß zu einem geeigneten Zeitpunkt das sowjetische Vorbild des Kolchos (Kollektivnoe Chosjaistvo = Kollektivwirtschaft) auch in Mitteldeutschland verwirklicht werden würde[10].

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[8] Akademie der Wissenschaften der UdSSR, Institut für Ökonomie, Politische Ökonomie, nach der 3. überarbeiteten russ. Ausgabe, 1959, 440, 441, 443—4. In der 1962 russisch erschienenen vierten, überarbeiteten und ergänzten Ausgabe dieses in Riesenauflagen verbreiteten Lehrbuchs sind an den zitierten Stellen im wesentlichen nur stilistische Änderungen vorgenommen worden.

[9] So heißt es in dem 1969 erschienenen DDR-Lehrbuch „Politische Ökonomie des Sozialismus und ihre Anwendung in der DDR" (S. 419), daß mit dem vollständigen Übergang von der bäuerlichen Einzelwirtschaft zur LPG „die Bauern der DDR unter Führung und mit Hilfe der Arbeiterklasse und ihrer marxistisch-leninistischen Partei, der SED, die tiefste Wurzel der Entstehung des Kapitalismus, die Quelle der Not und des Elends für Generationen von Bauern" beseitigten. „Die von den Bauern der DDR gewonnenen Erfahrungen beweisen, daß die sozialistische Umwälzung auf dem Lande auch in einem Land mit hochentwickelter Industrie und intensiver Landwirtschaft der einzige Weg ist, um die Schranken der einzelbäuerlichen Produktion und die Rückständigkeit des Dorfes zu überwinden."

[10] Zuerst hatte die SED jedoch aus politisch-propagandistischen Gründen diese ihre eigentlichen Ziele verschleiert. So erklärte der in den Anfangsjahren führende kommunistische Agrarpolitiker *E. Hoernle,* damals Präsident der Deutschen Zentralverwaltung für Land- und Forstwirtschaft, in seiner 1946 erschienenen Schrift „Die Bodenreform, ein Weg zu Demokratie und Frieden": „Wir sind kompromißlose Anhänger des Prinzips der freien Einzelbauernwirtschaft, nicht bloß aus politischen Gründen, sondern auch aus Gründen der Volksernährung und der Erzeugungssteigerung unserer Landwirtschaft ... Wir wollen den Bauern nicht zu genossenschaftlicher Arbeitsweise zwingen, wenn er diese nicht von sich aus wünscht. Die Genossen-

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Das Signal zur Schaffung *Landwirtschaftlicher Produktionsgenossenschaften (LPG)* gab die II. Parteikonferenz der SED im Juli 1952; die Musterstatuten der 3 vorgesehenen Typen von LPG, bestätigt vom Zentralkomitee der SED und vom Ministerrat der DDR, wurden am 19. Dezember 1952 bekanntgegeben. Im Gegensatz zu den landwirtschaftlichen Genossenschaften westlicher Prägung sind *die LPG in der DDR eine eindeutige Form der betrieblichen Konzentration,* deren Umfang jedoch je nach dem Typ variiert. Beim Typ I wird nur das Ackerland gemeinsam bewirtschaftet, während Gärten, Wiesen, Weiden und Wälder sowie das Vieh in individueller Nutzung verbleiben. Bei dem (faktisch ganz unbedeutenden) Typ II werden außer dem Ackerland auch die motorischen und tierischen Zugkräfte sowie Maschinen und Geräte zur gemeinsamen Nutzung in die LPG eingebracht[11]. Beim Typ III dagegen erfolgt die gesamte Wirtschaftsführung kollektiv; lediglich eine kleine Bodenfläche, in der Regel nicht mehr als 0,5 ha, bleibt als „persönliche Hauswirtschaft" zu individueller Nutzung der einzelnen Bauernfamilie. Das Ziel der Bildung von LPG ist also das Aufgehen des bäuerlichen Einzelbetriebes in einem Kollektivbetrieb, der seinem Wesen nach ein Großbetrieb ist. Zwar verbleibt — im Unterschiede zur Sowjetunion, wo der Boden generell Staatseigentum ist — formell auch beim Typ III der LPG im Gebiet der DDR das Eigentum an dem Boden, „der von den Mitgliedern in die Produktionsgenossenschaft zur gemeinsamen Nutzung eingebracht wird", beim Bauern; das hat jedoch faktische Bedeutung nur insofern, als bei der Verteilung der hierfür zur Verfügung stehenden Ertragsteile bis zu 20 % „entsprechend der Menge und Qualität der von jedem Mitglied eingebrachten landwirtschaftlichen Nutzfläche" aufgeteilt werden (auch dies eine Abweichung vom sowjetischen Modell).

Die „Produktionsgenossenschaft" ist also, wie zu Anfang ausgeführt, diejenige Form, in der das Sowjetsystem die Konzentration der Betriebsgrößen in solchen Wirtschaftsbereichen bewirkt, in denen vorher die Kleinbetriebe überwogen.

In der DDR wurde die seit dem Herbst 1952 zunächst mit starkem Druck geförderte Kollektivierung der bäuerlichen Landwirtschaft durch die Volkserhebung im Juni 1953 für einige Jahre verlangsamt. Seit 1958 wurde jedoch die Agrarkollektivierung erneut stark vorangetrieben. Die folgende Tabelle 4 zeigt den Anstieg der Produktionsgenossenschaften und den damit korrespondierenden Rückgang der einzelbäuerlichen Betriebe bis 50 ha.

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schaft ist eine der notwendigsten und nützlichsten Ergänzungen des bäuerlichen Familienbetriebes. Aber eben nur eine Ergänzung, keinesfalls darf die Genossenschaft zum Ersatz für den selbständigen bäuerlichen Einzelbetrieb gemacht werden." (Zitiert nach *M. Kramer,* Die Landwirtschaft in der sowjetischen Besatzungszone, Bonn [1957], S. 45.)

[11] *E. Tümmler* u. a., a. a. O., S. 62.

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Tabelle 4

Zahl der Landwirtschaftlichen Produktionsgenossenschaften und der privaten Betriebe 1950—1958

Jahr	Zahl der Landwirtschaftlichen Prod.-Gen.		Private Betriebe				
	Typ I und II	Typ III	Insgesamt	darunter (LN)			
				bis 1 ha	über 1 bis 5 ha	über 5 bis 20 ha	über 20 ha
1950	—	—	855 624	237 738	198 738	371 591	47 557
1955	1 504	4 375	780 990	305 304	167 526	280 609	27 551
1956	1 075	5 195	740 518	287 464	161 347	266 529	25 178
1957	890	5 395	676 955	239 282	159 627	254 433	23 613
1958	1 860	5 999	630 853	228 572	150 577	230 761	20 943

Quelle: Stat. JB DDR, Jg. 4 (1958), S. 418/19.

Schon im Laufe des Jahres 1959 beschleunigte sich das Tempo der Agrarkollektivierung erheblich. Der Anteil der von Produktionsgenossenschaften bewirtschafteten landwirtschaftlichen Nutzfläche stieg bis Ende 1959 auf 45,1 vH, der Anteil des gesamten „sozialistischen Sektors" (dieser umfaßt neben den LPG hauptsächlich noch die VEG) auf 53 vH.

Im Frühjahr 1960 verschärfte sich der Feldzug für die Kollektivierung der noch verbliebenen Privatbauern außerordentlich. Harter Druck durch die SED und die von ihr dazu mit eingesetzten „Massenorganisationen" führte dazu, daß in wenigen Wochen die gesamte noch in Händen von Einzelbauern verbliebene Fläche, also fast die Hälfte der gesamten landwirtschaftlichen Nutzfläche der DDR, kollektiviert wurde. Am 14. April 1960 teilten die Vertreter der Parteien und Massenorganisationen des Bezirks Karl-Marx-Stadt (früher Chemnitz) dem Ersten Sekretär des Zentralkomitees der SED, *Walter Ulbricht*, mit, daß auch ihr Bezirk als letzter der 14 Bezirke der DDR „vollgenossenschaftlich" geworden sei. Damit hatte die betriebliche Konzentration im landwirtschaftlichen Bereich in der DDR einen vorläufigen Abschluß erreicht. Die DDR steht damit jetzt hinsichtlich des Kollektivierungsgrades der Landwirtschaft unter allen Ostblockstaaten mit an der Spitze.

Die Tendenz der Agrarpolitik der SED geht seither dahin, den Anteil des (nahezu voll kollektivierten) Typs III der LPG auf Kosten der weniger kollektivierten Typen I und II, damit also auch den Konzentrationsgrad der landwirtschaftlichen Produktion zu erhöhen. Letzteres geschieht auch durch Zusammenlegung kleinerer LPG. Das Ergebnis dieser Bestrebungen zeigen die folgenden Zahlen:

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Tabelle 5

Landwirtschaftliche Produktionsgenossenschaften 1960 und 1968

	1960	1968
LPG Typ I und II:		
Zahl der Genossenschaften	12 976	5 754
Landwirtschaftliche Nutzfläche, Mill. ha	2,024	1,289
LPG Typ III:		
Zahl der Genossenschaften	6 337	5 759
Landwirtschaftliche Nutzfläche, Mill. ha	3,384	4,127

Quelle: Stat. JB DDR, Jg. 15 (1970), S. 184/85.

Seit 1964 wird die Konzentration der Produktion weiterhin durch die Bildung von *„Kooperationsgemeinschaften"* verstärkt, in denen sich mehrere LPG verschiedener Typen, z. T. auch unter Einbeziehung von Volkseigenen Gütern, zwecks rationellerer Produktion zusammenschließen. Das kann z. B. durch organisatorische Zusammenarbeit mehrerer Betriebe zwecks Konzentration und Spezialisierung der Produktion oder durch Schaffung gemeinsamer zwischenbetrieblicher Einrichtungen geschehen. Nach einer Anordnung des Ministerrates vom 10. Juni 1966 können solche Kooperationsgemeinschaften die Rechtsfähigkeit einer juristischen Person erhalten; jedoch behalten die beteiligten LPG und VEG ihre wirtschaftliche und juristische Selbständigkeit. Die Kooperationsgemeinschaften können demnach nicht schlechthin als eine Form der Konzentration angesehen werden, aber doch wohl als eine Vorform. Ihre auch heute schon nicht geringe Bedeutung ergibt sich daraus, daß 1969 von der landwirtschaftlichen Nutzfläche der LPG 960 000 ha auf „kooperative Einrichtungen der Pflanzenproduktion" entfielen.

Ob in der Zukunft die Agrarverfassung der DDR dem sowjetischen Modell auch dadurch noch weiter angenähert wird, daß an die Stelle des bisher formal noch anerkannten Privateigentums an dem in die LPG eingebrachten Grund und Boden irgendeine Form des „gesellschaftlichen Eigentums" tritt — was also zur betrieblichen Konzentration auch eine korrespondierende Konzentration des Eigentums hinzufügen würde —, muß vorläufig noch als offen bezeichnet werden, aber als in hohem Maße wahrscheinlich gelten.

Eine spezifisch sowjetische Form der Konzentration im agrarischen Bereich, für die es in westlichen Marktwirtschaften eine Parallele nicht gibt, war die *Zusammenfassung eines großen Teiles des landwirtschaftlichen Maschinenbestandes in staatlichen Maschinen- und Traktoren-Stationen (MTS).* Auch hier wurde im Bereich der DDR das sowjetische

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Vorbild fast völlig übernommen; bereits Ende 1945 wurde mit der Schaffung derartiger Institutionen (zunächst als „Maschinen-Ausleih-Stationen", abgekürzt MAS, bezeichnet) begonnen, auf die der größte Teil des Maschinenbestandes der enteigneten landwirtschaftlichen Großbetriebe übertragen wurde. Das System der zentral geplanten und straff dirigistisch geführten Wirtschaft machte es möglich, den ganz überwiegenden Teil der Neuproduktion an Traktoren und größeren landwirtschaftlichen Maschinen den MTS zuzuführen. Von 1950—1958 ging von den nicht exportierten Schleppern mehr als die Hälfte in die MTS; bei Mähdreschern war es nahezu die gesamte Neuproduktion, abgesehen von einem bescheidenen Anteil der VEG. Bereits im Jahre 1953 entfielen vom Gesamtbestand der sowjetischen Besatzungszone an landwirtschaftlichen Maschinen auf die MTS:

bei Traktoren	rd. 49,5 vH
bei Mähbindern	rd. 60 vH
bei Mähdreschern	rd. 56 vH[12].

Dieser Tatbestand läßt deutlich erkennen, daß es in einer Zentralverwaltungswirtschaft sowjetischen Typs, ausgelöst durch den Willen der Träger der Wirtschaftspolitik (Staat bzw. staatsführende Partei, im Falle der DDR die SED) Konzentrationsvorgänge geben kann, die in einer Marktwirtschaft in dieser Form und in diesem Umfange nicht möglich sind; denn in einer Landwirtschaft, die vorzugsweise aus einzelbäuerlichen Betrieben besteht, ist es selbst bei einer noch so beträchtlichen Entwicklung des landwirtschaftlichen Genossenschaftswesens schlechterdings unvorstellbar, daß ein so großer Teil des gesamten Maschinenbestandes in einer kleinen Zahl von Betrieben — Ende 1958 bestanden in der DDR 602 Maschinen-Traktoren-Stationen — zusammengefaßt ist.

Der geschilderte Vorgang ist aber auch deshalb so bedeutsam, weil damit eine ausgesprochene *Machtkonzentration* verbunden war. Die Zusammenfassung des Maschinenbestandes bei den MTS ist von dem herrschenden System im Bereich der DDR bewußt als Mittel zur Durchsetzung seiner sozial- und wirtschaftspolitischen Zielsetzungen verwendet worden, und zwar zunächst als Kampfmittel gegen die großbäuerlichen Betriebe; denn die Gebühren, die für die Übernahme der Feldarbeiten an die MTS zu bezahlen waren, wurden nach Betriebsgrößen dergestalt gestaffelt, daß die größeren Betriebe wesentlich höher belastet wurden. Zum Beispiel waren in den ab 1952 geltenden Tarifen die Sätze in der für Betriebe über 20 ha und landwirtschaftliche Spezialbetriebe geltenden Stufe IV zwei- bis viermal so hoch wie die Sätze der Stufe I (für Betriebe bis 10 ha oder „wirtschaftsschwache Betriebe bis 15 ha")[13]. Seit 1953

[12] *M. Kramer*, a. a. O., S. 63.

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wurden die Sätze der untersten Tarifstufe nur noch für die LPG angewendet; es sollte also durch die beträchtliche Bevorzugung der Produktionsgenossenschaften der materielle Anreiz zur Aufgabe der einzelbäuerlichen Existenz und zum Eintritt in die LPG gegeben werden.

In der Sowjetunion sind seit dem Frühjahr 1958 die MTS aufgelöst worden, und ihr Maschinenpark wurde an die Kolchose verkauft. Die DDR hat sich seit 1959/60 auch in dieser Beziehung dem sowjetischen Vorbild angeschlossen; stufenweise wurde der Maschinenpark der bisherigen MTS an die LPG Typ I und II verkauft sowie den LPG Typ III „unterstellt". An die Stelle der MTS traten „Reparatur-technische Stationen" (RTS), die in wesentlich geringerem Maße als die MTS als Form der Konzentration angesehen werden können. Vom Aspekt des Konzentrationsprozesses aus gesehen handelt es sich dabei um den Abbau einer Konzentrationsform zugunsten einer anderen, nämlich der Landwirtschaftlichen Produktionsgenossenschaft, deren wirtschaftliche Position im Verhältnis zu den einzelbäuerlichen Betrieben durch die Übernahme des landwirtschaftlichen Maschinenbestandes noch verstärkt wurde.

B. Industrie

Weit stärker als in der Landwirtschaft ist in der Industrie der DDR bereits seit langem die Eigentumskonzentration in Händen des Staates verwirklicht. Das Eigentum an den zu Kriegsende in Privateigentum (einschl. des Eigentums von Kapitalgesellschaften) befindlichen Industriebetrieben wurde nur in geringem Umfange — bei Bodenschätzen und Bergbaubetrieben — durch Gesetz entzogen, und zwar durch Landesgesetze aus dem Sommer 1947. Der weitaus größte Teil der wirtschaftlich wichtigen Enteignungen wurde auf Grund der SMAD[14]-Befehle 124 vom 3. Oktober 1945 und 126 vom 31. Oktober 1945 vorgenommen, die sich auf die Kontrollratsdirektive Nr. 38 vom 12. Oktober 1946 stützten. Sie trugen zunächst den Charakter der Sequestrierung, der aber dann in der Regel der volle Eigentumsentzug folgte[15]. Formal richteten sich diese Maßnahmen gegen „Kriegsverbrecher und Naziaktivisten"; doch wurde bereits im SMAD-Befehl 124 als eine der zu sequestrierenden Kategorien genannt: „Eigentum, das Personen gehört, die von dem Sowjetischen Militärkommando durch besondere Listen oder auf eine andere Weise bezeichnet werden", womit jeglicher Willkür Spielraum gegeben war. Im Gegensatz zu Westdeutschland wurde in der Praxis der sowjetischen

[13] *M. Kramer*, a. a. O., S. 65.
[14] SMAD = Sowjetische Militäradministration in Deutschland.
[15] Vgl. dazu auch *F. Voigt*, Die volkseigenen Betriebe, in: Untersuchungen zur sozialen Gestaltung der Wirtschaftsordnung, Schr. VfSp. (NF), Bd. 2, Berlin 1950.

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Besatzungszone der Begriff der Belastung so außerordentlich weit gefaßt (z. B. durch faktische Einbeziehung jeglicher Art von Kriegslieferungen), daß alle Groß- und Riesenbetriebe und der ganz überwiegende Teil der industriellen Mittelbetriebe von der Sequestrierung bzw. Enteignung erfaßt wurden; 200 der größten Unternehmungen gingen „als teilweise Befriedigung der Reparationsansprüche der UdSSR" unter dem Namen „Sowjetische Aktiengesellschaften" (SAG) in sowjetisches Eigentum über[16].

Durch den SMAD-Befehl Nr. 64 vom 17. April 1948 wurde die Einstellung der Sequesterverfahren angeordnet, gleichzeitig wurden die von der Deutschen Wirtschaftskommission, der damaligen Zentrale der deutschen Verwaltung in der sowjetischen Besatzungszone, vorgelegten Listen der zu enteignenden Betriebe bestätigt. Der Wortlaut des genannten SMAD-Befehls suchte den Eindruck zu erwecken, daß es sich so gut wie ausschließlich bei den zu enteignenden Betrieben um Konzernbetriebe — oder, um die offizielle sowjetische Terminologie zu gebrauchen, um „monopolkapitalistische" Betriebe — handele, so daß durch die Enteignung eine Dekonzentration herbeigeführt werde. So hieß es in dem SMAD-Befehl: „Diese Betriebe gehörten vor allem den großen Monopolherren — Göring, Siemens, Flick und anderen, die die bedeutendsten industriellen Reichtümer des Landes in ihren Besitz gebracht und zur imperialistischen Aggression benutzt hatten." In Wirklichkeit handelte es sich zum großen Teil um mittlere und kleinere Betriebe ohne Konzernbindung; Konzerne und „Monopolkapitalismus" hatten, von der Eisen- und Stahlindustrie, der chemischen Großindustrie, der Elektroindustrie und der Automobilindustrie abgesehen, in der Industriewirtschaft Mitteldeutschlands ohnehin eine wesentlich geringere Rolle gespielt als z. B. im rheinisch-westfälischen Industrierevier.

Soweit die enteigneten Betriebe nicht zu den in unmittelbares sowjetisches Eigentum übernommenen SAG-Betrieben gehörten, gingen sie ganz überwiegend zunächst in sog. „Landeseigentum" über. Im Frühjahr 1948, nach dem Abschluß der Sequestrierungsaktion, konnte man den

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[16] Der Komplex dieser sog. SAG-Betriebe, auf den zeitweise nahezu ein Drittel der industriellen Gesamtproduktion der sowjetischen Besatzungszone entfiel, stellte einen Sonderfall der Eigentums- und Machtkonzentration dar, auch hinsichtlich ihrer organisatorischen Gliederung (Zusammenfassung in „Holdinggesellschaften"). Da jedoch in den Jahren 1947—1953 die SAG-Betriebe in einer Reihe von Rückgabeaktionen in deutsches „Volkseigentum" zurückgegeben wurden, soll hier auf sie nicht näher eingegangen werden. Heute besteht nur noch als formell gemischte sowjetisch-deutsche, de facto rein sowjetische Aktiengesellschaft die Wismut A. G. als Trägerin des Uranbergbaus im Gebiet der DDR. Sie dürfte nach der Zahl der Beschäftigten auch heute noch die größte Unternehmung auf dem Territorium der DDR sein; doch werden weder darüber noch über ihre Produktionsergebnisse Angaben veröffentlicht.

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Anteil der in Staatseigentum bzw. parastaatliches Eigentum[17] übergegangenen Betriebe an der gesamten Industrieproduktion auf etwa 40 %, den Anteil der SAG-Betriebe an der gesamten Industrieproduktion auf etwa 30 % veranschlagen, so daß alle noch verbliebenen Privatbetriebe zusammen nur noch etwa ein Drittel der Industrieproduktion erbrachten. Es handelte sich bei ihnen mit wenigen Ausnahmen auch nur noch um Kleinbetriebe und kleinere Mittelbetriebe, die überwiegend den Konsumgüterindustrien angehörten; die Grundstoffindustrien waren bereits völlig, die Produktionsmittelindustrien fast völlig verstaatlicht bzw. in sowjetisches Eigentum überführt.

In der Folgezeit sind weitere Enteignungen im industriellen Bereich in größerer Zahl als Ergebnis von (vielfach zu diesem Zweck inszenierten) Wirtschafts- und Steuerstrafverfahren verhängt worden. Eine wesentlich bedeutsamere Ursache fortschreitender Eigentumskonzentration liegt jedoch darin, daß Neuinvestitionen in der Industrie fast nur noch im Bereich des staatlichen Eigentums vorgenommen und aus dem Staatshaushalt finanziert wurden; die außerordentlich scharfe Progression der Einkommensbesteuerung bei den sog. „kapitalistischen" Einkommen, zu denen in erster Linie die Einkommen der noch verbliebenen privaten Unternehmer gehören, erlaubt im privaten Sektor die Finanzierung von Investitionen nur noch in geringstem Umfange, ganz abgesehen davon, daß sie nur dann möglich sind, wenn sie in die zentral gesteuerte Wirtschaftsplanung aufgenommen werden.

Eine zusätzliche Form der Eigentumskonzentration in der Industrie stellen die seit Anfang 1956 geschaffenen *„Halbstaatlichen Betriebe"* (ursprüngliche Bezeichnung: „halbsozialistische Betriebe") dar. Es handelt sich bei ihnen um Privatbetriebe der Industrie, die für die Ziele der Volkswirtschaftsplanung wichtig sind und an denen der Staat — vertreten ursprünglich vor allem durch die staatliche „Deutsche Investitionsbank", später hauptsächlich durch größere „Volkseigene Betriebe", z. T. auch durch VVB und die „Deutsche Reichsbahn" der DDR — eine Kapitalbeteiligung erwirbt, entweder durch Zuführung von Geldkapital aus dem öffentlichen Haushalt oder durch Umwandlung von Forderungen an den Betrieb, z. B. auf Grund von Steuerschulden des Betriebes. Hierzu wird die Form der Kommanditgesellschaft gewählt; der Staat tritt als Kommanditist ein, der bisherige Privatunternehmer wird Komplementär und Geschäftsführer der Gesellschaft. Da auf diesem Wege die verbliebenen Privatunternehmer noch eine „Schonfrist" vor der völligen Existenzvernichtung erhielten, wuchs die Zahl dieser „halbstaatlichen" Betriebe rasch an. Ursprünglich überwog im Westen die Meinung, daß

[17] Z. B. Eigentum der Konsumgenossenschaften oder der zugelassenen Parteien, vor allem der SED.

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die „halbstaatlichen Betriebe" nur als Übergangsform zur Vollsozialisierung anzusehen seien. Bisher sind jedoch gezielte Aktionen in dieser Richtung nicht erfolgt.

Tabelle 6

Entwicklung des Anteils der Eigentumsformen an den Betrieben, Arbeitern und Angestellten und an der industriellen Bruttoproduktion 1950—1969 (in v. H.)

(Stand: 31. Dezember; Arbeiter und Angestellte: Jahresdurchschnitt)

Jahr	Anteil der Eigentumsformen		
	Sozialistisch	Halbstaatlich	Privat
	Betriebe		
1950	25,6	—	74,4
1960	31,8	27,8	40,4
1969	26,0	46,1	27,9
	Arbeiter und Angestellte		
1950	75,7	—	24,3
1960	83,3	10,5	6,2
1969	84,4	12,9	2,7
	Industrielle Bruttoproduktion		
1950	76,5	—	23,5
1960	88,7	7,5	3,8
1969	88,8	9,7	1,5

Quellen: Für 1950 und 1960 Stat. JB DDR, Jg. 6 (1960/61), S. 261; für 1969 errechnet nach Stat. JB DDR, Jg. 15 (1970), S. 103—104.

Entsprechend dem sowjetischen Vorbild bedeutet im Bereich der DDR die Beseitigung des Privateigentums an den Produktionsmitteln, von wenigen Ausnahmefällen (z. B. dem schon erwähnten Übergang in konsumgenossenschaftliches Eigentum) abgesehen, immer eine *Verstaatlichung.* Daran ändert, wie schon zu Anfang ausgeführt wurde, auch der seit 1948 angewendete Begriff des *„Volkseigentums"* und die Umwandlung der früheren „Landeseigenen Betriebe" in „Volkseigene Betriebe" nichts; faktisch sind diese Betriebe eindeutig Staatsbetriebe. Alle im vorhergehenden dargestellten Vorgänge, die zu einer Verstärkung des „Volkseigentums" führen, bedeuten also eine *fortschreitende Eigentumskonzentration in Händen des Staates.* Welchen Umfang diese Eigentumskonzentration bereits angenommen hat, zeigen die Tabellen 6—8.

Dies ist allerdings an den Betriebszahlen kaum zu erkennen, zumal die Zahl der „Volkseigenen Betriebe" infolge der oben bereits dargestellten Förderung der Betriebskonzentration durch Betriebszusammen-

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Tabelle 7

Anteil der Eigentumsformen (v. H.) am Nettoprodukt nach Wirtschaftsbereichen in effektiven Preisen

Jahr	Insgesamt[a)]	Industrie u. produzierendes Handwerk (ohne Bauhandwerk)	Bauwirtschaft	Landwirtschaft[a, b)]	Verkehr, Post- u. Fernmeldewesen	Binnenhandel	Sonstige produzierende Zweige
	Sozialistische Betriebe						
1950	56,8	68,8	41,3	3,4	83,7	60,7	83,1
1968	85,5	83,2	80,1	94,4	93,6	86,4	94,7
1969	85,5	82,6	82,5	95,1	93,5	87,2	94,5
	Davon Volkseigene Betriebe						
1950	50,5	67,4	41,3	3,4	83,7	30,8	83,1
1968	68,1	78,4	54,7	13,5	93,6	66,2	93,0
1969	68,2	79,5	56,2	13,6	93,5	62,9	92,9
	Davon Genossenschaftliche Betriebe						
1950	6,3	1,4	—	—	—	29,9	—
1968	17,4	4,7	25,4	80,9	—	20,2	1,7
1969	17,3	3,0	26,3	81,6	—	24,3	1,6
	Betriebe mit staatlicher Beteiligung und Kommissionsvertrag						
1950	—	—	—	—	—	—	—
1968	8,3	10,7	9,7	0,1	3,3	7,1	2,4
1969	8,6	11,4	9,0	0,1	3,4	7,2	2,4
	Private Betriebe						
1950	43,2	31,2	58,7	96,6	16,3	39,3	16,9
1968	6,2	6,1	10,2	5,5	3,1	6,5	2,9
1969	5,8	6,1	8,6	4,8	3,1	5,6	3,0

a) Ohne Nettoprodukt der Haus- und Kleingärten.
b) Einschließlich Forstwirtschaft.

Quelle: Stat. JB DDR, Jg. 15 (1970), S. 39.

legungen und Kombinatsbildung ständig zurückgegangen ist. Ende 1969 gab es 3193 „sozialistische" Industriebetriebe (darunter 2780 „volkseigene"), 5646 Betriebe mit staatlicher Beteiligung und noch 3416 reine Privatbetriebe der Industrie. Aber die halbstaatlichen Betriebe sind ausschließlich Mittel- und Kleinbetriebe, die noch verbliebenen Privatbetriebe ausschließlich Klein- und Kleinstbetriebe. Den tatsächlichen Grad der Eigentumskonzentration kann man deshalb am besten an der Verteilung der Bruttoproduktion feststellen; sie zeigt, daß 1969 nahezu neun Zehntel der Industrieproduktion auf „sozialistische" (d. h. fast ausschließlich auf „volkseigene") Industriebetriebe entfielen.

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Tabelle 8

Verteilung der Berufstätigen[a] nach Wirtschaftsbereichen und Eigentumsformen 1969 (Stand: 30. Sept.) in 1000

Wirtschaftsbereich	Insgesamt	Volkseigene Betriebe	Darunter Produktionsgenossenschaften	Betriebe mit staatlicher Beteiligung	Private Betriebe
Industrie	2 823	2 338	3	363	84
Produzierendes Handwerk (ohne Bauhandwerk)	407	—	135	—	272
Bauwirtschaft	559	329	129	47	54
Land- u. Forstwirtschaft	1 026	137	865	2	23
Verkehr, Post- und Fernmeldewesen	551	525	—	3	23
Handel	868	452	1	70	81
Sonstige produzierende Zweige	181	162	1	5	9
Nichtproduzierende Bereiche	1 331	1 158	26	1	141
Zusammen[b]	7 746	5 101	1 161	490	686

Quelle: Stat. JB DDR, Jg. 15 (1970), S. 53—54.

a) ohne Lehrlinge.

b) Kleine Unstimmigkeiten durch Rundung. Außerdem wurden einige weniger wichtige Eigentumsformen weggelassen; so entfallen im Handel rd. 225 000 Beschäftigte auf Konsumgenossenschaften.

Die dargestellte Eigentumskonzentration in Händen des Staates bedeutet eine Verstärkung der durch das System der zentralen Planung ohnehin bedingten Konzentration *wirtschaftlicher* Macht, außerdem aber auch eine Konzentration *sozialer* Macht; denn sie führt dazu, daß für den ganz überwiegenden Teil aller Arbeitnehmer der Staat — wenn auch repräsentiert durch eine Vielzahl von Staatsbetrieben, deren Verhalten gegenüber ihrer Belegschaft aber in allen wesentlichen Punkten von den Weisungen der Zentralinstanzen abhängig ist — zum alleinigen Arbeitgeber wird. Diese Konzentration sozialer Macht in den Händen des Staates, der gleichzeitig Arbeitgeber und Arbeitsgesetzgeber ist und dem auch keine wirklich autonome Gewerkschaftsbewegung als „Gegenmacht" gegenübersteht, geht weit über alles hinaus, was unter marktwirtschaftlichen Voraussetzungen vorstellbar ist.

Die zu Anfang dieser Arbeit erwähnte Affinität zwischen zentraler Planung und Großbetrieb bewirkt aber weiterhin auch, daß durch die Eigentumskonzentration eine Konzentration der Betriebe gefördert wird. Sie ergibt sich vor allem aus drei Gründen:

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1. Die Mehrzahl der durch die Investitionsplanung neu geschaffenen (bzw. nach vorheriger Volldemontage wieder aufgebauten) Betriebe besteht aus Groß- und Riesenbetrieben. Typische Riesenbetriebe, die auf diesem Wege neu entstanden, sind z. B. das Eisenhüttenkombinat Ost in Eisenhüttenstadt bei Frankfurt a. O., das Eisenhüttenkombinat West in Calbe a. d. Saale, die Großwerften in Wismar, Warnemünde, Rostock und Stralsund, das Braunkohlenkombinat „Schwarze Pumpe" bei Hoyerswerda in der Niederlausitz, die „Fischkombinate" in Saßnitz und Rostock und das im Siebenjahrplan für die Jahre 1959—1965 in Angriff genommene große Erdölverarbeitungswerk in Schwedt an der Oder.
2. Erweiterungsinvestitionen sind vorwiegend bei Großbetrieben und größeren Mittelbetrieben vorgenommen worden.
3. In einer ansehnlichen Zahl von Fällen sind mehrere kleine, in „Volkseigentum" übergegangene Betriebe zu größeren Einheiten zusammengelegt worden. Allerdings liegt dabei z. T. mehr eine Unternehmungs- als eine Betriebskonzentration vor, wenn es sich um räumlich getrennte Fertigungsstätten — wenn auch am gleichen Ort — handelt, die eine einheitliche Leitung erhielten und für die ein einheitlicher Produktions- und Finanzplan aufgestellt wurde.

Da die hochgespannten Ziele der heutigen Produktionsplanung in der DDR infolge des Mangels an Arbeitskräften nur durch eine Produktivitätssteigerung erreicht werden können, bemühen sich die Planer sehr um eine verstärkte Spezialisation der Betriebe, die die Voraussetzungen für größere Serien und damit für einen höheren Automations- und Mechanisierungsgrad schaffen soll. Eine solche Spezialisation drängt in der Regel auf höhere Betriebsgrößen hin. Man wird daher annehmen können, daß die Tendenz der betrieblichen Konzentration weiterhin Fortschritte machen wird.

Die fortschreitende betriebliche Konzentration wird in der Industrie deutlich sichtbar: Während die Zahl der Beschäftigten langsam, die Bruttoproduktion erheblich wächst, geht die Zahl der Betriebe kontinuierlich zurück. Bei den Privatbetrieben ist das durch die fortschreitende Verschlechterung ihrer Existenzbedingungen erklärlich. Der beträchtliche Rückgang der „volkseigenen" Betriebe kann dagegen nur in der wachsenden Zusammenfassung zu größeren Einheiten begründet sein.

C. Handwerk

Im Handwerk erfolgt ebenso wie in der bäuerlichen Landwirtschaft die Kollektivierung in der Form der *Produktionsgenossenschaft*, deren Ziel die Einschmelzung vorher selbständiger Kleinbetriebe in einen

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neuen, infolgedessen auch erheblich größeren Gesamtbetrieb ist. Das Musterstatut für die Produktionsgenossenschaften des Handwerks (PGH) sieht zwei Stufen der Kollektivierung vor. In den PGH der Stufe I produzieren die Handwerker in der Regel noch in den eigenen Werkstätten und mit den eigenen Maschinen; sie können ihre Produktionsmittel jedoch an die Genossenschaft verkaufen. Hier kann man also nur bedingt von einer betrieblichen Konzentration sprechen. Dagegen erfolgt die Produktion in den PGH der Stufe II sowohl in einer als auch in mehreren genossenschaftseigenen Werkstätten, und jedes Mitglied bringt beim Eintritt in die Genossenschaft seine Maschinen und Werkzeuge sowie Produktions- und Lagerräume in die Genossenschaft ein. Mindestens die Eigentumskonzentration in den Händen der Genossenschaft, weitgehend aber auch die Konzentration der Betriebsstätten ist bei dieser zweiten Stufe, der gegenüber die Genossenschaft der Stufe I ohne Zweifel nur eine Vorbereitungs- und Übergangsform darstellen soll, verwirklicht.

Tabelle 9

Die Betriebskonzentration im Handwerk der DDR

Jahr (jeweils 31. Dezember)	Privatbetriebe		Produktionsgenossenschaften		
	Zahl	Beschäftigte	Zahl	Mitglieder[a)]	Beschäftigte
1950	303 821	858 329	—	—	—
1952	268 021	802 136	—	—	—
1953	259 086	792 892	75	1 130	2 420
1958	209 337	669 829	2 107	61 567	79 926
1964	151 448	377 701	4 172	188 863	203 364
1969	122 131	356 964	4 409	238 801	254 341

Quelle: Stat. JB DDR, Jg. 1955—1958, 1965, 1970. Zu berücksichtigen ist dabei, daß als Handwerksbetriebe in der „DDR" nur Betriebe mit bis zu 10 Beschäftigten anerkannt werden. Bis Ende 1957 wurden in einigen Handwerkszweigen noch gewisse Ausnahmen zugelassen.

a) Mitglieder einer PGH sind nicht nur die in die Genossenschaft eingetretenen ehemals selbständigen Meister, sondern — mit wenigen und unerheblichen Ausnahmen — alle in der Genossenschaft Mitarbeitenden (ohne die Lehrlinge).

Die Tabelle 9 läßt den Konzentrationsprozeß im Handwerk der DDR deutlich erkennen. Er setzte bereits ein, bevor den PGH eine nennenswerte Bedeutung zukam: die Zahl der privaten Handwerksbetriebe nahm von 1950 bis 1958 kontinuierlich ab, und seit dem V. Parteitag der SED im Juli 1958, auf dem für die bis 1965 reichende Periode die „Vollendung des sozialistischen Aufbaus" proklamiert wurde, beschleunigte sich infolge des verstärkten Druckes auf die privaten Handwerksbetriebe deren Rückgang erheblich[18].

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Die Zahl der selbständigen Handwerksbetriebe ist in dieser Zeit zwar auch in der BRD zurückgegangen, jedoch in erheblich geringerem Umfang. Entscheidend ist aber, daß in der BRD die Beschäftigtenzahl angestiegen, in der DDR dagegen erheblich gesunken ist; die durchschnittliche Beschäftigtenzahl je privatem Handwerksbetrieb ist hier daher von 1950 bis 1960 nur von 2,8 auf 2,9 gestiegen, während im Jahre 1969 auf eine PGH im Durchschnitt 58 Beschäftigte entfielen. Zahl, Mitgliederbestand und Produktionsleistung der PGH nehmen von Jahr zu Jahr zu; allein von 1958—1969 erhöhte sich ihr Anteil an der Gesamtleistung des Handwerks in der DDR von 7,1 auf 48,2 v. H. Das bedeutet also einen ständig steigenden Konzentrationsgrad auch in diesem traditionell kleinbetrieblichen und dezentralisierten Bereich.

D. Handel, Bank- und Versicherungswesen

Auch in den Bereichen des Handels, des Bank- und Versicherungswesens ist die in erheblichem Umfange feststellbare Betriebs- und Eigentumskonzentration auf die Übernahme des sowjetischen Wirtschaftssystems zurückzuführen. Im Großhandel hat der Konzentrationsprozeß bereits seit langem zu einer nahezu völligen Ausschaltung der Privatbetriebe geführt; die wenigen noch vorhandenen privaten Großhandelsbetriebe, deren genaue Zahl nicht bekannt ist, sind nur noch „Erfüllungsgehilfen" des staatlichen Großhandels. Die Beseitigung des privaten Großhandels ist — von Ausnahmen abgesehen — weder durch Enteignungsmaßnahmen noch durch gesetzliche Regelungen erfolgt, sondern durch die Entziehung seiner Funktionen, was im Rahmen einer Zentralverwaltungswirtschaft leicht zu bewerkstelligen ist. Die Großhandelsfunktionen werden jetzt von staatlichen Institutionen wahrgenommen, so z. B. im Konsumgütergroßhandel von Großhandelsgesellschaften; bei deren Bildung im Jahre 1960 wurden auf sie auch die bis dahin von den Konsumgenossenschaften wahrgenommenen Großhandelsfunktionen übertragen. Die Zahl der staatlichen Großhandelsunternehmungen und -betriebe ist nicht genau bekannt; es kann jedoch mit Sicherheit angenommen werden, daß sie heute weit niedriger liegt als vor Beginn des wirtschaftlichen Sowjetisierungsprozesses. Das gilt ganz besonders für den Außenhandel, der in einer kleinen Zahl von staatlichen Unternehmungen konzentriert ist. Diese sind teilweise in die Rechtsform einer GmbH gekleidet, deren Kapitaleigner große „volkseigene Betriebe" sind, damit indirekt also der Staat. Im Großhandelsbereich hat

[18] Ein Teil des Rückganges ist auch darauf zurückzuführen, daß nach der am 27. Nov. 1957 erlassenen 8. Durchführungsbestimmung zum Gesetz zur Förderung des Handwerks vom 9. Aug. 1950 alle Betriebe mit mehr als 10 Beschäftigten und die „industriell arbeitenden Betriebe, die bisher noch in die Handwerksrolle eingetragen waren", in dieser gelöscht wurden.

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sich demnach eine fast völlige Eigentumskonzentration in Staatshand vollzogen[19].

Tabelle 10

Einzelhandelsverkaufsstellen nach Eigentumsformen der Betriebe

Jahr	Insgesamt	Sozialistischer Einzelhandel		Kommissionshandel[a]	Private Betriebe[b]
		Insgesamt	darunter konsumgenossenschaftlicher		
1952	195 921	39 333	18 907	—	156 588
1955	194 619	55 190	28 386	—	139 429
1960	186 065	79 903	36 654	11 554	94 608
1961	183 857	83 981	37 747	12 665	87 211
1962	177 389	84 691	37 918	12 956	79 742
1963	174 534	84 455	37 941	13 301	76 778
1964	173 133	84 717	38 015	13 325	75 091
1966	163 400	82 367	36 933	13 249	67 784
1967	149 830	77 785	35 930	13 258	58 787

Quelle: Stat. JB DDR, Jg. 15 (1970), S. 276.

a) Einschließlich Betriebe mit staatlicher Beteiligung.
b) Einschließlich Handwerk mit Einzelhandel.

Nicht ganz so weit geht diese bisher im *Einzelhandel.* Die Tabelle 10 zeigt die Entwicklung der Einzelhandelsverkaufsstellen nach den Eigentumsformen der Betriebe. Das ständige Vordringen des staatlichen Einzelhandels und der Konsumgenossenschaften — denen heute in der DDR vor allem die Versorgung der ländlichen Bevölkerung als Aufgabe gestellt ist — wird aus diesen Zahlen deutlich. Dabei ist zu berücksichtigen, daß in die Kategorien der „privaten Betriebe" auch alle privaten Handwerksbetriebe mit Einzelhandelsumsatz einbezogen sind; auf sie dürfte der überwiegende Teil der noch vorhandenen privaten Betriebe entfallen.

Eine besondere Kategorie bilden seit 1956 die privaten *Kommissionshändler* (mit höchstens zwei fremden Arbeitskräften). Sie werden durch den Abschluß eines Kommissionshandelsvertrages mit einem „sozialistischen" Handelsbetrieb faktisch von ihrem Vertragspartner völlig abhängig. Insofern kann auch der Kommissionshandel — ähnlich wie die Stellung der halbstaatlichen Betriebe in der Industrie — als eine Form

[19] Bereits nach dem Stande von Mitte 1959 entfielen vom gesamten Großhandelsumsatz in vH: auf den privaten Großhandel 2,9, den genossenschaftlichen Großhandel 19,4, auf „Großhandelsgesellschaften" (in öffentlichem Eigentum) 4,5, auf den staatlichen Großhandel 73,1 („Neues Deutschland" vom 1. 10. 1959, Sonderbeilage).

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der Konzentration angesehen werden, wenn auch formal die Selbständigkeit der Kommissionshändler erhalten bleibt.

Da auch in einer Zentralverwaltungswirtschaft die Notwendigkeit besteht, mit den Einzelhandelsverkaufsstellen in die Nähe des Verbrauchers zu gehen, läßt sich in diesem Wirtschaftszweig eine Betriebskonzentration nicht in der gleichen Weise durchführen, wie das im Großhandel der Fall gewesen ist; immerhin ist die Zahl der Verkaufsstellen insgesamt von 1952 bis 1967 fast um ein Viertel gesunken. Die Eigentumskonzentration in Händen des Staates und in zweiter Linie der Konsumgenossenschaften ist unverkennbar, vor allem wenn man berücksichtigt, daß die noch verbliebenen privaten Einzelhandelsgeschäfte ganz überwiegend Klein- und Kleinstbetriebe sind.

Zu einem besonders scharfen Konzentrationsprozeß hat die Übernahme des sowjetischen Wirtschaftssystems im *Kreditwesen* geführt[20]. Wie die Staatsbank in der Sowjetunion, so vereinigte lange Zeit in der DDR die 1948 gegründete staatliche „Deutsche Notenbank" in sich die Funktionen der Zentralbank und nahezu aller Arten von Kreditbanken (soweit deren Funktionen im heutigen mitteldeutschen Wirtschaftssystem überhaupt noch existieren). Sie wurde infolgedessen eine Mammutinstitution mit Filialen in den 14 Bezirkshauptstädten der DDR und sonstigen Niederlassungen in etwa 250 Orten. Neben ihr bestanden noch mit durch die Wirtschaftsplanung festgelegten Spezialaufgaben die „Deutsche Investitionsbank", die „Deutsche Bauernbank", später „Deutsche Landwirtschaftsbank" (für Kreditgewährung an die Landwirtschaft) und die „Deutsche Handelsbank A.-G." für die sich aus dem Außenhandel mit den nicht zum Ostblock gehörigen Ländern (besonders den Entwicklungsländern) ergebenden Finanztransaktionen.

Die Wirtschaftsreformen seit 1963 haben die Bedeutung der Kreditfinanzierung wieder erheblich verstärkt und damit dem Banksystem neue und differenziertere Aufgaben gestellt. Eine Konsequenz dieser Entwicklung war eine Dekonzentration des Banksystems: ab 1. Januar 1968 wurde die Deutsche Notenbank in die *Staatsbank der DDR* als Zentralbank und die *Industrie- und Handelsbank der DDR* als Geschäftsbank für Industrie, Bauwirtschaft, Handel und Verkehr aufgegliedert; die letztere übernahm die bisherige „Deutsche Investitionsbank". Eine gewisse faktische Dekonzentration der Geschäftsbanktätigkeit zeigt sich darin, daß bestimmte Filialen der Industrie- und Handelsbank ausschließlich für bestimmte VVB-Bereiche tätig sein sollen. Für Kredite

[20] Unmittelbar nach Kriegsende wurden alle bestehenden Kreditinstitute geschlossen und erhielten — mit Ausnahme der Sparkassen und Genossenschaftsbanken — nie wieder die Genehmigung zur Wiederaufnahme ihrer Geschäfte, abgesehen von einigen wenigen kleinen Privatbanken in Sachsen und Thüringen, die gesamtwirtschaftlich ohne Bedeutung sind.

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an die Land-, Forst- und Ernährungswirtschaft ist jetzt die am 1. Oktober 1968 aus der „Landwirtschaftsbank der DDR" hervorgegangene „Bank für Landwirtschaft und Nahrungsgüterwirtschaft" zuständig.

Erhalten blieben daneben als Sammelstellen für Sparkapital die Sparkassen (insgesamt rd. 200 Kreis- und Stadtsparkassen) sowie als gewerbliche Genossenschaftsbanken die Banken für Handwerk und Gewerbe eGmbH mit der Aufgabe der Kreditgewährung an die noch bestehenden privaten gewerblichen Kleinbetriebe; ihre gesamtwirtschaftliche Bedeutung ist jedoch nur noch gering.

Vergleicht man die dargestellte heutige Organisation des Kreditwesens im Gebiet der DDR mit dem vielgestaltigen und feingegliederten Apparat von Banken und sonstigen Kreditinstituten in marktwirtschaftlich organisierten Volkswirtschaften, so zeigt sich deutlich, in welchem Ausmaß die durch die Verstaatlichung nahezu des gesamten Kreditwesens geschaffene Eigentumskonzentration beim Staat auch zu einer Konzentration der Unternehmungen und Betriebe geführt hat.

Fast noch ausgeprägter ist dieser Prozeß der Konzentration durch Verstaatlichung in der *Individualversicherung*[21]. Ebenso wie den Kreditinstituten wurde auch den privaten Versicherungsunternehmen und den öffentlich-rechtlichen Versicherungsanstalten unmittelbar nach Kriegsende jede Geschäftstätigkeit untersagt. An ihre Stelle trat — nach einem Zwischenstadium, in dem in jedem der damaligen 5 Länder der sowjetischen Besatzungszone eine staatliche Versicherungsanstalt bestand — am 1. Nov. 1952 als staatliche Monopolanstalt für alle Zweige der Individualversicherung (außerdem seit 1956 auch für die Sozialversicherung der Selbständigen) die „Deutsche Versicherungs-Anstalt" mit einem Netz von Bezirks- und Kreisdirektionen. Sie wurde 1969 in „Staatliche Versicherung der DDR" umbenannt. Für Ost-Berlin werden die gleichen Funktionen durch die ebenfalls staatliche „Vereinigte Großberliner Versicherungsanstalt" wahrgenommen. Nur für bestimmte Spezialaufgaben im Außenhandelsbereich gibt es außerdem die Deutsche Auslands- und Rückversicherungs-AG, an der die Sowjetunion mit 50 v. H. beteiligt ist.

Im Bereich der Individualversicherung ist also die Eigentums- und Unternehmungskonzentration nahezu lückenlos verwirklicht.

III. Konzentration der Herrschafts- und Verfügungsmacht

Die in den vorhergehenden Abschnitten für die wichtigsten Wirtschaftsbereiche dargestellten Wirkungen der Übernahme des sowjetischen Wirtschaftssystems im Gebiet der DDR lassen erkennen, in wie

[21] Vgl. dazu *A. Leutwein*, Die Sach- und Personenversicherung in der sowjetischen Besatzungszone, 2 Teile, Bonn (1957) 1958[2].

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großem Umfange sich eine Eigentumskonzentration beim Staate vollzogen hat. Es liegen keine irgendwie brauchbaren Zahlen darüber vor, wie hoch der Anteil des staatlichen und genossenschaftlichen Eigentums in den einzelnen Bereichen heute ist; doch kann hilfsweise der Anteil der Eigentumsformen am Nettoprodukt nach Wirtschaftsbereichen herangezogen werden, über dessen Entwicklung in den Jahren 1950—1969 die Tabelle 7 Aufschluß gibt.

Das starke Wachstum des Anteils des „sozialistischen Eigentums" am Nettoprodukt wird aus diesen Zahlen sofort erkennbar, ebenso die überragende Bedeutung des „Volkseigentums", das, wie oben dargelegt wurde, seinem Wesen nach unverkennbar Staatseigentum ist. Dem entspricht der ebenfalls fast ununterbrochene Rückgang des privaten Eigentums, das jetzt nur noch im Handwerk einen wirklich ins Gewicht fallenden Anteil an der Entstehung des Sozialprodukts hat.

Eine derartige Eigentumskonzentration beim Staate bedeutet natürlich per se bereits eine Konzentration der Herrschafts- und Verfügungsmacht in einer einzigen Hand, der in marktwirtschaftlich organisierten Volkswirtschaften nichts auch nur annähernd Gleichartiges gegenübergestellt werden kann. Schon als Eigentümer kann der Staat — ein in seinem Handeln durch keinerlei wirksame demokratische Kontrollinstanzen beschränkter Staat — über den ganz überwiegenden Teil aller vorhandenen Unternehmungen und Betriebe verfügen.

Die bereits dadurch geschaffene Machtkonzentration wird aber weiter durch das ebenfalls nach sowjetischem Muster im Bereich der DDR eingeführte System der zentralen Planung noch erheblich verstärkt, vor allem durch den weitgehenden zentralen Einfluß auf die Investitionen, die fast nur noch im „sozialistischen Sektor" vorgenommen werden, aber auch durch die Planung der laufenden Wirtschaftsprozesse. In diese werden auch die noch in Privateigentum stehenden Betriebe einbezogen (die Formen dieser Einbeziehung können hier nicht behandelt werden). Den Eigentümern dieser (an Zahl und Bedeutung ständig schrumpfenden) Privatbetriebe verbleibt daher nur ein äußerst beschränkter Spielraum für freie eigene Dispositionen.

Nun haben freilich, wie im ersten Abschnitt bereits dargelegt wurde, die seit 1963 in Gang gekommenen Wirtschaftsreformen eine gewisse Dezentralisierung von Entscheidungskompetenzen bewirkt. Eine unmittelbare Folge war die oben dargestellte Dezentralisation im Bankwesen. Jedoch sind diese Reformen in der DDR in keiner Weise mit den Bestrebungen zur Entwicklung einer „sozialistischen Marktwirtschaft" in Jugoslawien zu vergleichen; diese wurden und werden von der SED-Führung mit größter Schärfe zurückgewiesen. Auch der seit 1968 in Ungarn praktizierte „neue Wirtschaftsmechanismus" geht hinsichtlich

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der Dezentralisation von Entscheidungskompetenzen, auch der Investitionsentscheidungen, wesentlich weiter als das „Ökonomische System des Sozialismus" in der DDR, zumal hier gerade in jüngster Zeit (1970) Anzeichen einer Rezentralisierung sichtbar werden. Auch führen die in den letzten Jahren erheblich verstärkten Tendenzen der Bildung von Kombinaten und Kooperationsgemeinschaften ebenso zu weiterer Konzentration wie die Verstärkung kollektiver Wirtschaftsformen in der Landwirtschaft und im Handwerk.

Trotzdem kann nicht bezweifelt werden, daß die in den Jahren 1963 bis 1970 in der DDR durchgeführten Reformen eine gewisse Dezentralisation der Verfügungsmacht bewirkt haben. Es wäre aber falsch, ihre Bedeutung in dieser Beziehung zu überschätzen: sie bedeuten keine grundsätzliche Veränderung eines Systems, zu dessen konstitutiven Elementen die Konzentration der Verfügungsmacht gehört. Es liegen nach Meinung des Verfassers auch keine Anzeichen dafür vor, daß in den kommenden Jahren mit einer das bisherige System grundsätzlich ändernden Verstärkung der Dezentralisationstendenzen gerechnet werden könnte.

Fassen wir zusammen: im Gebiet der DDR hat der wirtschaftliche Konzentrationsprozeß heute ein wesentlich größeres Ausmaß als in der BRD oder in einem anderen Lande der westlichen Welt. Seine Ursachen sind hier freilich ganz andere: die Konzentration ergibt sich nicht aus wirtschaftlichen Abläufen, die ihrer eigenen Gesetzmäßigkeit folgen, oder aus in der Regel unbeabsichtigten Wirkungen der Steuerpolitik bzw. von wirtschaftspolitischen Eingriffen des Staates, sondern sie ist — auf der Basis der Übernahme des sowjetischen Wirtschaftssystems — das unmittelbar angesteuerte Ziel eines wichtigen Teiles der Wirtschafts-, z. T. auch der Steuerpolitik[22].

Die unmittelbare Auswirkung ist die bereits sehr weit gediehene Konzentration des Eigentums an den Produktionsmitteln in den Händen des Staates, die durch die schwächere, in den Bereichen der bäuerlichen Landwirtschaft und des Handwerks aber doch recht wirksame Konzentrationsform der Produktionsgenossenschaft ergänzt wird. Die letztere bedeutet fast immer auch eine Betriebskonzentration. Eine solche braucht beim Eigentumsübergang an den Staat nicht unbedingt einzutreten, doch wirken in den Bereichen der verstaatlichten Wirtschaft starke Kräfte in dieser Richtung. Sie werden durch die zentrale Planung nicht nur der Investitionen, sondern des gesamten Wirtschaftsprozesses unterstützt. Die zu Anfang dieses Beitrages behauptete Affinität zwi-

[22] Dies gilt vor allem für die steuerliche Benachteiligung der Privatbetriebe gegenüber Staatsbetrieben und Produktionsgenossenschaften, auf die aus Raumgründen nicht eingegangen werden konnte.

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schen zentral geplanter Wirtschaft und Großbetrieb entspricht durchaus den heutigen Tatbeständen der Wirtschaft der DDR. Bedeutet schon die Eigentumskonzentration in Händen des Staates eine Herrschaftskonzentration außergewöhnlichen Ausmaßes, so schafft darüber hinaus die zentrale Planung eine Konzentration der Verfügungsmacht, in die auch die noch verbliebenen Reste der Privatwirtschaft so gut wie völlig einbezogen sind.

Dieser Konzentrationsprozeß nach sowjetischem Muster hat zwar noch nicht ganz den gleichen Stand erreicht wie in der Sowjetunion selbst; es muß jedoch angenommen werden, daß er in den folgenden Jahren weitergehen wird. Die durch die Wirtschafts- und Planungsreformen seit 1963 ausgelösten Tendenzen in Richtung einer Dezentralisation haben sich bisher im Verhältnis zu den systemimmanenten konzentrationsfördernden Kräften als weit schwächer erwiesen.

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Summary

Concentration in the German Democratic Republic (GDR)

The adoption of the Soviet economic system by the present-day GDR led to a considerable concentration of the means of production and of economic control as well as of plants. Concentration was and remains to be the direct objective of an important part of economic policy, and partially of revenue policy too. The largest part of enterprises is nationalized ("nationalized enterprises"); besides, in agriculture and in handicraft "socialist cooperatives" (producers cooperatives) are of importance, the formation of which leads to concentration of plants and property concentration. The concentration of plants is especially advanced by the strongly promoted forms of cooperation and establishment of combinations, the more so since there is an affinity between a centrally planned economy and large-scale enterprise anyway. The reforms of the planning- and steering-system under way since 1963

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have produced a certain decentralization of control but up to now these tendencies have remained far weaker than the forces promoting concentration which are immanent to the economic system of the GDR. The establishment of "socialist combines" in the form of VVB (union of publicly owned plants) is important with regard to concentration of control.

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Concentration des entreprises et politique économique en France de 1945 à 1970*

Par *André Paul Weber, Paris*

Répondant à des motifs très divers, les Pouvoirs Publics français se sont de manière traditionnelle préoccupés des problèmes posés par la concentration industrielle°; schématiquement il est permis de distinguer deux attitudes nettement différenciées. D'un côté, les Autorités Nationales examinent le fonctionnement des marchés, définissent la notion de position dominante, s'efforcent de déterminer la notion d'abus et incriminent tout ce qui procède de l'intention d'affecter la concurrence praticable. D'un autre côté, ces mêmes Autorités suggèrent, orientent, favorisent la constitution de grands oligopoles ou monopoles sectoriels nationaux aptes à affronter avec efficacité les entreprises étrangères. Nous trouvons d'une part un Etat garant d'un ordre économique donné et, d'autre part, un Etat identifiable à un agent économique actif qui peut user de l'ensemble de ses moyens de pressions, de coercitions et d'avantages pour favoriser la création de grandes entreprises concurrentielles. Dans ces conditions, l'examen de l'évolution de la concentration au sein des industries françaises et l'observation correspondante de la politique économique nationale constituent une tâche délicate et ambigue. En dépit de la difficulté rencontrée on s'efforcera au cours de ces quelques pages de présenter une évolution du mouvement de concentration et de préciser le rôle des Pouvoirs Publics dans le développement du nombre des fusions et de l'accroissement de la concentration.

On tentera également de montrer comment l'Etat s'efforce de garantir les conditions d'une concurrence suffisamment effective. En dernier lieu, on fera référence à la logique des politiques de concentration et de prix dans le cadre notamment des contrats de programme.

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* Cette contribution devait être écrite par le *Pr. J. Houssiaux* et l'auteur. La disparition brutale du Pr. J. Houssiaux lui a interdit de donner ici un nouvel apport à un sujet pour lequel il était le meilleur spécialiste français. Cet article est dédié au Pr. J. Houssiaux avec toute l'admiration et la reconnaissance de l'ancien étudiant et assistant á l'égard de son maître.

° Voir de même *R. Mossé*, La Politique économique française et la concentration, lère éd., p. 1403ss.

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I.

Traditionnellement, le mouvement de concentration en France a toujours été constant et modéré. Toutefois, depuis une vingtaine d'années, il est possible de remarquer une accélération des processus de concentration qui contraste avec le caractère relativement figé de nos structures industrielles au cours de la période qui a précédé la seconde guerre mondiale. A mesure du temps, en relation avec le développement de nos échanges extérieurs et la pénétration de concurrents étrangers, on observe de profonds changements dans la répartition des actifs industriels. Le phénomène n'est pas propre à la France; il se manifeste de manière analogue en Allemagne Fédérale, en Italie et, d'une manière plus générale, au sein de chacune des économies occidentales[1].

Pour la France, en prenant l'année 1950 comme année de base, les statistiques propres aux mouvements de fusions laissent apparaître trois phases distinctes[2].

— La première phase correspond aux années 1950—1958. Le nombre des opérations de concentration enregistrées reste modeste. Ce sont essentiellement les petites et moyennes entreprises qui ont recours aux techniques de la croissance externe. Tout au plus les grandes sociétés n'absorbent-elles que des entreprises de petite taille et certaines de leurs filiales. Certaines exceptions, notamment dans la sidérurgie, doivent être mentionnées, elles restent néanmoins très limitées.

— De 1959 à 1964 on assiste à un accroissement sensible du nombre des sociétés absorbantes et du nombre des sociétés absorbées. Les sociétés absorbées sont toujours de petite taille mais les grandes entreprises manifestent un intérêt accru vis à vis du marché des petites entreprises. L'accélération du mouvement de concentration se traduit alors par une augmentation sensible de la rémunération totale nette des actifs absorbés.

— La troisième phase, depuis 1965, conduit de son côté à souligner l'accroissement très sensible de la taille des entreprises absorbées. Le phénomène correspond en particulier aux grandes réorganisations qui ont lieu dans les secteurs de la sidérurgie, de la chimie, des industries électriques et électroniques. On assiste en conséquence à une augmentation très importante de la rémunération totale nette des actifs absorbés qui atteint près de 2,5 milliards de francs en 1969.

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[1] Economic Concentration, Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U. S. Senate, Part 7, avril 1968.

[2] *J. Houssiaux, F. Bougeon, J. P. Franiatte, A. P. Weber,* Fusions et concentration des entreprises, Direction, n° 170, février 1970.

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Au total, en considérant les seules sociétés anonymes, de 1950 à 1969, le nombre des opérations de concentration s'établit à 2500 unités. Elles ont principalement concerné :

— le secteur des banques et sociétés d'assurances	487 opérations.
— les industries mécaniques et électriques	411 opérations.
— les industries chimiques et pétrolières	409 opérations.
— les industries agricoles et alimentaires	309 opérations.
— les industries métallurgiques et sidérurgiques	221 opérations.

De 1950 à 1969, les 500 plus grandes entreprises françaises (selon le classement établi par la revue entreprise[3] en 1969) ont à elles seules, réalisé près de 1200 opérations de croissance externe[4]. Ici encore, les secteurs les plus touchés ont été la chimie, la construction mécanique et électrique, la sidérurgie et les industries agricoles et alimentaires. Il est symptomatique d'observer que le nombre des opérations conclu par chaque société est en règle générale d'autant plus grand qu'elle est placée dans un rang de classe élevé. Pour ces grandes entreprises il est également remarquable de souligner que les mouvements de concentration se sont opérés en deux étapes. De 1950 à 1964, les grandes entreprises semblent procéder à la réorganisation de leurs actifs et absorbent en conséquence un grand nombre de leurs filiales. Depuis 1965, les grandes manœuvres sont engagées et on assiste à une accélération du nombre des fusions entre sociétés de grande taille. Le développement de ces grandes manœuvres affirme la structure oligopolistique d'un certain nombre de secteurs industriels, accroît l'importance relative des grands producteurs et rend les structures nationales plus proches des modèles allemands, japonais et américains.

Depuis la signature des traités de Paris et de Rome, les négociations du Kennedy-Round, dans un laps de temps relativement court, les entreprises nationales sont ainsi passées d'un univers cloisonné et négocié á un univers élargi et concurrentiel[5]. Sur la plupart des marchés, les entreprises ressentent une pression concurrentielle accrue qui résulte de la pénétration de nouveaux concurrents et du passage d'une situation de pénurie à une situation d'abondance. Les entreprises ont du, dans le même temps, faire l'apprentissage d'un jeu concurrentiel auquel elles n'étaient que modérément préparées et dont, tout au plus, elles n'avaient

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[3] Entreprise, Les 500 plus grandes entreprises françaises, Revue entreprise, n° 15, novembre 1969.

[4] *J. Houssiaux,* Les grandes entreprises et les fusions, Direction n° 116, avril 1965 ; *A. P. Weber,* Les grandes entreprises et les fusions, 1950—1969, Direction, n° 170, février 1970.

[5] *H. Van der Haas,* The Enterprise in Transition, an Analysis of European and American Practice, Tavistock, Londres, 1967.

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fait connaissance que de manière résiduelle et accidentelle. Le phénomène de l'ouverture des marchés affecte tout au moins momentanément la solidarité entre les membres des professions et la résolution des tensions se résoud par les phénomènes de restructuration. Pour les grandes entreprises on assiste alors aux absorptions de filiale et aux négociations devant permettre la constitution d'un monopole sectoriel ou le renforcement de la structure oligopolistique du secteur. Pour les entreprises de taille plus modeste, on pourra observer la création de marchés régionaux spécialisés procédant d'un esprit identique. Dans les deux cas, les opérations de concentration s'apparentent à une stratégie défensive dont l'objectif implicite est le cloisonnement du marché national. L'objectif repose sur le relèvement permanent des barrières à l'entrée de nature, par définition, à ralentir la pression des phénomènes concurrentiels. En parallèle, les entreprises pourront utiliser les techniques de segmentation et de différenciation des marchés qui répondent à un souci analogue. Les Pouvoirs Publics sont naturellement enclins à favoriser ce type de politique car il permet de limiter les effets sociaux d'une concurrence internationale trop vivement ressentie, d'éliminer des tensions jugées trop vives, d'assurer une première réorganisation des structures industrielles.

II.

Face au problème de la restructuration de l'appareil national de production le rôle de l'Etat doit s'analyser de quatre points de vue. Dès 1947, les Pouvoirs Publics dégagent un certain nombre de dispositions indicatives à caractère général. Ultérieurement, les Pouvoirs Publics procèdent à la réorganisation des entreprises publiques et interviennent de manière spécifique dans certains des secteurs relevant des entreprises privées. Enfin, plus récemment, des dispositions législatives ou réglementaires sont édictées; elles ont pour objet de rendre le regroupement des entreprises moins coûteux sur le plan fiscal ou moins contraignant sur le plan juridique.

— Le souci de développer la concentration des entreprises françaises a été publiquement exprimé à l'occasion des différents Plans nationaux. Le premier plan (1947—1953) suggère des actions sectorielles dans la sidérurgie. Il convient alors de permettre la mise en œuvre d'équipements de grande dimension. Une réforme des structures par voie de concentration est également considérée comme nécessaire à propos de l'industrie de la machine-outil. Le second plan (1954—1957) inscrit de son côté le principe de la « spécialisation des entreprises » comme l'un des grands moyens de sa réalisation. Le souci repose alors sur la considération du caractère trop différencié des activités des entreprises

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nationales et des pertes de productivité des entreprises. L'accroissement de la dimension du Marché national qui résulte de la signature du traité de Rome et l'évolution parallèle des conditions d'environnement des entreprises conduisent les Pouvoirs Publics à reprendre les recommandations préalablement formulées à l'occasion du troisième plan (1958—1961). Les principes sont encore formulés au cours du quatrième plan (1962—1965); l'effort engagé en vue de la concentration et de la spécialisation des moyens de recherche, de financement, de fabrication et de distribution doit être poursuivi: l'insistance des Pouvoirs Publics sur ce point est d'autant plus vive « qu'il s'agit de produits et de matériels très élaborés ou comportant un haut degré d'innovations... ou que ces activités seront soumises à une vive concurrence internationale à la fois sur le marché français et sur le marché extérieur »[6]. C'est à travers cette toile de fond volontairement simplifiée que s'expliquent les grandes orientations du cinquième plan en matière de concentration et de structure industrielle. L'approche du premier plan avait été sectorielle, les programmes correspondant aux plans des années 1954—1965 avaient été globaux et généraux, la conception d'ensemble du cinquième plan prend un reflet de synthèse.

Les textes relatifs au V⁰ plan soulignent une fois encore les faiblesses de l'appareil national de production. Les structures de production sont insuffisamment adaptées aux nouvelles conditions de la concurrence internationale, « le premier objectif fixé à l'industrie française est donc de renforcement de sa position compétitive à l'échelle européenne et mondiale »[7]. De plus, « les bénéfices de l'établissement d'un marché commun européen ne seront pleinement réalisés que si des sociétés françaises participent nombreuses à la construction de groupes européens plus vastes. Ces regroupements européens doivent être d'autant plus encouragés et aidés que, dans nombre de cas, ils permettront seuls de résister à la puissance financière et technique des grandes sociétés américaines »[8].

La constitution de ces grands monopoles ou oligopoles sectoriels nationaux puis, éventuellement européens, doit s'accompagner de la modernisation des entreprises de taille petite ou moyenne: cette modernisation doit conduire à leur spécialisation et au développement des bourses de sous-traitance.

En résumé, les objectifs du V⁰ plan sont fondés sur le critère de l'indépendance nationale. La politique mise en œuvre doit s'efforcer de pallier

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[6] Rapport relatif aux principales options du V° plan, imprimerie des journaux officiels, Paris 1961.

[7] Rapport relatif aux principales options du V° plan, imprimerie des journaux officiels, Paris 1961.

[8] *F. Lagandré,* Problèmes posés par la concentration des entreprises, conseil économique et social, séance des 10 et 11 janvier, J. O. n° 4, 1967.

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les éventuelles conséquences du développement de la concurrence internationale. Pour les secteurs particulièrement menacés, la constitution de groupes dominants est considérée comme le premier remède. Aujourd'hui, en matière de structures industrielles, les objectifs du VI[e] plan sont fondés sur la réalisation des objectifs du précédent. « La création dans chaque branche d'un petit nombre d'entreprises de niveau international »[9] étant opérée, il est alors possible d'envisager une étape plus ambitieuse sur la voie du renforcement des structures des grandes entreprises: ce renforcement doit selon les recommandations du plan se traduire par une politique systématique d'implantation à l'étranger et par la constitution de groupes multinationaux constitués par des entreprises originaires des différents pays du Marché Commun.

— L'ensemble de ces dispositions indicatives s'est traduit au cours du temps par un grand nombre de mesures. L'Etat a procédé à la réorganisation du secteur public, des interventions spécifiques sont orchestrées à propos de certaines industries, des lois, ordonnances et réglements ont institué un certain nombre de privilèges susceptibles d'accélérer les processus de concentration.

Dans un laps de temps très limité, mettant en application les principes dégagés à propos du V[e] plan, l'Etat s'est efforcé de réorganiser bon nombre des activités nationalisées. Parmi les opérations les plus spectaculaires, on mentionnera en 1965, la constitution du groupe pétrolier E. R. A. P., Entreprise de Recherches et d'Activités Pétrolières, issue du regroupement des activités de la Régie autonome des pétroles et du Bureau de recherches des pétroles. En 1966, les deux plus importantes banques de dépôts, Banque Nationale pour le Commerce et l'Industrie, B. N. C. I., et le Comptoir National d'Escompte de Paris, C. N. E. P.; fusionnaient pour constituer la Banque Nationale de Paris, B. N. P. En 1966 encore, on pouvait remarquer les premières évolutions de structure des secteurs de la chimie d'Etat — constitution de la société commerciale charbonnage France-chimie, association des Charbonnages de France avec la société des produits chimiques d'Auby. Il est encore possible de mentionner les accords Renault-Peugeot, Saviem-Richard, Continental-Richier. Des accords de spécialisation ont enfin été conclus entre les entreprises nationales d'aviation et certaines d'entre elles avec des groupes étrangers. Plus récemment, les pouvoirs publics ont réorganisé le secteur des assurances. Le secteur nationalisé des assurances comprend à présent quatre grandes unités. L'Union des Assurances de Paris, U.A.P., les Assurances Générales de France, A.G.F., le Groupe des Assurances Nationales, G.A.N., la Mutuelle Générale Française, M.G.F.

[9] Rapport sur les principales options qui commandent la préparation du VI° plan, imprimerie des journaux officiels, Paris, 1970.

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— Pour des raisons de prestige, de défense nationale, d'emploi, de politique régionale, les pouvoirs publics sont traditionnellement intervenus dans le fonctionnement de certaines industries. Au lendemain de la seconde guerre mondiale, l'industrie des chantiers navals a ainsi systématiquement bénéficié d'une aide spécifique devant lui permettre de concurrencer efficacement les concurrents étrangers. Des fonds de péréquation financés généralement par des recettes douanières ont pu et permettent encore à certaines activités de pallier les conséquences tenant aux disparités des conditions d'exploitation entre les entreprises nationales et les groupes étrangers.

Récemment, la convention passée entre l'Etat et la sidérurgie doit permettre de déboucher sur « une industrie sidérurgique rénovée et hautement compétitive »[10]. L'aide de l'Etat concrétisée d'une part par d'importants prêts du fonds de développement économique et social (F.D.E.S.) à des conditions privilégiées et, d'autre part, par la possibilité de procéder à des émissions d'emprunts complémentaires a été toutefois soumise à la réalisation de certaines opérations de concentration.

— Par delà les actions spécifiques entreprises à propos des sociétés nationalisées ou de certains secteurs-clés de l'économie nationale, au delà des voeux exprimés dans le cadre des différents plans de modernisation et d'équipement, une large mention doit enfin être faite aux dispositions législatives et réglementaires visant à favoriser le développement de la concentration au sein des entreprises nationales. A titre historique, on peut faire état des décrets du 30 juin 1955 et du 18 octobre 1955 dont l'objet est de pallier les conséquences sociales des mouvements de concentration lesquels sont assortis de prêts et bonifications diverses. L'ordonnance du 4 février 1959 (ordonnance n° 59.248) a eu de son côté pour mission de favoriser les petites et moyennes entreprises qui se groupent pour entreprendre une action tendant à l'adaptation de leur activité et de leur structure aux conditions nouvelles des marchés. Par définition, la société conventionnée stipule qu'un contrat est établi entre l'Etat et le groupement d'entreprises qui la constitue. Les associés conservent leur autonomie et peuvent améliorer leur position concurrentielle en créant ensemble des services spécialisés tels des services d'achat, de vente, des services de gestion de stocks et de tenue des comptabilités, etc., qu'ils ne seraient pas en mesure de créer isolément. Au moment de la convention chaque entreprise participante ne doit pas employer plus de 500 personnes et son capital social augmenté des réserves ne doit pas être supérieur à 10 millions de francs. Les souscripteurs au capital d'une société conventionnée peuvent dès le versement de la souscription effectuer dans

[10] Plan professionnel de la sidérurgie, 28 juillet 1966.

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leurs comptes un amortissement exceptionnel égal au montant de ce versement.

Plus récemment, le législateur s'est penché sur le problème du coût fiscal des fusions; un régime particulier est désormais en vigueur pour toute opération de fusion, d'absorption et d'absorption de filiale: ce régime n'est applicable aux fusions-scissions et apports partiels d'actifs que sur agrément.

Dans le cadre des ordonnances de l'été 1967, les pouvoirs publics se sont efforcés de remédier à certaines lacunes de la loi du 12 juillet 1965 et ont crée une nouvelle personne morale, le groupement d'intérêt économique, afin de faciliter l'adaptation des entreprises aux exigences de la concurrence internationale.

De nombreux articles ont déjà été publiés quant au contenu le la loi du 12 juillet et il ne parait pas nécessaire d'y insister[11, 12].

On se contentera de rappeler que le régime fiscal des fusions est désormais moins coûteux. Les anciens droits d'enregistrement des actes de fusion qui étaient proportionnels sont désormais des droits fixes. Les plus-values qui sont susceptibles d'apparaître au moment du contrat de fusion bénéficient d'un traitement fiscal de faveur. Les nouvelles dispositions ont pour conséquence de procurer à la société absorbante un avantage de trésorerie incontestable. En effet, pendant les trois premiers exercices qui suivent la fusion, elle peut effectuer des amortissements sur les valeurs d'apport des éléments amortissables sans avoir à effectuer aucune réintégration au titre des plus-values sur les mêmes éléments. La loi, applicable pour la durée du V° plan a été complétée par les ordonnances du 31 août 1967. Quatre mesures à caractère général peuvent être mentionnées; elles concernent l'étalement de l'imposition des plus-values, la distribution de certaines actions en franchise d'impôt, la suspension de l'imposition des plus-values en faveur des dirigeants de sociétés et la question des remboursements massifs d'obligation. On doit enfin mentionner que la procédure de l'agrément propre aux fusions-scissions et apports partiels d'actifs a fait l'objet d'une instruction (instruction du 4 juillet 1967) précisant les conditions dans lesquelles les demandes d'agrément sont accordées. En résumé, la demande d'agrément est acceptée dès que l'opération de concentration envisagée revêt une nécessité économique.

Outre ces mesures fiscales, les pouvoirs publics ont convenu de la création d'une nouvelle personne morale, le groupement d'intérêt

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[11] *J. Burgard,* Le nouveau régime fiscal des fusions, Direction, n° 127, avril 1966.

[12] *A. P. Weber,* Fusions et concentrations d'entreprise en France, Notes et études documentaires, la documentation française, n° 3552, janvier 1969.

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économique, ci-après dénommé G.I.E., qui se situe entre la société et l'association. Il évite la rigidité de l'une sans tomber dans l'incapacité de l'autre. La création de cette nouvelle personne morale remonte à l'ordonnance du 23 septembre 1967 (ordonnance n° 67.821).

Hormis le cas où des avantages fiscaux sont demandés et mises à part toutes les formalités usuelles pour toute entreprise à caractère commercial d'immatriculation au registre du Commerce, aucune autorisation administrative préalable n'est nécessaire en vue de constituer un G.I.E. Un contrat doit seulement être établi entre les parties selon les modalités fixées par le décret du 2 février 1968 lequel détermine son organisation et sa durée.

Le G.I.E. se caractérise par sa grande souplesse ; son organisation est largement laissée à la volonté des participants. Le contrat, ou à défaut, l'Assemblée des membres nomme les administrateurs et fixe leur attributions et pouvoirs. Le G.I.E. dispose de la pleine capacité juridique et la personnalité morale, ses membres sont tenus solidairement de ses dettes. Le G.I.E. bénéficie du régime fiscal des sociétés de personnes et ne constitue donc pas une structure juridique imposable. La part de bénéfices ou de pertes du G.I.E. revenant à chacun des membres entre dans les résultats imposables de ce membre et est soumise aux règles fiscales s'appliquant à celui-ci. Ainsi que toute société constituée entre plusieurs entreprises pour construire et exploiter un ensemble industriel commun, le G.I.E. est autorisé, sous réserve de bénéficier d'un agrément, à transférer à ses membres les droits de déduction de la T.V.A. ayant grevé les immobilisations acquises et les services nécessaires à la mise en place de ces biens (décret n° 68.830 du 9 juillet 1968).

Il est assurément très difficile de porter un jugement sur la portée et l'efficacité des mesures préconisées par les pouvoirs publics. On se contentera de rappeler que le mouvement de fusion a pris une grande ampleur au lendemain de la loi du 12 juillet 1965 et de souligner que l'on évalue aujourd'hui à 1700 unités le nombre des groupements d'intérêt économique. Néanmoins, la vague récente des fusions est en France sans commune mesure avec celle qui a frappé l'Angleterre ainsi que les Etats-Unis. Ainsi s'explique le fait que la France demeure le seul pays où l'Etat continue de favoriser les fusions, de les promouvoir, d'intervenir directement sur leur avenir ce qui a pour effet de conduire à la formation d'unités de très grande dimension relative et d'accroître de manière très sensible la concentration des industries nationales. En dernier ressort, la constitution d'oligopoles ou de monopoles sectoriels nationaux peut aller à l'encontre du désir qu'il y a de maintenir un comportement concurrentiel sur les différents marchés.

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III.

Le souci du maintien d'un comportement concurrentiel sur les différents marchés nationaux est antérieur à la préoccupation tendant à développer la concentration. En matière de libre concurrence les textes reposent essentiellement sur l'ordonnance du 30 juin 1945 : cette ordonnance relative aux prix a été complétée et modifée par les décrets n° 53.704 du 9 août 1953, 58.545 du 24 juin 1958, 59.1004 du 17 août 1959, par la loi de Finances n° 63.628 du 2 juillet 1963 et par l'ordonnance n° 67.835 du 28 septembre 1967. La réglementation portant sur la concurrence s'attache à la fois à l'étude du comportement des entreprises et à l'examen de la forme des marchés.

Sur le plan des comportements, l'article 59 bis de l'ordonnance du 30 juin 1945 prohibe les actions concertées, conventions, ententes expresses ou tacites ou conditions sous quelque forme et pour quelque cause que ce soit, ayant pour objet ou pouvant avoir pour effet d'empêcher, de restreindre ou de fausser le jeu de la concurrence. Ce texte fait ainsi état des mesures susceptibles de mettre obstacle aux abaissements des prix de revient, d'entraver le progrès technique, etc. Au niveau de la forme des marchés, l'article 59 bis prohibe également « les activités d'une entreprise ou d'un groupe d'entreprises occupant sur le marché intérieur une position dominante caractérisée par une situation de monopole ou par une concentration manifeste de la puissance économique, lorsque ces activités ont pour objet ou peuvent avoir pour effet d'entraver le fonctionnement normal du marché » (article 3 de la loi de finances n° 63.628 du 2 juillet 1963, J.O. du 3 juillet).

L'article 59 ter aménage la portée des dispositions contenues dans l'article 59 bis. Les actions concertées, conventions ou ententes ainsi que les activités d'une entreprise ou d'un groupe d'entreprises occupant une position dominante ne sont pas visées par les dispositions du précédent article si elles résultent de l'application d'un texte législatif ou réglementaire ou si les auteurs de ces mesures peuvent justifier que leur objet est d'assurer le développement du progrès économique notamment par l'accroissement de la productivité.

Ainsi, qu'il s'agisse d'entente ou de position dominante, le système national n'est pas un système dogmatique. La neutralité de la loi vis à vis des ententes et des positions dominantes est soumise ou principe de l'abus. La condamnation de l'entente ou de la position dominante est formulée dès lors que le bilan avantages-inconvénients est négatif.

IV.

Il y a sans doute une grande ambiguïté à vouloir à la fois développer la concentration des industries nationales et à s'efforcer d'assurer le

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fonctionnement d'une concurrence suffisamment effective. L'ambiguïté explique sans doute les indications commençant à apparaître qui contestent les résultats passés des concentrations réalisées et discutent de l'opportunité des regroupements ultérieurs. Jacques Houssiaux souligne ainsi que le Comité de la Concurrence du Plan songe désormais au moment où il ne sera plus nécessaire de passer des contrats pour restructurer les entreprises mais, au contraire, d'en passer d'autres pour contrôler les fusions éventuelles[13]. Néanmoins, jusqu'ici, une logique implicite s'est dégagée : cette logique implicite est observable dès lors que l'on considère à la fois la politique nationale des prix mise en œuvre dans le cadre des contrats de programme et la politique de concentration.

A propos des contrats de programme il est bon de rappeler qu'ils résultent de la politique du blocage des prix instituée en 1963 au moment du plan de stabilisation conjoncturelle. Au blocage général des prix s'est substitué la procédure du contrat de programme qui autorise la variation des prix relatifs à l'intérieur d'une industrie, la variation moyenne devant assurer la stabilité et respecter les objectifs définis par le plan. Quatre critiques fondamentales ont été formulées à l'endroit de la procédure.

1° La croissance économique et l'évolution de la demande doivent entraîner la variation des prix relatifs entre les industries et tout permet de penser que cette variation ne s'opère pas.

2° La politique mise en œuvre contribue sans doute à favoriser certaines activités aux dépens d'autres dont les prix sont bloqués ; elle conduit à une allocation artificielle des facteurs et est de nature à perturber gravement les courants d'échanges avec l'extérieur.

3° La procédure améliore vraisemblablement la fonction de communication entre les entreprises, accuse les parallélismes d'action, facilite l'aboutissement de pratiques restrictives.

4° Dans une telle situation, face à un développement du progrès technique, le succédané du blocage peut entraîner une rente dont la pérennité sera fonction du degré de solidarité de la profession.

L'objectif du contrat de programme est donc la stabilité des prix et, des tests statistiques récents tendent à montrer que la politique de concentration est de nature à en faciliter la réalisation. Les tests portant sur 32 industries françaises sur la période 1958—1968 montrent que les hausses de prix relatifs face à une variation à la hausse de la capacité de production utilisée sont d'autant plus faibles que les industries sont concentrées. A l'inverse, les coefficients de régression reliant

[13] *J. Houssiaux,* Fusions d'entreprises et rôle de l'Etat, Direction, n° 170, février 1970.

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les prix relatifs des industries à leurs stocks de capital utilisé correspondant sont en valeur absolue beaucoup plus élevés pour les industries faiblement concentrées[14]. A mesure du temps, on peut assister à une déformation du coefficient de régression largement explicable par le développement de la concentration du secteur.

Ces observations statistiques conduisent à deux conclusions :

1° Tout du moins dans une période relativement courte, la concentration affecte la flexibilité des prix. Les variations de prix face à une évolution conjoncturelle sont d'autant plus faibles que le secteur est concentré. Dans une phase de haute conjoncture, la hausse potentielle des prix apparaîtra faible ; en contrepartie, face à un retournement conjoncturel, les baisses de prix susceptibles d'être observées resteront également modestes.

2° La procédure du contrat de programme n'entretient la rigidité des prix que pour les seuls secteurs oligopolistiques. A l'inverse, les coefficients de régression propres à la liaison excès de capacité-prix demeurent élevés pour les secteurs fortement concurrentiels tels les industries textiles, alimentaires, de l'ameublement.

V.

En définitive, la politique économique nationale examinée par référence à l'appareil industriel a comporté un objectif prioritaire à savoir sa restructuration. La signature du traité de Rome, l'accroissement de la dimension des marchés ont conduit les pouvoirs publics à favoriser la constitution d'unités de « taille internationale ». Pour améliorer la capacité concurrentielle des entreprises ces mêmes pouvoirs publics ont établi deux types de politique : sur le plan général, le législateur ou le pouvoir exécutif a formulé un grand nombre de dispositions tendant à constituer des leaders au sein de chaque industrie. Pour certaines activités, parce quil est parfois difficile d'intervenir vis à vis de l'ensemble des entreprises, des mesures spécifiques ont été prises ; des transformations structurelles importantes ont été provoquées en exerçant notamment un contrôle sur les plus grandes entreprises appartenant à certaines branches.

Désormais, l'appareil national de production se présente aujourd'hui sous la forme d'un oligopole fortement structuré ; les industries chimiques, sidérurgiques, de la métallurgie non-ferreuse sont dirigées par un nombre limité de conseils d'administration. Une tendance analogue

[14] *A. P. Weber*, Analyse théorique et économétrique de l'excès de capacité, Thèse de doctorat, Faculté de Droit et des Sciences économiques à Paris, Paris, (à paraître).

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s'observe dans les secteurs de la pharmacie, du verre, de l'électronique, de l'automobile, des gros équipements électriques. La « cristallisation » des entreprises nationales correspond vraisemblablement à l'étape devant ultérieurement favoriser un développement des entreprises sur les marchés étrangers et européens et constituer le préalable à la formation de groupes internationaux d'origine européenne.

D'ici un laps de temps relativement court, les pouvoirs publics ayant réalisé leur objectif prioritaire seront certainement conduits à reviser leur politique de concentration et de prix et à porter une attention plus grande au fonctionnement des marchés. Tôt ou tard, il faudra qu'une limite aux fusions soit clairement établie, que des conditions soient fixées, qu'elles soient connues et recensées, en un mot, que des règles du jeu viennent définir les possibilités et les limites de la concentration des centres de décision aussi bien en France qu'en Europe. Cette tendance est inéluctable si l'on examine le fonctionnement du mécanisme des prix et cela en dépit des affirmations futuristes et fantaisistes selon lesquelles une centaine de grands groupes devraient immanquablement dominer l'économie mondiale vers la fin du siècle.

Summary

Industrial Concentration and Economic Policy in France 1945—1970

This contribution consists of a short illustration of contradictions emerging in a market economy when the public intervenes in the market mechanism under one aspect only.

Anxious to safeguard the competitive ability of domestic industries the public determines the reorganization of the sectors of the economy by suitable fiscal policy silently renouncing any competition policy. This way of acting is not astonishing in a country in which competition policy has always been ill reputed; indeed the trade unions consider competition policy as a little efficient means in a fundamentally imperfect economic system; it is useless from the viewpoint of entrepreneurs, and the expected effects of a competition policy are not acute enough for the responsible public now to be taken into consideration. The reasoning of this article is based on the investigation of the mergers registered during the years 1950—1970. This contribution should indeed promote reflection, in France and elsewhere; policy which aims to increase concentration affects the price mechanism and facilitates the direct and indirect penetration of foreign groups into domestic markets. To give an example: It is known by experience that every domestic company which grows by systematic merger is able to predetermine its "satisfactory rate of growth", but this "satisfactory rate of growth" does not necessarily correspond to that of demand. The adjustment between supply and demand is accordingly brought about by an increased strain on the market for imports.

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Economic Concentration and Concentration Policy in Italy

By *V. G. Venturini*, Brisbane

I.

The problems of concentration and the policy which generates it must be seen—in the Italian context—in the light of a complete lack of measures to enforce competition[1] and the heavy intervention by the State in the economy of the country.[2]

Industrialization began in Italy some decades later than in other countries of the western world; hence modern forms of restrictive business practices, which seems unfailingly to accompany any intense application of technological progress to industrial production, made their appearance in Italy only at the beginning of this century.[3] It was in the period immediately preceding the First World War that the formation of cartels and the progress of industrial concentration—previously matters of somewhat detached descriptive study—attracted the attention of economists as indications of a changing market structure that called for a re-examination of the traditional theory of competition.[4] Up to the First World War industrial and commercial organization in Italy—although not free from a tendency towards large enterprises in certain fields of production, nor from restrictive practices—was basically characterized by a large number of units of moderate size, and consequently by a relatively high degree of competition.

During the First World War an economic system was created to meet wartime needs; reasons of State imposed State control of the economy. Aside from this, however, and until the *coup d'état* which brought the Fascists to power and opened the way to the setting up of the 'Corporative State',[5] legal controls and limitations upon competition were almost insignificant. The only exceptions were some restrictions of

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[1] See: *V. G. Venturini*, Monopolies and restrictive trade practices in Italy, 13 Int'l & Comp. L. Q. 617 (1964).

[2] See: *M. V. Posner* and *S. J. Woolf*, Italian public enterprise, London 1967.

[3] See: *F. Vito*, Monopolistic competition and Italian economic thought, in Kuenne (ed.), Monopolistic competition theory: studies in impact, New York 1967, p. 293.

[4] Ibid.

[5] See: *V. G. Venturini*, supra note 1, at pp. 617—618 f. n. 2.

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contractual freedom set forth in the Civil Code of 1865,[6] and some provisions of the Criminal Code of 1888.[7] Lack of regulation but, above all, lack of constructive interpretation by the judiciary of the inadequate legislative instruments available for the protection of competition[8] led to the establishment of cartels and restrictive agreements. The only limits upon these practices were to be pricked out, case by case, infrequently, according to a criterion familiar to students of anti-trust law, *i.e.* the distinction between socially 'bad' and 'good' cartels. The view of the courts found support in well-known writers[9] who were more concerned with the systematization of the practices than with their lawfulness.[10] The problem was probably seen in the light of a protectionistic philosophy which led to a general intervention of the State in the economy. Historically, this phenomenon may be identified with an initial period during which the public enterprise appears predominantly as an 'autonomous agency' *(azienda autonoma)*. It represents a medium for nationalization—with monopoly—of some essential products or services on the grounds of economic necessity and public interest.

The trend started with a minimum of necessary activities, such as the creation of the Bank of Italy,[11] the assumption of direct management of the railroads[12]—which were granted in small part to private enterprises,[13] the control of small agricultural co-operatives,[14] and co-operatives of production and work admitted to public adjudications,[15] the undertaking of insurance activities[16] and the financing of public works.[17] The need for a rapid adaptation of the productive apparatus to changing

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[6] See: Art. 1119: "An obligation ... resting on an illicit cause cannot have any effect." Civil Code (Italy 1865). Art. 1122: "The cause is illicit whenever it is in contravention to the law, good mores or public order." Civil Code (Italy 1865).

[7] See: Art. 163: "Anyone who, by means of violence or threats, restrains or hampers, in any way whatsoever, the freedom of work or trade is punishable ..." Criminal Code (Italy 1888). See also: *Manzini*, Trattato di diretto penale italiano, Torino 1922, pp. 715 et seq.

[8] Italian legislation establishing freedom of trade cumulated in the Law No. 1797 of 29 May 1864, 9 Leggi e Decreti 626 (1864).

[9] See: *T. Ascarelli,* Note preliminari sulle intese industriali, 1953 Rivista italiana per le scienze giuridiche, p. 103; *Ascarelli,* Le unioni di imprese, Rivista di diritto commerciale, vol. 33 (1935), p. 152.

[10] See: *Ascarelli,* Consorzi volontari tra imprenditori, 2nd ed., Milano 1937; *Betti,* Società commerciale costituita per finalità di consorzio, Rivista di diritto commerciale, vol. 39 (1941) II, p 335.

[11] See: Law No. 449 of 10 August 1893; Royal Decree Law No. 375 of 13 March 1936, converted into Law No. 141 of 7 March 1938.

[12] See: Law No. 137 of 22 April 1905; Law No. 429 of 7 July 1907.

[13] See: Royal Decree No. 1447 of 9 May 1912.

[14] See: Law No. 526 of 11 July 1907.

[15] See: Law No. 278 of 12 February 1911.

[16] See: Law No. 305 of 4 April 1912.

[17] See: Royal Decree Law No. 1627 of 2 September 1919.

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conditions, both internal and external, was—to a certain extent—met by mergers, rationalization schemes and price or quota fixing arrangements. But it was only after the setting up of the 'Corporative State', and not until 1927, that a powerful wave of concentration and cartelization marked a final retreat from competition. The figures of the Industrial and Commercial Censuses of 1927 and 1936—39 show, better than in any other way, this trend.[18]

In order to overcome the financial difficulties imposed on them by deflationary pressures, many firms resorted to merger and combination, favoured by the government, which accorded special fiscal privileges for this purpose.[19] Along with this tendency to concentrate in fewer units[20] there was also a steady increase in the formation of cartels and the strengthening of existing combines in various branches of engineering, iron and steel, textile, chemical, mining, cement, food and other industries. This movement was carried out, firstly, as a consequence of the impact of world depression on the Italian economy, and, secondly, as a part of the programme for highly interventionistic and strongly centralized economic policy, which was not only legally encouraged but indeed manipulated by the government.

Fascism signified a return to control. But this time it meant not a temporary or limited return, dictated by military needs, but a definite and permanent economic policy. It meant autarchy. The fascist tenets of the 'Corporative State' and a totalitarian economy prompted an ever increasing predilection for cartels. The government not only condoned restrictive combinations by failing to take legislative action for the control or suppression of their activities, but actually fostered their existence by creating a few compulsory cartels in certain industries by special legislation.[21]

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[18] The figures were as follows:

Type of unit	Census	
	1927	1936—39
Small-size (1 to 10 employees	692,131	183,993
Medium-size (11 to 100 employees)	34,915	28,781
Large-size (over 100 employees)	4,842	5,119

[19] See: Royal Decree Law No. 1206 of 23 June 1927, converted into Law No. 340 of 19 February 1928. See also infra note 78.

[20] It may be noticed that, whereas during the entire period from 1883 to 1927 there were not more than 219 mergers, after that year the number rose rapidly. The extent of the rise is indicated by the fact that some years later (1942) the annual figure was 482. See: table 6 infra.

[21] On the early growth of Italian cartels, see: *F. R. Pitigliani*, The development of Italian cartels under fascism, Journal of political economy, vol. 48 (1940), pp. 375 at 377.

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In 1931 a special credit institution, *Istituto Mobiliare Italiano—I.M.I.*, was established to provide medium- and long-term credit for industry.[22] In 1932, the Italian industrial giants, Pirelli, Montecatini and FIAT helped to establish the 'Corporative State', which reciprocated by extending and consolidating their control over the domestic economy, allowing them to bargain more effectively in international cartel agreements.[23] During the same year, while recognizing the right of voluntary *consortia* to exist, the government assumed the power to set up compulsory *consortia* if required for the regulation of production and competition, and for the co-ordination of compulsory cartels servicing related branches of the economy.[24] To overcome the crisis which followed the 'great depression', the State became a shareholder in most enterprises and its intervention and the consequent control, both direct and indirect, soon spread to many branches of industrial production, public services, transport and banking.[25] The government decided to transfer the stock of the three most important banks to a public 'holding' company, the Institute for Industrial Reconstruction *(Istituto per la Ricostruzione Industriale—I.R.I.)*, thus putting under its control a series of enterprises.[26] As Mussolini saw it: "The intervention of the State in economic production takes place only when private initiative lacks or is insufficient or when political interests of the State are involved. This intervention may assume the form of control, of economic help and of direct management."[27] Just before the out-break of the Second World War he set up twenty-two 'Corporations' which together embraced all the different branches of the economy. The National Council of Corporations became the supreme arbiter of the country's economic life.[28] In 1942 the enactment of the Civil Code represented

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[22] See: Royal Decree Law No. 1398 of 13 November 1931, converted into and modified by Law No. 1581 of 15 December 1932.

[23] See: *G. W. Stocking* and *M. W. Watkins*, Cartels or competition?, New York 1948, p. 66.

[24] See: Law No. 834 of 16 June 1932. For a survey of the status of compulsory cartels in Italy and the governmental attitude towards their establishment, see the comments by Mussolini on the Bill of 1932 reprinted in [1932] *Le leggi* 753.

[25] See: *V. G. Venturini*, supra note 1, at 621—622 f. n. 27.

[26] See: Royal Decree Law No. 5 of 23 January 1933.

[27] See: IX Declaration of the Charter of Labour, approved by the Great Council of Fascism on 21 April 1927, and enacted by Royal Decree No. 262 of 16 March 1942, now repealed with the corporative legislation.

[28] By 1939 Italy had advanced so far along this road that, as had already been foreshadowed in 1936, the 'Corporations' replaced the old system of political representation. A Law of 19 January 1939 abolished the Chamber of Deputies; the new Chamber was called Chamber of Fasces and Corporations, and it, together with the Senate which was still appointed by the King, was to collaborate with the Government in drawing up laws. "It was all perfectly simple. There was no likelihood of the slightest opposition. The Chamber of Deputies no longer had the task of discussing the Government's policy; it

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the crowning achievement of that corporative economy. From then to the final defeat of the Germans in Italy in May 1945, Italians had to suffer one humiliation after another with a relentlessness seldom relieved.[29]

By the end of the war physical destruction was enormous.[30] The corporative structure of the State[31] was to some extent dismantled after the Liberation, although most institutions simply changed their names.[32] The market structure of the country remained fundamentally characterised by a predominance of monopolistic and oligopolistic practices, intervention and manipulation.

II.

A.

Since its establishment in 1933.[33] I.R.I. has been reorganized several times, according to the prevailing complexion of the Italian economy. Today the State holds—through I.R.I.—a large proportion of the shares in a wide variety of activities. The I.R.I. 'formula' is undoubtedly the most characteristic expression of the Italian system of government intervention in the economy. In this formula one finds a typical pyramid structure, at the top of which is the Institute, a public law corporation, supplied by the State with an endowment fund[34] which may be compared to the share capital of a private enterprise. I.R.I. is entrusted with the task of translating the general lines of economic policy laid down by the government into investment and production programmes for the enterprises it controls. It is therefore responsible for the general financial administration as well as for the guidance and operational control of the whole group. In the principal branches of the group's activity there are financial companies—the duty of which it is to guide, co-ordinate and control the firms operating in the same branch as well as to perform financing operations similar to those of private holding companies. At the base of the pyramid are the enterprises, which have operational responsibilities and carry out the group's policy.

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merely had to 'collaborate'." *F. Chabod,* A history of Italian fascism, London 1963, p. 73.

[29] See: *S. B. Clough,* The economic history of modern Italy, New York 1964, p. 269.

[30] See: Annuario della congiuntura economica italiana, 1938—1947, Firenze 1949, at pp. 1—2.

[31] See: Decree Law of the Lieutenant No. 369 of 23 November 1944.

[32] Thus, for instance, 'Corporations' have been substituted by the Chambers of Commerce, the assistance to the workers is exercised by the *Ente Nazionale Assistenza Lavoratori,* which corresponds to *Opera Nazionale Dopolavoro,* etc.

[33] See supra note 26.

[34] According to the last available balance sheet — for the financial year ended 31 December 1968 — the endowment fund was 895.410 million lire.

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There are some 130 joint stock companies in the group. Through them, at the end of 1968, the State controlled many large and small—yet not less important—banks and financial companies.

Table 1

I. R. I. Shareholding in Banking and Financial Companies (1968)

Company	Percentage
Banca Commerciale Italiana	95.46
Credito Italiano	81.43
Banco di Roma	96.06
Banco di Santo Spirito	99.96
Istituto per lo Sviluppo delle Attività Produttive — I. S. A. P.	65.56
Società Meridionale Finanziaria — S. M. E.	41.58
Società di Gestioni Azionarie — S. A. G. E. A.	99.96
Società Finanziaria di Partecipazioni Azionarie — S. P. A.	99.90

At the end of 1968, the grand total of this shareholding was 187.683 million lire.[35]

In the field of iron and steel industries, I.R.I. had a 54.76 control of FINSIDER, the main holding company, and a 6.23 per cent direct participation in ITALSIDER, for a total of 172.201 million lire.[36]

In the engineering field, and through a 99.97 % control of FINMECCANICA, I.R.I. participated in the measure indicated in Table 2.

The total shareholding was 107,736 million lire.[37]

FINCANTIERI is 99.99 per cent held by I.R.I., which in turn has the direct shareholding shown in Table 3.

This investment totals 47,258 million lire.[38]

Telephone communications are controlled through a holding—*S.T.E.T.—Società Finanziaria Telefonica* in which I.R.I. has a participation of 56.83 per cent, while the Institute has a minority participation of 7.83 per cent in another company: *S.I.P.—Società Italiana per l'Esercizio Telefonico*. The total share capital held by I.R.I. is 166,564 million lire.[39]

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[35] See: I. R. I. — *Istituto per la Ricostruzione Industriale*, Esercizio 1968, Roma 1969, at p. 105.
[36] Ibid.
[37] Id.
[38] Id., p. 107.
[39] Ibid.

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Table 2

I. R. I. Shareholding in Engineering Companies (1968)

Company	Percentage	
	through FIN-SIDER	directly
Alfa Romeo	51.00	49.00
Costruzioni Meccaniche Industriali Genovesi — C. M. I.	51.00	49.00
Delta — Società Metallurgica Ligure	51.00	49.00
Filotecnica Salmoiraghi	51.00	48.99
Fonderie Officine di Gorizia	51.00	49.00
Fonderie e Officine San Giorgio Pra	51.00	48.76
Grandi Motori Trieste	50.00	—
Aerfer — Industrie Aerospaziali Meridionali	51.00	49.00
Nuova San Giorgio	51.00	48.67
F. M. I. — Mecfond — Aziende Meccaniche Riunite	51.00	49.00
Oto — Melara	51.00	48.58
Società Italiana Telecomunicazioni Siemens	2.00	—
Stabilimenti di Sant'Eustacchio	51.00	48.96
Società Italiana Impianti	10.00	—
Ansaldo Meccanico Nucleare	51.00	49.00
Progettazioni Meccaniche Nucleari	24.00	25.00

Table 3

I. R. I. Shareholding in Engineering Companies (1968)

Company	Percentage
Ansaldo	49.00
Cantieri Riuniti dell'Adriatico	46.18
Italcantieri	49.00

I.R.I. holds 75.45 per cent of the shares in FINMARE, which controls the major shipping companies. The resulting picture is as follows:

Table 4

I. R. I. Shareholding in Shipping Companies (1968)

Company	Percentage	
	through FINMARE	directly
Adriatica S. p. A. di Navigazione	60.00	40.00
Italia S. p. A. di Navigazione	90.00	10.00
Lloyd Triestino S. p. A. di Navigazione	80.00	20.00
Tirrenia S. p. A. di Navigazione	80.00	20.00

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The value of such holdings is 17,630 million lire.[40]

The State controls 91.20 per cent of a commercial air service—ALITALIA— *Linee Aeree Italiane,* through which it holds 90 per cent of the shares of *Aero Transporti Italiani—A.T.I.* (the remainder is held directly by I.R.I), 68 per cent of ELIVIE—*Società Italiana Esercizio Elicotteri* (with a direct 5 per cent participation by I.R.I.), 90 per cent of *Società Aerea Mediterranea—S.A.M.* (the remainder is held by I.R.I.), 40 per cent of *Società Italiana Esercizio Servizi Aeroporti—S.I.E.S.A.* The total invested amounts to 44.984 million lire.[41]

A turnpike system—AUTOSTRADE—*Concessioni e Costruzioni Autostrade* is 99.99 per cent in the hands of I.R.I., which also controls 100 per cent of the *Finanziaria per il Traforo del Monte Bianco* and 99 per cent of the shares of *Società Italiana per le Infrastrutture e l'Assetto del Territorio—ITALSTAT.* Here the State has invested 10.971 million lire.[42]

R.A.I.—Radiotelevisione Italiana is a state monopoly, controlled as for 75.45 per cent by I.R.I. directly and as for 22.90 per cent through the telephone holding — S.T.E.T. R.A.I.-T.V. holds 70 per cent of its publishing house—*Edizioni R.A.I. Radiotelevisione Italiana,* the remainder being controlled by I.R.I. directly. Newspapers and other media are largely dependent upon the advertisements which are allocated by a State-run company—*Società Italiana Publicità,* in which I.R.I. holds 70 per cent directly and 30 per cent through R.A.I.-T.V.[43] In these enterprise the State has invested 9.448 million lire.[44] Major news media are in the hands of powerful industrial and financial groups which—inevitably—wish to keep on good terms with the government. For over twenty years this has been led by the same party, a party which has shown doubtful allegiance to the latter and certainly disregard for the spirit of the Constitution. In a situation such as this the running of public industries represents an instrument conducive to a proliferation of clienteles. These in turn threaten to bring Italian demoracy back to forms of neo-feudalistic industrial and political life.

In addition the State controls a number of firms in the food, transport, hotel, building, phosphate, cellulose, paper, glass, textiles, mercury and chemical industries. It holds a small but very powerful minority participation in *Montecatini Edison:* 4.21 per cent of the value of 40.858 million lire. The total of these various holdings is 45.405 million lire.[45]

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[40] Id.
[41] Id.
[42] Ibid., p. 109.
[43] Id.
[44] Id.
[45] Id.

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Because I.R.I. resembles an investment company more than any other form of business enterprise it does not itself qualify for listing in *Fortune* among the 200 largest companies outside the United States.[46] All told, though, I.R.I. controlled companies employ some 300.000 people and account for some 15 per cent of Italy's industrial output. It had invested 809.885 million lire by the end of 1968. Sales and revenues for that year totalled 2.578 billion lire, with an increase of 273 billion lire (11.9 per cent) over the year 1967.[47]

B.

Such an industrial dinosaur has a twin: the National Hydrocarbon Agency *(Ente Nazionale Idrocarburi—E.N.I.)*.

In 1945, Enrico *Mattei,* who was soon to become world famous as a "swashbuckling entrepreneur",[48] was appointed the head of A.G.I.P. in Northern Italy.[49] The story of Mattei has now become almost a legend. Appointed to proceed *at once* with the liquidation of A.G.I.P., towards the end of 1962—when he died in mysterious circumstances in an air-crash—he was the ruler of an empire which had passed from an annual investment rate of 36.9 billion lire in 1953—when E.N.I. was founded—[50] to a rate of 246.5 billion in 1962—a growth of almost 700 per cent in a decade.[51] Between 1958 and 1962, the total value of E.N.I. holdings rose from 566.5 billion lire or 1.327 billion—a total value of $2.123.200.000.[52] Under the direction of Mattei, E.N.I. has succeeded in countervailing the power of international oil companies and relieving Italy's critical shortage of oil. Through A.G.I.P., its largest subsidiary, it carries on a big business in refining and selling petroleum products. It is also interested in natural gas, and constructs and operates gas pipelines. E.N.I. is engaged in searching for oil and developing oil fields both in Italy and abroad. It has a large fleet of tankers, control of two engineering firms: *Nuovo Pignone* of Florence and *Pignone Sud* of Bari, and a great many other ties too numerous to mention here.

At a glance the situation of this vast state-controlled enterprise looks as follows:

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[46] See infra text at note 143.

[47] See supra note 35, at pp. 47—48.

[48] See: *J. La Palombara,* Italy — The politics of planning, Syracuse, New York 1966, p. 50.

[49] The *Azienda Generale Italiana Petroli — A. G. I. P.* was created in 1926. The government authorised it to refine petroleum, distribute products and by-products therefrom and conduct research in the field of hydrocarbons on behalf of the State.

[50] See: Law No. 136 of 10 February 1953 and Decree of the President of the Council of Ministers No. 1523 of 22 December 1954.

[51] See: *Ente Nazionale Idrocarburi, Relazione e bilancio,* Milano 1963, p. 36.

[52] See: *J. La Palombara,* supra note 48, at p. 34.

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Table 5

E. N. I. and Its Principal Affiliates in 1969

Company	Employees	Plant and equipment in billion lire	Sales before indirect tax in billion lire
A. G. I. P.	7,123	603.4	788.8
A. N. I. C. (chemicals and oil refining)	11,750	379.2	165
S. N. A. M. (transport of natural gas)	3,392	369.9	147
S. A. I. P. E. M. (oil drilling)	9,000	70.0	65
A. G. I. P. NUCLEARE[a])			
S. N. A. M. PROGETTI (industrial designs)	2,966	80.5	109
LANEROSSI (textiles and synthetic fibres)	14,278	40.9	74.4
NUOVO PIGNONE (engineering)	5,295	22.4	49.4

a) This is mainly a mineral prospecting company.

Some have criticized even E.N.I.'s major activities, and really severe criticisms are levelled at the 'varied activities' category, since these have included, *inter alia,* control of the industrial port of Ravenna; ownership of the *Società Editrice Il Giorno,* which publishes the daily newspaper *Il Giorno* of Milan; control of a large publishing house in Milan; and ownership of a corporation engaged in a vast programme of motel construction throughout the country.[53]

E.N.I. has a slightly different structure from I.R.I., as the sub-holding companies which it controls not only have holdings in several dozen other companies, but are also themselves engaged in production operations. E.N.I.'s governing board is composed on similar priciples as that of I.R.I. except that it contains elected representatives of the employees, and no *ex officio* members, as all civil service representatives are nominated by their respective Ministers.

But E.N.I. was—above all—Mattei.[54] His philosophy was summarized in the statement that "[t]he State must keep its hands on the sources of energy that the State, itself, has discovered and use this energy in the exclusive interests of the country."[55] It is no insult to the memory

[53] See: *D. Votaw, The six-legged dog,* Berkeley, California 1964.
[54] See: *S. H. Clough,* supra note 29 at p. 3.
[55] See: *Stampa e oro nero: Documentario della campagnia di stampa contro l'azienda petrolifera dello stato,* Milano 1956, p. 34.

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of the chieftain that he might have meant that the State should keep *his* hands on the sources of energy! By right, centre and left of the Italian political *spectrum* Mattei was accused of using State-run enterprises to aggrandize the political interests of his party—the Christian Democratic party.[56] A reading of the Italian press shows the intensity of the criticisms as well as of the pressures, demands and even threats made against Mattei by Italian and foreign petroleum interests.[57] The same press repeatedly charged Mattei with using the control of State industry to finance his own party.[58]

To be sure, in 1964 the Public Prosecutor at the Court of Appeal of Rome, *Giannantonio*—a magistrate of great probity and courage—opened an investigation on certain aspects of E.N.I.'s management. The investigation had been originated by several complaints. Major figures in the administration of E.N.I. were summoned and major revelations were expected. But in the meantime Giannantonio was promoted. Six years later no news has been heard about the investigation. *Promoveatur ut amoveatur?*

C.

After that of 1927, and the one which followed the 'crash' of 1929, this is the third interventionistic chapter in Italian economic history; during this period the State attempted to rationalize the system of public enterprise through the creation of the Ministry of State Participations *(Ministero delle Partecipazioni Statali).*[59]

One of the chief tasks of the Italian post-war governments was the reorganization of State-controlled enterprises, most of which were run by various Ministries. The anachronistic position of scattered

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[56] See: *M. Tedeschi, Petrolio sporco,* vol. 1, Milano 1956; *S. Cassese,* Partecipazioni pubbliche ed enti di gestione, Milano 1962.

[57] Of course, every man in public life sooner or later receives death threats, but the author of a book published in 1964 linked the death of Mattei and that of President Kennedy to the possible conspiracy of "Texas oil men [who] have a mystical regard for percentages; they seem to think of them as sacred. Any one who proposes to cut their income tax exemption below 27½ per cent is a Communist in their eyes; any one who established the precedent for a reduction of their Middle Eastern profits from 50 to 25 per cent was likewise." *T. G. Buchanan,* Who killed Kennedy?, London 1964, pp. 182—183.

[58] Some recent studies have documented that the situations has not changed after Mattei's demise. The Secretary of the Christian Democratic Party, Fanfani, has been said to have financed his party through State-controlled industry *P. Facchi,* 'Il centrismo perenne', [1964] *Comunità* No. 125 and *F. Alberoni et al.,* L'attivista di partito, Bologna 1967, p. 33, both quoted in: Le baronie di Stato, Introduction, Firenze 1968, pp. 12 at 21.

[59] See: Law No. 1589 of 22 December 1956 and Decree of the President of the Council of Ministers of 26 June 1957.

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State holdings formed the object of continual polemic. In 1951 Ugo *La Malfa* was appointed minister to submit a report on the reorganization of all State holdings.[60] The situation was so confused that La Malfa even had difficulty in compiling a complete list of State industrial assets. Though his report fell on deaf ears in Parliament, discussion continued outside of it, spurred by the activity of ginger-groups and few but dedicated scholars.[61] Meanwhile each Italian government found itself forced more and more to impose control in order to implement successive partial measures of planning, while technical requirements and the quest for unified control of public services led State enterprises to expand by vertical and horizontal integration.[62] Pressure for co-ordination and planning was not limited, however, to public services. In 1947 a Ministry of the Budget was created to co-ordinate all economic planning, but failed to do so through lack of co-ordination with the Treasury.[63] The setting up of the *Cassa per il Mezzogiorno* in 1950 showed the intention to direct a large proportion of public investment towards the South. In 1954 the Vanoni ten-year plan argued that there was need for direct State intervention in key sectors; the 1957 law[64] followed, obliging both I.R.I. and E.N.I. to place at least 40 per cent of their investments in the South.

It is against this background and because the charges of inefficiency, secrecy and independence of Government and parliamentary control brought against I.R.I. led to the appointment of the Giacchi Committee[65] to examine the structure of the organization and to propose reforms that the creation of a ministry to control State holdings in industrial enterprises needs to be reviewed.

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[60] See: Presidenza del Consiglio dei Ministri, La riorganizzazione delle partecipazioni economiche dello Stato, Roma 1952.

[61] See for example, *E. Rossi*, Lo Stato industriale, Bari 1953.

[62] For instance, the two Italian airlines (*Linee Aeree Italiane* — L. A. I. and *Alitalia*) had been jointly owned by the Italian Government, Trans World Airlines and British European Airways, and managed by I. R. I. (for the Italian share) since 1946; complete ownership — and hence the monopoly of Italian airlines — was subsequently handed over to I. R. I., which unified the companies in 1957. In 1956 I. R. I. took charge of constructing and operating the Milano—Napoli *Autostrada del sole*, a concession which was extended to other autostrade in 1961. In 1957, the concessions of the last two remaining private telephone companies were expiring; they were incorporated with the three already held by I. R. I.: *Società Exercizi Telefonici* — S. E. T., *Società Telefonica Interregionale Piemontese e Lombarda* — S. T. I. P. E. L., *Società Telefonica delle Venezie* — T. E. L. V. E., *Società Telefonica Tirrena* — T. E. T. I., *Telefoni Italia Medio Orientale* — T. I. M. O.

[63] See: Legislative Decree of the Provisional Chief of State No. 407 of 4 June 1947.

[64] See: Law No. 634 of 29 July 1957.

[65] See: *Proposte conclusive della Commissione per la riforma dello statuto dell'I. R. I.* in Ministero dell'Industria e Commercio, L'Istituto per la Ricostruzione Industriale — *I. R. I.*, vol. 2, Torino 1955.

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Bitter opposition from private industrial groups led to some significant modifications in the proposed law, but it was passed at the end of 1956.[66] The purpose and nature of the new Ministry can be gleaned with reasonable clarity from the parliamentary discussions on its creation, from the subsequent statements by its ministers, Mario Ferrari *Aggradi* and Giorgio *Bo*, and from the lengthy analysis of the Ministry made by the National Council of Economy and Labour (*Consiglio Nazionale della Economia e del Lavoro* — C.N.E.L.) in February 1962.[67]

In the aims of the legislators the functions of the Ministry were primarily to unify State industrial enterprise and to exercise a beneficial control in all sectors.

A three-tiered pyramidal organization was set up and regarded as a model for State economic intervention. Under the overall supervision of the Ministry, Autonomous Management Agencies (*Enti Autonomi di Gestione*) such as I.R.I. and E.N.I. were to control, through intermediate financial holding companies (such as Fincantieri, Finelettrica, Finmare, Finmeccanica, Finsider and S.T.E.T. for I.R.I.), the individual firms at the base. These firms were to continue to operate under the principles of company law.[68]

Where the Ministry found itself in direct control of operative firms, it either transferred them to existing *enti di gestione* (e. g. *Monte Amiata* and *Alitalia* to I.R.I.), or created new ones to assume control (e. g. the three *enti autonomi* for mining, motion picture and thermal industry created in 1958), or, at any rate, transformed them in uniform manner into joint stock companies (e. g. A.M.M.I., converted into a public company in 1959). The objectives of such general policy have been set out in various ministerial decrees which concern the setting up of the first three agencies.

The Law of 1956 also contemplated the creation of a permanent committee,[69] under the auspices of the Ministry for State Participations, to be composed of heads of economic departments. These were given the task of coordinating the policy of the Ministry with those of other

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[66] See: Law No. 1589 of 22 December 1956 and Decree of the President of the Council of Ministers of 26 June 1957.

[67] The reports of the various parliamentary commissions can be found in: *Coltelli* and *De Stefano*, Codice delle Partecipazioni e delle Aziende patrimoniali dello Stato, Milano 1959; the C. N. E. L. report is to be found there, *idem.*, Seconda appendice con integrazioni, Milano 1963; the speeches and directives of the ministers are to be found, in part, in: *Ferrari Aggradi*, Le partecipazioni statali nella politica di sviluppo, Roma 1959—60, 2 vols.

[68] See: *V. G. Venturini*, Italian law of companies, labour, enterprise and economic organisation, Deventer (The Netherlands) 1967.

[69] See: art. 4 of Law No. 1589 of 22 December 1956.

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Government departments which have interests in the general functioning of those sectors it now controls.[70]

The institution of the Ministry was not intended to increase State power, but simply to concentrate such powers, the responsible authorities being of the opinion that this would result in a more stable, general economic policy. "There can be little doubt that the formal intention of the 1956 legislation was to have the state use the industries it controlled as instruments of economic planning. Thus, to assure that the industries involved would really respond to the needs and the directives of the government, the law called for the removal, within a year, of all syndical authority that Confindustria possessed over these enterprises. There was some confusion over what might be the exact meaning of industries of prevalent state participation. This was later clarified when [the Ministry] indicated that the category included all those firms in which the state held a majority of the stock, or, in any case, all those firms in which the state's financial position permitted it to name a governing portion of the board of directors. Confindustria had lost a major battle in its effort to keep control over the activities and policies of state-owned industries in private hands. Presumably, under the direction of a governmental majority committed to economic planning, an important means of putting any plan into effect had now been returned to public authorities."[71]

D.

No survey of the intervention by the State in the economy would be complete without some reference to the nationalization of the electric industry. Pressure for such nationalization, rather than the creation of an agency like I.R.I. or E.N.I., dates back to the years following the Second World War. It was considered to be a critical first step in a policy of economic planning,[72] particularly desirable as it would facilitate attempts to develop the *Mezzogiorno* more rapidly.

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[70] The basic law of 1956, which contains precise rulings on the foundation of these agencies, has nothing to say about the exercise of power, nor the power necessary for their correct operation.

[71] See: *J. La Palombara*, supra note 48 at p. 33.

[72] On 23 January 1965 the Council of Ministers approved the first Bill of the Economic Development Plan for the five-year period 1965—1969. Apart from the economic plans for 1948—1949 and 1952—1953, drawn up in concurrence with the Paris international agreements of 16 April 1948 (See: Law No. 1107 of 4 August 1948) and the Vanoni Plan of 1954 (See: Law No. 646 of 10 August 1950), the origins of that Bill go back to the *Additional Note* submitted to Parliament on 22 May 1962 by the Budget Minister La Malfa and the Ministerial Order of 6 August 1962 setting up the National Economic Planning Committee presided over by the Budget Minister. In March 1964 the Committee submitted a Report — called the *Saraceno Report* after the

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The bill met strong opposition but, after a four month debate, was passed by both houses of Parliament. The government had exerted considerable pressure: it had come to realize that nationalization was the necessary reward to the Socialists for their participation in the government—the price of the so-called 'opening to the left'.

A Law of 1962[73] set up the National Electric Power Agency (*Ente Nazionale per l'Energia Elettrica*—E.N.E.L.), under the control of the Minister of Industry and Trade.[74]

This desire of distinguishing the only nationalized industry from State shareholding companies and the *Aziende autonome* blocked what might have seemed a natural development towards unified control. It stressed the distinctive nature of this new category in the public sector. It was a financial as well as a juridical distinction. The State holdings can turn to the market, while E.N.E.L. is unable to sell shares and can only offer debentures, and the *Aziende autonome* are wholly dependent on their ministries.[75] "The inclusion of the new agency within the system of State participation would have made much easier the coordination of hydrocarbon and electric energy policies. Because a different solution was chosen some sort of practical system must necessarily be found to establish channels of contact between the two large State agencies operating in the area of energy and power."[76] But this very serious problem of co-ordination was not the only one flowing from the decision to nationalize the electric industry.

At a cost to the State estimated at 1,500 billion lire, the indemnity to be paid not to individual shareholders but to the companies in order to give them an opportunity to enter other productive activities, national-

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Vice-Chairman of the Committee responsible for it — accompanied by 'remarks' of its members, describing the programme's general objects. On the basis of this Report a first document, known as the *Giolitti Programme*, was drawn up and later, through the various commitments contained in the programmatic agreements of the second Moro government, the final scheme for 1965—1969 was prepared. The government requested and obtained the opinion of the National Council of Economy and Labour, approved the Plan as amended on 29 October 1965 and presented it to Parliament on 9 November 1965.

[73] See: Law No. 1643 of 6 December 1962.

[74] Nationalisation of electricity, however, was not complete. Municipal electricity companies, and plants producing for internal consumption were excluded. Thus E. N. E. L. gained control of only 70 per cent of national production. See also: Decree of the President of the Council of Ministers No. 1670 of 15 December 1962, Law No. 452 of 27 June 1964 and Decree of the President of the Council of Ministers No. 342 of 18 March 1965.

[75] "When E. N. E. L. was set up, it was forbidden to create other companies. This was done to prevent proliferation and the creation of a power position, as in the case of E. N. I." *S. B. Clough*, supra note 29 at p. 339 n.

[76] See: La nazionalizzazione dell'energia elettrica, [1963] Tempi moderni, pp. 109 at 110.

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ization left the private electricity companies with a huge amount of capital to invest. By 1950 already, the largest company, *Edison,* was sufficiently worried by the threat of nationalization to turn towards a new and promising field—the chemical industry. The Edison group, which produced about 25 per cent of national electricity consumption, employed its indemnity funds in the textile, metallurgical and engineering (electrical and electronics) industries, but invested more of its resources in the chemical and petro-chemical industries. S.A.D.E., holding about 25 per cent of the shares of the Edison group, soon merged with *Montecatini.* The chemical group *Rumianca* took up a large share of the stock in ex-electricity companies. Nationalization of electricity, and particularly the way in which it was carried out, strengthened the oligopolistic tendencies of the chemical and petro-chemical sectors. What Edison in particular was able to do with all that money will be seen next.

III.

A study of mergers and concentrations in Italy presents considerable difficulties for lack of statistical information, particularly with reference to the years from 1943 to 1946. There are similar difficulties in attempting to analyse the data available for the last decade. At a first glance, however, one gathers the impression that the 'urge to merge' has released an irreversible process, made now necessary by the need to compete with giants of American and 'European' size.

An analysis has been attempted upon data gathered by the *Istituto di studi per la programmazione economica.* Such data have been obtained from the *Associazione fra le Società Italiane per Azioni* and are based, by and large, upon information which appeared in the *Foglio Annunzi Legali* on the size and nominal capital of Italian joint stock companies, on their field of operation, their investments and dis-investments, yearly profits and losses and, in particular, their liquidations and capital increases.[77]

The most important legislative measures favouring mergers in Italy during the last thirty years have been a Law of 1940,[78] a Royal Decree

[77] The *Associazione fra le Società Italiane per Azioni* has also collected data concerning mergers and capital increases, as well as lists of companies which have carried out mergers since 1957.

[78] See: Law No. 283 of 23 March 1940. Previous provisions had been enacted by Royal Decree Law No. 1206 of 23 June 1927, converted into Law No. 340 of 19 February 1928 (See also: Royal Decree Law No. 406 of 8 March 1928, converted into Law No. 2756 of 29 November 1928 and Royal Decree Law No. 37 of 13 February 1930, converted into Law No. 678 of 15 May 1930) and Royal Decree Law No. 1434 of 13 November 1931. Such provisions remained substantially in effect until 31 December 1939. The matters are also covered

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Law of 1942,[79] a Decree Law of 1948,[80] a Law of 1951[81] and a Law of 1954.[82]

A more recent Law of 1965 provides fiscal facilities for mergers and concentrations of joint stock companies. The Law set up a special Commission attached to the Ministry of Industry, trade and artisanship. Information must be filed with this Commission when the capital of a company, pursuant to a merger, take-over, transformation or concentration exceeds one billion lire.[83]

In terms of statistics the movement of liquidations, mergers and capital increases during the past thirty years is summarized in Table 6. No data are available for merger operations carried out before 1957. Possible discrepancies between figures relative to such operations and those relative to liquidations may be explained on the ground that not all resolutions to wind up were implemented.

Some comments seem appropriate. Provisions enacted before the Law of 1940[84]—and in particular the Royal Decree Law of 1931[85]—might have been responsible for the operations carried out during the years 1939 and 1940. The Royal Decree Law of 1942[86] seems to have substantially favoured concentrations during the years 1942 and 1943. After a period of five years during which concentrations were never more than 75 per year, the number more than doubled in 1959—more likely as a result of the favourable provisions of the Decree Law of 1948.[87] The same phenomenon is evidenced by the number of concentrations which took place after the enactment of the Law of 1951[88] and—particularly in 1955—

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by the Civil Code (Italy 1942) in arts. 2501 and 2504, both inclusive. For a translation into English see: *V. G. Venturini*, supra note 68, at pp. 174—175.

[79] See: Royal Decree Law No. 192 of 5 March 1942, converted into and amended by Law No. 830 of 21 June 1942. These provisions remained in operation until 30 June 1947. See also Law No. 1472 of 19 November 1942 and Royal Decree Law No. 1476 of 14 December 1942, converted into and amended by Law No. 214 of 5 April 1943. See also: Royal Decree Law No. 25 — B of 13 December 1943, Legislative Decree of the Lieutenant No. 21 of 11 January 1945 and Legislative Decree of the President of the Republic No. 508 of 22 December 1946.

[80] See: Decree Law No. 1057 of 7 May 1948 which came into force on 13 August 1948 and governed all mergers of joint stock companies, provided that the resolution for merger had been passed by 13 August 1949.

[81] See: Law No. 25 of 11 January 1951, art. 41 of which extended the operation of the Decree Law of 1948 to 31 January 1951.

[82] See: Law No. 603 of 6 August 1954. See also art. 124 of Decree of the President of the Republic No. 645 of 29 January 1958.

[83] See: Law No. 170 of 18 March 1965 (and in particular art. 4) as extended up to 31 December 1970 by Law No. 57 of 17 February 1968.

[84] See: Law No. 283 of 23 March 1940.

[85] See: Royal Decree Law No. 1434 of 13 November 1931.

[86] See: Royal Decree Law No. 192 of 5 March 1942.

[87] See: Royal Decree Law No. 1057 of 7 May 1948.

[88] See: Law No. 25 of 11 January 1951.

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Table 6

Company Liquidations and Capital Increases by Merger (1938—1968)

Year	Company liquidations by merger		Mergers carried out		Capital increases by merger	
	No.	Nominal capital (in million lire)	No.	Nominal capital (in million lire)	No.	Nominal capital (in million lire)
1938	85	455,0	—	—	—	200,0
1939	115	356,0	—	—	—	291,0
1940	111	612,9	—	—	—	888,0
1941	94	171,4	—	—	—	105,0
1942	482	3.502,4	—	—	—	1.434,2
1943	292	1.056,4	—	—	—	386,1
1944	68	53,2	—	—	—	71,0
1945	13	47,2	—	—	—	52,9
1946	72	139,0	—	—	—	51,3
1947	73	550,3	—	—	—	728,6
1948	20	28,4	—	—	—	33,7
1949	145	2.682,0	—	—	—	2.932,7
1950	61	2.351,5	—	—	—	2.352,2
1951	62	5.624,9	—	—	—	3.401,6
1952	143	5.179,3	—	—	—	2.079,3
1953	30	468,5	—	—	—	491,9
1954	19	1.135,4	—	—	—	50,7
1955	426	49.807,3	—	—	—	33.078.0
1956	72	7.600,3	—	—	—	3.683,6
1957	33	2.095,8	31	1.939,8	—	1.064,6
1958	56	4.298,0	50	4.228,6	—	1.686,7
1959	32	4.792,7	15	651,0	—	3.704,5
1960	28	12.354,7	24	2.311,2	—	11.104,6
1961	44	77.298,8	42	77.162,6	—	73.327,9
1962	76	18.681,9	70	18.135,1	29	5.790,2
1963	122	45.157,7	113	43.967,7	60	34.683,2
1964					53	520.599,2
1965	287	187.500,2	268	173.787,3	92	86.173,6
1966	486	355.406,1	477	350.690,6	175	359.720,5
1967	737	401.249,3	689	395.026,9	268	132.934,4
1967 (first four months)	111	21.863,6				6.225,8
1968 (first four months)	301	242.305,5				23.847,3

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after the passing of the Law of 1954.[89] The number of concentrations decreased sharply and somewhat stabilized between 1956 and 1962, both inclusive. It rose again in 1963 for reasons which can only be a matter of speculation but may be related first to the healthier state of the economy, when *il miracolo italiano* seems to have taken place, and then to the alarm caused by inflation and by the growth of American giants in Europe. If a date may be given to the merger fever which has assailed European industrialists, that may be comfortably placed between the years 1964 and 1965.

Even more interesting is an analysis of the merger movement by sector during the period 1957—1967. In some sectors the resulting degree of concentration is greater than in others. The sector in which the highest number of mergers took place is that of engineering industries, as the following table clearly illustrates.

Table 7

Mergers in the Engineering Industry Sector (1957—1967)

Year	Company liquidations by merger		Capital increases by merger	
	No.	Nominal capital (in million lire)	No.	Nominal capital (in million lire)
1957	3	11,1	—	135,0
1958	4	277,0	—	917,4
1959	6	3.292,4	—	72,5
1960	2	2,0	—	11,0
1961	3	1.082,5	—	50,7
1962	2	55,1	—	311,2
1963	14	659,0	—	944,3
1964	14	1.513,0	—	5.837,5
1965	22	3.157,5	—	1.907,2
1966	46	8.757,4	—	6.112,9
1967	47	36.681,7	—	4.029,0

Chemical industries follow immediately. From a quantitative point of view mergers in the agricultural, cement lime and brick, electric energy and food industries are very important, with peak increases in 1961, 1964, 1966 and 1967.

Data relating to liquidated companies are also very interesting. The first place is occupied by enterprises in the electric industry, followed by chemical industries, communications, financial companies and engineering companies. Such order has been largely determined by the nationalization of electric energy.[90] Of minor importance—still with

[89] See: Law No. 603 of 6 August 1954.
[90] See: supra text at note 74.

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Table 8

Mergers in the Chemical Industry Sector (1957—1967)

Year	Company liquidations by merger		Capital increases by merger	
	No.	Nominal capital (in million lire)	No.	Nominal capital (in million lire)
1957	2	924,9	—	1,0
1958	2	225,0	—	207,1
1959	—	—	—	3.294,0
1960	—	—	—	—
1961	3	2.639,2	—	—
1962	13	1.994,0	—	107,0
1963	8	614,0	—	82,2
1964	10	26.697,0	—	153.259,4
1965	28	25.905,1	—	5.266,9
1966	31	268.441,0	—	336.773,7
1967	48	112.597,3	—	52.288,7

reference to the amount of nominal capital—are gas and water supply companies, real estate companies, engineering and mining companies and food industries.

A trend towards concentration has been particularly significant in the sectors of engineering and chemical industries.[91] This trend, already noticeable during 1962, which was a year of great expansion for the Italian economy, has been followed by an even more intense movement towards concentration in the following years under the encouragement provided by the Law of 1965.[92]

Another group of industrial sectors shows similar trends, in particular in agricultural enterprises, mining industries, cement lime and brick, paper and paper manufacturing, ceramic, building and plant installation industries. Concentration and rationalization in those fields must be related to the increase of the merger trend in the industries previously mentioned.

In some industries, however, the merger movement had no significant activity. Such is the case, for instance, of silk, wool, artificial fibre and textile industries, clothing, footwear, leather goods, communications, insurance and sanitation services.

With reference to the size of the enterprises which took part in mergers between the years 1957 and 1962, both inclusive, the following table can be drawn up.

[91] See tables 7 and 8 supra.
[92] See: Law No. 170 of 18 March 1965.

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Table 9

Nominal Capital of Companies Merged Between 1957 and 1962

Year	Less than 10 billion lire.	More than 10 million but less than 100 million lire.	More than 100 million but less than 1 billion lire.	More than 1 billion but less than 10 billion lire.	More than 10 billion but less than 50 billion lire.	More than 50 billion but less than 100 billion lire.	TOTAL
1957	13	11	7				31
1958	21	19	9	1			50
1959	10	2	3				15
1960	16	7		1			24
1961	15	18	6	2		1	42
1962	30	20	16	4			70

No detailed analysis of the mergers by sector is possible, although sufficient elements are available to study the role of the top 200 large enterprises, (ranked by sales)[93] their activity of external expansion and internal rationalization. 9 per cent of mergers took place among them during the period 1957 to 1968. 935 billion lire was the total of the nominal capitals of such large concerns, out of a grand total of 1.300 billion lire which constitutes the amount of all nominal capitals of companies which merged during the period.

A study published in 1969[94] provides interesting data on and a list of the top 100 companies at 31 December 1968.

Productive sectors which have recorded the highest activity of concentration are those of chemical industry, oil and coal by-products, electrical engineering, iron and steel industries and—though to a lesser extent—those of rubber, electrical materials, paper and paper manufacturing and glass and ceramic.

Of the largest 200, 19 companies in the iron and steel industry conducted 23 important merger operations during the years 1957—1968. Among the most active enterprises is *Italsider* [3][95] which took over *Cornigliano* (with a capital of 70 billion lire) in 1961; *Generale Pugliese di Elettricità* (9,3 billion), *Elletrica della Campania* (1,7 billion), *Unione Esercizi* (33,8 billion) in 1964; *Acquedotti della Versilia* (20 million), *Immobiliare Borgo* (1 million), *Ferrovie Marchigiane* (1 million), *Siderurgica dell'Ossola* (842 million), and *Società Italiana Gestioni Immobillari-Sigim* (50 million) in 1966; *Meridionale Azoto* (1 million) and *Acciaierie Cornigliano* (7,7 million) in 1967. Other leading merging companies were *Società Alluminio Veneto — S. A. V. A.* [94], *Ac-*

[93] See: *F. Filippi,* Le duecento maggiori società italiane, L'impresa (No. 1 [1969]), p. 41.

[94] See: *Mediobanca,* Le principali società italiane, Milano 1969.

[95] The figure in square brackets after the name of a major company indicates the rank in the list of the top 100 Italian companies. See supra note 94 at pp. 22—29.

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ciaierie e Ferriere Lombarde Falck [24], *Metallurgica Italiana* [85], *Redaelli and Fabbrica Italiana Tubi.*

Between 1957 and 1968 there have been 24 mergers by the 16 leading electrical engineering companies among the top 200. Among the most important operations are the take-over by *Ignis* [38] of *E. L. V. A.* (450 million), *Metallurgica Ternatese* (450 million), *F. I. L.* (50 million), *Isover* (100 million) and *Conis* (150 million) in 1966; *Imball* (60 million) and *Oleandro* (9 million) in 1967 and *Fonteron* (150 million) in 1968. The *Compagnia Generale di Elettricità — C. G. E.* [65] took over *Antonio Biffi* (9 million) in 1957; *Compagnia Generale Componenti* (1 million) in 1962; *Unda Radio* (6 million), *Zancangeloni* (3 million), *Compagnia Italiana Apparecchi Elettrici Cone* (228 million), *S. I. R. E.* (150 million) *and Scotti Brioschi & Co.* (240 million) in 1966. Other important take-overs involved the *Officine Galileo, Siemens* [51], *Ansaldo S. Giorgio, Fabbrica Italiana Magneti Marelli* [50], *Magrini, Geloso* and *Philips* [33].

In the oil industry, during 1957—1968, there were 19 operations for which 12 out of the top 200 companies were responsible. *Total* [15] accomplished 9 take-overs: of *Società Anonima Prodotti Petroliferi Immobiliari-Sappi* (6 million), *Società Anonima Petroli Rigenerati-Sapri* (100 million), *Gas Oil Re* (5 million), *Combustibili Liquidi Affini* (10 million) in 1963; of *Termonafta Petroli* (6 million) and *Laziale Carburanti* (16 million) in 1964; of *Ozo* (4,6 billion), *Triveneta Immobiliare* (30 million), *Immobiliare Volova* (1 million) and *Laziale Petroli* (40 million) in 1967. There followed *Fina Italiana* [32] with 3 take-overs, *Shell Italiana* [6] with 2, *Esso Standard* [5] with 2, *Pibigas* with 2 and *Sarom* [48] with 1 take-over.

In the paper and paper manufacturing industry there were 5 mergers. *Cartiere Burgo* [63] was responsible for 2 of them, *Cartiere del Timavo* for another 2 and *Cartiere Beniamino Donzelli* for another take-over.

Ten mergers took place in the glass and ceramic industry, where 5 were among the 200 top enterprises. *Manifattura Ceramica Pozzi* [100] took over 4 companies: *Resina-Lavorazione Resine Sintetiche* (180 million), *Ferrosmalto* (225 million), *Saniplastica* (100 million) with one operation in 1958; *Materiali Refrattari* (1 billion) in 1962; the *Immobiliare Clema* (5 million) and the *Società Estrazione Lavorazione Feldsfati e Affini-Selfa* (5 million) in 1966. Other important take-overs were carried out by *Vetreria Italiana Balzaretti e Modigliani* with 4 mergers, *Richard Ginori* with 1 *and Vetrerie Riunite Bordoni — Miva* with another.

In the rubber and electrical material industry, which is represented by 5 out of the 200 largest companies, *Pirelli* [9] made 4 take-overs: 3 in 1965 (*Idroelettrica Alto Ciese* — 1 billion), (*Società Verbanese di Elettricità — S. V. E. L.* — 1 billion) and (*Società Idroelettrica Alta Toscana — S. I. D. A. T.* — 3 billion) and 1 in 1966, *Industria Nazionale Cavi Elettrici — I. N. C. E. T.* (3,4 billion). *Ceat* in 1966 took over the *Ceat Gomma* (4 billion) and the *Metallurgica Ing. A. Tajoni* (400 million).

But by far the largest number of mergers occurred and the highest degree of concentration was reached in the chemical sector. There are 31 chemical companies in the group of the 200 largest concerns. There were 54 mergers between 1957 and 1968. Beginning with the relatively small ones, *Società Chimica dell'Aniene* took over *Lavorazioni Chimiche e Affini* (165 million) in 1964, before being taken over by *Solvay & Co.* in 1966. *Lepetit Ledoga* [41] took over *Xilocartarie* (50 million) and *Piemontese Estratti Tannici G. Sartori*

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& Co. (90 million) in 1966; in 1967 *Lepetit,* which already had a nominal capital of 6 billion lire, took over *Antibiotici Lepetit* (3,5 billion) and *Meridionale Industria Commercio Prodotti Cellulosici, Chimici e Farmaceutici* (67 million). *Italo Britannica L. Manetti — H. Roberts* took over *Farmaceutica Fiorentina* (9 million) in 1967. The *Fabbriche Riunite Amido Glucosio Destrina* carried out 3 mergers in 1967: *Agricola Subalpina* (50 million), *Società Industrializzazione Risi-Sirpa Italamidi* (48 million) and *Promais* (264 million). The *Industria Vernici Italiane* took over *Inves Vernici Smalti* (800 million) in 1965 and *Immobiliare Sabaudia* (2,9 million) in 1968. *Aziende Colori Nazionali Affini — A. C. N. A.* completed 2 mergers in 1965: *Industria Applicazioni Chimiche* (150 million) and *Industria Chimica Seronio* (1 billion). *Vetrocoke* took over *Vego* (2 billion) in 1965, before being taken over by *Montecatini Edison* in 1968. *Ferrania* [55] took over 1 company in 1963: *Immobiliare Corso Matteotti* (94 million); 1 company in 1965: *Lavorazione Imballi Sali* (1 million); and 2 in 1967: *Fermonte* (500 million) and *Distribuzione Prodotti Fotografici* (355 million). In 1966 *Carlo Erba* [61] took over 4 companies (*Carlo Erba Internazionale* — 1 million), (*Dieterba* — 100 million), (*Erbazoo* — 250 million) and (*Meve* — 40 million). *Società Industriale Catanese-Sincat* [20] took over *Augusta Petrolchimica* (975 million); *Elettricità Ponale* (7,9 million); *Mineraria Butera* (1 million); *Mineraria Santa Barbara* (1 million) in 1967. *A. N. I. C.* [10] took over *A. N. I. C. Gela* (80 billion) in 1967.

However, the largest merger—not only by Italian but also by European and world standard—was that of *Edison* and *Montecatini,* late in 1965.

Edison, established at the end of the century, was Italy's leading electric-power company both before and after the Second World War.[96] As early as in 1949, the management adverted that sooner or later the government would have nationalized the electric industry and decided to 'diversify' entering various manufacturing activities—notably chemical products. When nationalization came in 1962[97]—the price for Socialist collaboration with the Christian Democrats—Edison had sufficiently diversified to be able to continue its activity without the electrical holdings. Moreover, the indemnity that the State offered for nationalization—$275 million—was used to set up an operating company, rather than to pay dividends to the shareholders. Edison's management began looking around to suitable fields for investment. Rumour has it that Edison was already capable of and might then have considered making a take-over of Montecatini.

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[96] Before the merger, *Edison* was responsible for the production of one-fifth of the Italian consumption of nitrogen fertilisers, one-fourth of the need of synthetic fibre and one-third of its plastics. In 1964, it carried out a number of mergers which helped to increase its capital. Besides, Edison received 275,000 million lire from the State as compensation for the nationalisation of electric power enterprises. This brought its capital up to 437,500 million lire not counting the 400,000 million lire in compensation to come from the State.

[97] See supra note 73.

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Set up in 1888, primarily as a mining company, *Montecatini* had become—before the merger—the largest chemical producer in Italy.[98] Even before the Second World War it was a big producer of fertilizers, pyrites as well as a wide variety of organic and inorganic chemicals. The war destroyed two-thirds of its plants, but by 1949 Montecatini had made a superb come-back and was ready to take off on the exhilarating boom of the Italian economy. Since the war, Montecatini, which had once been engaged in conventional chemistry only, has invested heavily in petrochemistry.[99] In the mid-1950s, Edison, apprehensive of nationalization, invested a great deal of money in the chemical industry, once monopolized by Montecatini. Edison launched an offensive and built two fertilizer plants, one at Mantua and one at Porto Marghera near Venice. *E.N.I.—A.N.I.C.* joined in the race and built two major nitrogen fertilizer plants at Ravenna. An idea of the scale of the struggle can be gained from the fact that an investment of 100,000 million lire was required to build these plants and that they produce 1 million tons of fertilizers and 95,000 tons of synthetic rubber a year.

Montecatini countered by carrying the war into the enemy's territory, the petrochemical industry. Meanwhile, owing to the construction of petrochemical plants at Brindisi and Ferrara, Montecatini was having serious financial difficulties. It tried to extricate itself by a number of *rapprochements* with international monopolies, notably the *Royal Dutch Shell,* to which it sold a half interest in its Brindisi and Ferrara enterprises.[100] Montecatini then merged with the electric power monopoly *Società Adriatica di Elettricità—S.A.D.E.* (before its nationalization), thereby increasing its capital from 180,000 million lire to 257,000 million lire, that is by 40 per cent.[101] The operation yielded assets worth 177,000 million, which the government owes to *S.A.D.E.* as compensation for the nationalized electric power stations.

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[98] In 1966 it produced almost 40 per cent of the nitrogen fertiliser needed by the national market, almost 40 per cent of its synthetic fibre and over thirty per cent of its plastics. It had more than 180 plants, including several research institutes, and controlled many branch companies, among them such large ones as *Polymer, Vetrocoke, Farmitalia* and *A. C. M. A.*

[99] In the early 1950s the *Montecatini* laboratories came up with various new petrochemical processes, including one leading to manufacture of isotactic polypropylene, for which Professor *Giulio Natta* shared a Nobel prize.

[100] The result was the mixed *Monteshell.* The Anglo-Dutch oil giant had already teamed up with Montecatini in ventures for the production of polypropylene in the Netherlands and the marketing of insecticides in Italy. Eager to manufacture in Italy, Royal Dutch bought a 50 per cent interest in Montecatini's petrochemical company *Montesud Petrochemica S. p. A.*, which operated the two major chemical plants at Brindisi and Ferrara. *Shell* later relinquished its interest. The company was renamed and finally incorporated in the parent company along with several others which disappeared in the ensuing consolidation.

[101] Formerly an important unity, *S. A. D. E.* had not had the foresight to diversify that *Edison* had shown, and was left with nothing but a bundle of

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For a time these efforts paid off handsomely. Montecatini products were being snapped up as fast as its plants could disgorge them. In 1956 sales reached $325 million—more than three times the pre-war peak. But pioneering in petrochemicals is a highly expensive business. It requires heavy outlays for research and development, large investments in plants and machinery which rapidly become obsolet, and big reserves of capital to tide a company over until a new process becomes commercially profitable. A small decline in sales can spell big trouble. Such trouble overtook Montecatini in 1962. By driving prices down, Edison's chemical divisions, among others, had begun slowly to penetrate Montecatini's market. At the same time, a wave of inflation sent costs skyrocketing. Profits soon vanished. Previously, the company had met its capital needs through share and bond issues. This time the public market was too depressed by the government's severe credit squeeze, imposed in 1963 to curb the inflation. For the first time since 1945 Montecatini distributed no dividend.

An early request that I.R.I. increase its interest in Montecatini from 8 to 12 per cent was turned down. But at this point the deal with the Royal Dutch Shell came to save the company from financial difficulties and to put it back in the race. Montecatini closed the financial year 1963—1964—a year of recession for the Italian economy—with a $27 million profit. Sales and profits rose again in 1965.

When the chairman of Montecatini returned from Moscow, where he had negotiated the sale of six chemical plants worth $110 million,[102] he was confident about the future of the company.

Until 13 December 1965, when the news of the merger first leaked out, the negotiations leading up to this gigantic combine in the chemical industry had been kept very secret.[103] The personages of this drama have been *Valerio*—president of the *Società Edison*—and *Macerata*—co-managing director of *Montecatini*. Valerio and Macerata began meeting secretly during the summer of 1965. Shortly after their first talk, they invited the general manager of *Mediobanca*, a leading State-controlled investment bank and an important shareholder in both companies, to provide them with an objective assessment of the value of the companies. They then invited *Visentini*, vice president of I.R.I. which was—even at the time—a big shareholder in Montecatini; Visen-

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cash — some $ 200 million — when the government took over its production facilities.

[102] This was not the first deal by the company with the Russian government. *Montecatini* had built a chemical plant in the Ukraine in 1927 and fifteen more — for a total value of $ 90 million — between 1959 and 1963.

[103] The official motivation published in the press on 17 December 1965 spoke of the „need to adapt the production structure of enterprises to the needs of the European Common Market".

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tini actively supported the merger. *Carli,* the governor of the Bank of Italy, was kept informed of the talks. Carli could be counted on to defend the merger in government circles, as his views in favour of concentration in Italian industry are quite well known.

At some later point, Valerio and Macerata enlisted the support of Giovanni *Agnelli* of FIAT and Leopoldo *Pirelli* of the Pirelli group, who were board members of Montecatini and Edison respectively. The support of these two powerful industrialists—who have so many interests in so many Italian businesses[104]—was regarded as fundamental to the successful completion of the merger. Expectedly, they agreed to the merger. And *Montecatini Edison S.p.A.* [4] with a capital of 749 billion lire entirely paid in was born.[105]

The late *Rossi*—a well known economist—expressed the firm view that the merger had been primarily a financial operation, carried out not so much to increase production or to reduce the prices but with a view to maximising profits and establishing a monopolistic control of the already highly concentrated market. In his words "the real purpose of the merger had been a desire to set up a new centre of economic and political power" that ... "would consolidate the dominant positions of both companies in such key sectors as the manufacture of fertilizers, plastics, synthetic fibres, drugs and basic chemical products."

Interlocking directorates (against which there is no provision under Italian law!) are a very intricate jungle.[106]

The *Montecatini Edison* merger was greatly assisted by the provisions of the Law of 1965,[107] without which the companies would have incurred tremendous expenses. For a twist of logic, the provisions of the Law of 1965—which had been designed to facilitate mergers on condition that these were compatible with "the statutory provisions

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[104] *Giovanni Agnelli* is, *inter alia,* president of F. I. A. T., of the *Istituto Finanziario Industriale — I. F. I.* and of the *Riv — SKF Officine Villar Perosa S. p. A.*, a director of *Società Ricerche Impianti Nucleari — Sorin, Autostrada Torino–Milano, S. A. D. E. Finanziaria, Credito Italiano, Banca d'America e d'Italia, Mediobanca* and *Bastogi. —*

Leopoldo Pirelli is, *inter alia,* president of *Pirelli S. p. A.*, managing director of *Pirelli & C.*, a director of *La Centrale, Italconsult, G. I. M., S. A. D. E. Finanziaria, Mediobanca, R. A. S.* and *Caparbio Redenta Agricola Scara.*

[105] *Valerio,* its president, is, *inter alia,* president of *Compagnia Generale Contatori CO. GE. CO.*, vice president of *Chatillon,* vice president of *Società Industriale Catanese — S. I. N. C. A. T.*, a director of *Società Italiana Partecipazioni Industriali — Italpi, Vetrocoke — Cokapuania, Cementir, Società Termoelettrica Italiana — S. T. E. I., Bastogi, R. A. S., Italia Assicurazioni, La Fondiaria Vita, La Fondiaria Incendio, La Fondiaria Infortuni, Società Mutua di Assicurazione Esercenti Imprese Elettriche e Affini, Ferrovie Nord Milano* and *Credito Italiano.*

[106] See: The jungle of interwoven participations, Successo — International edition, June 1969, pp. 72 at 73.

[107] See: Law No. 170 of 18 March 1965.

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safeguarding freedom of competition",[108] in the end led to the concentration of 60 per cent of the national output of nitrogen fertilizers, 65 per cent of the national output of synthetic fibres and over 65 per cent of the production of plastics in the hands of Montecatini Edison. The group has plants in several parts of Italy as well as joint ventures and affiliates abroad.[109]

Before the 'opening to the left', the Socialists would have bitterly opposed such concentration of power in private hands; as a natural solution they would have offered nationalization. Instead, even before it became known, the merger had received the blessing of the Socialist Minister of the Budget and Economic Planning, Pieraccini. The apparent reason offered for such a *volte-face* was that the merger constituted a natural—almost inevitable—pooling of strength in the face of intensifying competition within the Common Market. With assets of $4,194,720,000 and a payroll of 118,906, Montecatini Edison moved into top ranks of the European chemical industry.[110]

On a world sale rating, in 1967 the Italian chemical combine—the eighth largest industrial corporation outside the United States and Europe's second biggest producer—fell between the chemical interests of the *Royal Dutch Shell Group* and *Standard Oil Company* (New Jersey). Total sales, however, accounted for only about a third of those secured by *Imperial Chemical Industries* in 1967.[111]

In 1968 *Montecatini Edison,* still ranking eighth amongst the top 200 largest corporations outside the United States,[112] had sales of $2,315,680,000,[113] well in front of such German combines as *Farbwerke Hoechst*—$1,906,750,000 and *Farbenfabriken Bayer*—$1,731,250,000.[114]

One could have thought that the gigantic merger marked the culminating point in the progress of concentration in Italy. Quite the contrary, it was just the beginning!

Early in 1968 the two other large Italian combines, I.R.I. and E.N.I. began plotting against Montecatini Edison. What had prompted this attitude of envy and suspicion for the successful merger had been the further expansionistic ambitions of the new giant which had also pooled together widely diversified secondary interest, ranging from minerals,

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[108] *Ibid.*, arts. 3 (b) and 4.

[109] On 'The petroleum chemical industry in Western Europe' see: *T. H. H. Skeet,* Journal of world trade law, vol. 3 (1969), p. 49.

[110] See: *Fortune,* vol. 80 (15 Sept. 1969), p. 141.

[111] See: *T. H. H. Skeet,* supra note 109, at p. 74.

[112] See: Fortune, vol. 80 (15 August 1969), pp. 106 at 107.

[113] This figure includes full figures of subsidiaries owned 50 per cent or more.

[114] This figure includes full figures of subsidiaries owned 50 per cent or more, but does not include the *Agfa-Gevaert* Group.

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natural gas, petroleum and steel to machinery, electronics and food products.

In the months that followed the merger agreement, Valerio, who had become president of the new company, pursued an ambitious policy of further diversification. Among others, the combine took over *Standa*, a big Italian retailer with a network of over 125 department stores scattered around Italy, ninety-three of them incorporating food supermarkets. By acquiring a majority holding in *Abital*, a prominent manufacturer of ready-made clothing with hundreds of sales outlets, Montecatini Edison obtained control of a substantial share of the local ready-made clothes market. And there were rumours that Valerio had entered negotiations with *Volkswagen* which would have brought about financial participation in the German automobile company.

A much closer threat to I.R.I. and E.N.I. had been negotiations, well under way, to launch the new company into the petrol distribution business and to explore for oil in Libya in direct competition with E.N.I. The threat to I.R.I. had been quite a lesser one, but I.R.I.'s management too did not feel secure from competition by the ever expanding combine.

Mediobanca, the top investment company controlled by I.R.I. through a rather elaborate financial arrangement, which had mediated between Edison and Montecatini at the time of the merger, came to be used by I.R.I. and E.N.I. in their combined attack against *Montecatini Edison*. Over a period of eight months, Mediobanca was able to purchase and consolidate small blocks of shares in the combine until they added up to a respectable almost 11 per cent of the company stock. Combined with the 3 per cent held by Mediobanca on behalf of I.R.I., E.N.I. which had bought a large part of the shares and I.R.I. which had bought the remainder gained control of 14 per cent of the stock in Montecatini Edison, more than Valerio, its president, could control. For a sum of as little as $100 million, I.R.I. and E.N.I. had been able to secure control of a company with total assets of $4,5 billion.

There is evidence that the government itself blessed the deal. It was certainly defended by the Minister of State Participations before Parliament when he said that: "the initiative recently undertaken is connected in a fundamental manner with the demands of a policy that State enterprises must be in a position to carry out—even on a financial plane—in order to be in a better position to realize the specific goals that national economic policy has assigned to them or will be able to assign to them in the future." In plain English, the take-over by E.N.I. and I.R.I. was consistent with, indeed part of, economic planning—Italian style! Nor are other apparent reasons lacking: in the view of the government spokesman the take-over would have strengthened the nation's shaky

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chemical industry, ended cut-throat competition between Montecatini Edison and E.N.I., given Italy the largest chemical group in Europe, and made way for a powerful Italian thrust into international markets.

The argument is not without merit, but there are aspects in the tangled background of the take-over that make one wonder about its desirability. It does make sense, but it raises a most important question: is the size of such giants as E.N.I., I.R.I. and Montecatini Edison—or the combination thereof—conceived as a means or as an end? For the problem is not to change a brontosaurus into a dinosaur by doubling its size, but to form biological units adapted to new conditions of competition. An 10 April 1970 Valerio the artificer was forced to resign. It became possible to uncover many of the causes that turned Montecatini Edison into "a giant with clay feet".[115]

Concentration on a European scale is not new but one wonders whether European businessmen would be talking so much about the need for concentration, as they do today, without the vigorous competition induced by American investment.[116] Are Italian businessmen ready to face the American challenge?[117]

The American challenge is a manifesto to the European generation of which the author himself is a remarkable representative. Unlike *de Gaulle,* whom *Servan-Schreiber* may seem to echo for a moment, there is no trait of economic chauvinism in the book. It differs sharply from de Gaulle's attitude both in the diagnosis made and in the remedy suggested. The book is fundamentally about the crisis of Europe. No one, the author warns, should be deceived by the existence of the European Economic Community. Despite the tremendous progress during the past ten years, Europe is in decline and the very threat to its existence seems to come from the inability of Europeans to think in European terms. This does not imply that the old nationalistic patterns must be transferred to Europe.

Only the Americans, writes Servan-Schreiber, have understood and seized upon the opportunities created by the 'little Europe'. The result has been the 'economic invasion' of Europe by the United States. "Fifteen years from now it is quite possible that the world's third greatest industrial power, just after the United States and Russia, will not be Europe, but American industry in Europe. Already, [in 1967]

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[115] See: 'Valerio's resignation: no conditions, no phone calls', 12 Successo — International edition, May 1970, p. 17.

[116] The point has been made most eloquently in a paper prepared by Christopher Layton for The Atlantic Institute, Trans-Atlantic investments, Paris 1966.

[117] See: *J. J. Servan-Schreiber,* The American challenge, London 1968.

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this European market is basically American in organization."[118] The importance of American penetration rests, first of all, on the sheer amount of capital invested: over thirty billion American dollars to date. Recent efforts by European firms to merge are due largely to the need to compete with American giants like *International Business Machines* and *General Motors*.

Concentration of capital in recent years has affected other countries besides Italy. In some countries—like France—the trend of economic conquest has been faster than in Italy.[119] Almost everywhere national concentration is being paralleled by international concentration. The penetration of foreign capital in general, and of American capital in particular, is increasingly affecting the economic development of European countries, including Italy. Even before Servan-Schreiber wrote his book, the very influential German magazine *Der Spiegel* wrote that American industrial profits averaged 9 per cent at home, but came to 12 per cent, sometimes, even to 35 per cent, in Europe. American business was attracted "by the size of wages in Western Europe, which are lower than in the United States, and also by the exceptionally favourable rate of exchange. American financial experts admit that in the United States the dollar has a purchasing power equal to only 2.6 West German marks. When an American corporation buys a plant in West Germany for 12 million marks ($3 million), the actual cost is only 7.8 million marks."[120]

A *Newsweek* study showed that in the years from 1956 to 1966, investments in Europe have gone up from $1,700 million to $11,500 million, and are expected to total roughly $24,000 million in 1975.[121] And by investment in that context it is meant fixed assets—that is, plant and equipment, not including working capital which is about as much again!

Private American investments in Italy grew especially fast in the last six years. They were—admittedly—relatively small compared with total American investments in Europe, but this is due to their late start. What should be noted particularly is the concentration of American capital in the more developed areas of Italy. According to information provided by the United States Chamber of Commerce in Italy, by the end of 1965 there were over 3,000 American corporations operating in the country:

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[118] Id., at p. 3.

[119] There were 700 new American investments in France in the last ten years, against over 500 in Germany in the same period and about 500 in Italy. See: *V. G. Venturini*, Monopolies and restrictive trade practices in France, Leyden 1970, p. 349.

[120] See: Wir kaufen die ganze deutsche Industrie, Der Spiegel, Jg. 19 (6. Oct. 1965), pp. 49 at 50.

[121] See also: The great American purchase, Newsweek, vol. 69 (27 February 1967), p. 20.

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2,562 in Lombardy—the region around Milan, 232 in Piemont—the region around Turin, 181 in Latium, 101 in Tuscany, 96 in Liguria, 50 in Campania and 34 in Emilia-Romagna. Contrary to what is frequently said by way of justification, American capital is not being channeled to assist the development of the country. It is not being invested in under-development areas, where un-employment could be lowered, and labour is cheap, but in those which offer high-skilled labour and an expanding market capable of absorbing mass-produced goods.[122]

In addition, foreign capital has been penetrating into the country through the purchase of a controlling interest in Italian companies. To cite but one example: the take-over by American *General Electric* of *Olivetti Elettronica* produced *Olivetti General Electric,* and practically marked the establishment of American control over the Italian electronic industry.[123]

The least known aspect of American investment in Europe is how it is financed. Financing investments is less and less a problem for American corporations. Servan-Schreiber pointedly observed and documented that nine-tenths of American investment in Europe is financed from European sources. In other words, we pay them to buy us. "Thus, while the European nations are in principle trying to form an economic community, they have in fact opened the gate to increasingly intense competition by granting direct government subsidies to attract American investments. In order not to violate the provisions of the Treaty of Rome, they provide a pretext for these subsidies by saying they are necessary to help regional development."[124]

Money is important, but—as always—it is not everything. And it is not the only cause for the present crisis of Europe, which is Italy's too. Money, in the hands of Americans in Europe, is only a means. It can create almost everything, except men.

The greater wealth of American corporations allows them to conduct business in Europe faster and more flexibly than their European competitors. This *flexibility* of the Americans, even more than their wealth, is their major weapon. While Common Market officials are still looking for a law which will permit the creation of European-wide businesses, American firms, with their own headquarters, already form the framework of a real 'Europeanization'. As the American giants in

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[122] American investment seems to be geographically distributed as follows: 71 per cent in northern Italy, 29 per cent in the remainder.

[123] To the average Italian, *Olivetti*'s success in a world dominated by American giants was a source of pride, a confirmation of technical prowess and business acumen. The take-over did not cause the alarm caused by the analogous operation which led to the setting up to the *Bull-General Electric* in France. See: *V. G. Venturini,* supra note 119 at pp. 347—349.

[124] See: *J. J. Servan-Schreiber,* supra note 117 at p. 11; *L. Saville,* Regional economic development in Italy, Edingburgh 1968.

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Europe become bigger and stronger all the time, European companies have done little to take advantage of the new market.

"Europeans especially envy the ease with which American firms reorganize themselves to tap the full potential of the new market, and they are very much aware of the advantages this flexibility offers. The question they ask me most often, says an American executive working in France, is simply: 'How do you do it?'"[125]

The answer is not very simple, but the problem is not so obscure and technical that it ought to be left only to financiers and economists. Yet it almost never comes up in political debates, and its implications are lost on those concerned with public affairs, and even on members of the government. Terms like 'technological gap' and 'managerial gap' have become tired *clichés* even before one understands what they mean.

It is not really that Europe is being 'invaded' by an excess of American dollars that Americans cannot use at home and which flow to Europe because of a temporary set of circumstances. That—if true—would be a rather simple explanation. On the contrary, it is something quite new and considerably more serious—"the extension to Europe of an art of organization that is still a mystery to [Europeans]."[126]

The basic threat of the American challenge is a 'managerial gap' traceable to fundamental weaknesses in the social and educational structure of European countries.[127] The secret of American dynamism lies "in the mobilization of intelligence and talent to conquer not only invention but development, production and marketing," as Arthur Schlesinger, Jr. so well put it in the foreword to the English edition of Servan-Schreiber's book.[128]

And why do Americans succeed better in Europe than Europeans do themselves? More to the point, why do they succeed better in Italy than Italians do themselves?

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[125] See: *J. J. Servan-Schreiber*, supra note 117 at pp. 5—6.

[126] Id., at p. 8.

[127] *R. McNamara*, former American Secretary of Defence, speaking about the 'gap' between highly industrialized nations of Europe and the United States, gave the following figures: „In the United Kingdom, France, Germany and Italy, about 90 per cent of the 13 and 14 year-old students are enrolled in school. But after age 15, there is a tremendous drop-off. Then, less than 20 per cent remain in school. In the United States, 95 per cent of all the 13 and 14 year-olds are in school. But what is more important is that at age 18 [Americans] still have more than 45 per cent pursuing their education. [Americans] have more than 4 million students in college, and this represents some 40 per cent of [American] college-age population. In Western Europe this percentage ranges between 65 per cent and 15 per cent. But what is also to the point is that modern managerial education, for private enterprise as well as government, is almost unknown in industrialised Europe." Speech at Millsaps College, Jackson, Mississippi, 27 February 1967.

[128] See: *J. J. Servan-Schneider*, supra note 117, at p. x.

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In a book published after *Le défi amèricain* by *Denison*,[129] the author cited by Servan-Schreiber,[130] attempts have been made to analyze the modern factors of productivity. By breaking down productivity comparisons between the United States and eight European countries and attributing each component to the characteristics of productive factors and their employment, and by grouping together the countries of north-western Europe (Great Britain, Norway, Denmark, The Netherlands, Belgium, Germany and France) on the one hand and comparing them with Italy, on the other, Denison concluded that the productivity time-lag between the United States and some European countries, measured in percentage of the output of an average employed worker was: 42.6 per cent for north-western Europe and 61.4 per cent for Italy.

Why is it so? The answer given by Denison is that education is the most important factor, and it is at the very top of his list of factors in economic expansion. He calculates that education accounted for 11 per cent of economic growth in the first third of the century, for 23 per cent in the period 1929—1957, and for even more since then.

Statistics compiled by the Bureau of Census testify to the extraordinary development of education in the United States.[131] If the diffusion of education is now, according to Denison's theory, the primary factor in economic development, the second is what he calls the 'growth of knowledge'—the enrichment of education and its expansion to include adults, making the new technology available to them. It is clearly impossible to make a statistic out of the growth of knowledge, but one can measure that part of it which includes expenditures on research and development.[132]

Working from Denison's theory about the importance of education, two other scholars *Chorafas* and *Poignant*[133] have made comparative

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[129] See: *E. F. Denison*, Why growth rates differ, Washington D. C., 1967.

[130] See supra note 117, at p. 51 et seq.

[131] In 1930 the total sum spent on education in America was $ 3.2 billion; by 1965 it had multiplied more than ten times to $ 39 billion. In 1900 only 4 per cent of Americans of university age were enrolled; by 1965 that figure had increased ten times, and is now 44 per cent. Further, the average number of school years completed by 25 year-olds rose from 8 years in 1910 to 12 years in 1965.

[132] The Bureau of the Census has assembled a chart from three separate sources, which shows that money spent on research and development, on the 'growth of knowledge', rose from $ 166 million in 1930 to $ 19 billion in 1964 — more than a hundredfold increase. *Servan-Schreiber*, supra note 117, at p. 53.

[133] The study by *D. Chorafas*: The knowledge revolution — An analysis of the international brain market and challenge to Europe, London 1968, of the University of Washington covers twenty-four countries. That by the Frenchman, *R. Poignant*, together with the Dutchman, *Kohnstamm*, is the first complete comparative study of education in nine developed countries (the United States, the six Common Market nations, Britain, and the Soviet Union.

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studies of the United States and other industrialized countries. They confirmed Denison's findings that Italy and the rest of Europe are far behind the United States, where 43 per cent of people between 20 and 24 are enrolled in colleges and universities. In the Soviet Union the figure is 24 per cent; while in continental Europe it varies between 16 (the highest) in France and 6.9 per cent (the lowest) in Italy. Britain is in the worst position (with 4.8 per cent)—which, according to Denison, explains a great deal about the current stagnation of British development despite a strong industrial base.

During the most recent year for which figures are available the United States had four times as many graduates as the Common Market, the United States was producing scientists and engineers three times faster than the Common Market.

Finally the reports by Chorafas and by Poignant show what chance children of manual labourers and less fortunate elements of the population have for higher education. Once more, Italy scores the lowest percentage.[134]

In his report Poignant concludes: "Looking at access to higher education from a social point of view, it is clear that the Common Market countries, individually and together, offer the least opportunity to children in the lower income groups for higher education." By projecting Denison's theory of expansion, this could easily explain American preeminence in the most advanced areas of science and industry. This is where all the elements come together: equity and efficiency, education and mobility, the mechanics of progress.

Italy, with the whole of Europe, lags behind and risks being unable to catch up with the industrial giants unless it changes the structure of its society—dramatically.

The Italian education system was born at a time when to have an education, beyond the very minimum required to be able to read and write, was considered a privilege of the dominant class[135]. This philosophy and the consequent policy have slightly changed today. But that is about the extent of the change! Art. 34 of the Italian Constitution proclaims that "Schools are open to all. Primary education is compulsory and free of charge for at least

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[134] In France, manual labourers and farmers form 56 per cent of the population, but their children represent only 12.6 per cent of the students. The same is true in other Common Market countries; 11.5 per cent for Belgium, 10 per cent in Holland, and 7.5 per cent in Germany. In the United States, on the other hand, from three to five times as many children of workers and farmers have access to higher education than in the Common Market countries.

[135] As a result, it has been estimated in a paper delivered by *L. Morandi* to a Conference on "Industrial research in tomorrow's Italy" held in Milan in June 1967 that the average educational level today in Italy is the same as it was in the United States before 1930!

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eight years. Capable and deserving students, even if without means, have the right to attain the highest grades of education. The Republic implements this right through scholarships, grants to families and other types of assistance, awarded on the basis of competitive examinations." But this is still largely a programmatic declaration. What are the facts and figures, meanwhile?

According to the latest available statistics[136] the Italian population at school during 1967—68 was as follows:

elementary school	4,619,943
junior high school	1,891,421
senior high school	1,397,966
university	374,486

The breakdown of figures from a tentative survey of students attending university during the academic year 1968—69 made by the Central Institute of Statistics in Rome[137] points to a development in those areas which are more closely connected with the goals of the 'affluent society' than those of the post-industrial, 'technotronic' society.

Italy, an affluent society—as compared with what?

It was thought in 1967 that, had the five-year plan got rapidly under way—and it did not!—by 1970 the Italian state would have spent 500,000

Table 10

Expenditure on Scientific and Technological Research per Inhabitant and as a Percentage of the GNP in Various Countries

Countries	Year	Research expenditures in millions of dollars	Expenditure per inhabitant in dollars	Expenditure on research as a % of GNP	Researchers and technicians per 10,000 inhabitants
Belgium	1965	222.34	23.59	1.3	16
Canada	1965	631.20	32.19	1.3	53
France	1966	2,191.52	44.36	2.0	38
Germany	1966	2,200.00	36.86	1.8	43
Japan	1966	1,352.72	13.60	1.7	43
Great Britain	1966—67	2,466.20	45.04	2.2	29
Holland	1967	513.81	40.78	2.2	39
U. S. A.	1966	22,220.00	111.59	2.9	25a)
U. S. S. R.	1967	9,111.11	38.68	3.6b)	28
Italy	1969	677.04	12.50	0.8	7

a) Researchers only.
b) % of net material produced.

[136] See: Istituto Centrale di Statistica, Compendio Statistico Italiano, Roma 1969, pp. 60—61.

[137] See: Presidency of the Council of Ministers, Italy — Documents and notes (No. 3) (1969), p. 209.

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lire for each university student.[138] That is a mouth-filling figure, but the following comparison of expenditure on scientific and technological research per inhabitant and as a percentage of the Gross National Product in various countries tells a painful story:[139]

Even the 100 billion lire ($160 million) revolving fund which has been entrusted to the *Istituto Mobiliare Italiano* by a Decree Law of 1968,[140] with a view to accelerating the expansion and progress of the Italian industrial system and the adoption of more advanced technologies, to extending financial aid to research projects directly connected with industrial development programmes, seem a very modest and ineffectual contribution. By the end of 1970, the government is expected to have spent 1,320 billion lire on research under the five year economic development plan. This too is an inadequate effort.

The amount of money devoted to research of course is not all; *quality* is the key factor in research. In Italy, out of the 50,000 persons engaged in this field less than 50 per cent has a university training and degree. The result has been a dramatic drop in the Italian balance of technological payments. This of course means, though not always and not always so definitively, a continuous and increasing dependence upon importation of foreign know-how. In a comparison of research budgets of the largest chemical firms in the United States and Europe one would look in vain for *Montecatini Edison,* the *largest* European chemical company!

There is a more convincing evidence of what a first rate education, sustained by first rate research facilities may produce. By consuming a third of the total world production of energy, Americans produce one third of the total world output. Twice the goods and services of all 'Europe at six' plus Britain combined barely equal the output of American industry. One third of all students in the world pursuing a

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[138] See: Consiglio Nazionale delle Ricerche, Relazione sullo stato della ricerca scientifica e tecnologica in Italia, Roma 1967.

[139] See: *U. Colombo,* Catching up on research, 12 Successo — International edition, June 1970, pp. 78 at 84.

[140] See: Decree Law No. 918 of 30 August 1968, converted into Law No. 1089 of 25 October 1968. Pursuant to these provisions, the I. M. I.'s actions, to be taken in accordance with the guidelines laid down by the Interministerial Committee for Economic Planning (*Comitato Interministeriale per la Programmazione Economica* — C. I. P. E.), can assume the following forms: a) subscriptions of shares in research companies established by public entities, industrial enterprises and their consortia; b) low-interest loans to industrial enterprises and their consortia (3 per cent interest rate; amount not to exceed 70 per cent of the total cost; duration 3 to 10 years after the period over which the loan is to be disbursed); c) contributions towards the cost of research projects proposed by industrial or research organisations and their consortia. Such contributions must not exceed 70 per cent of the total cost and are repayable to I. M. I. when the project is successful.

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higher education are American—double that of any other country. And all this is achieved by a people which is less than 6 per cent of the total world population and occupies 7 per cent of the liveable area. Advanced technology and management skills have raised *per capita* production in the United States to a level 40 per cent above that of Sweden (next highest), 60 per cent above Germany, 70 per cent above France, and 80 per cent above Britain. The driving force behind this power is American business. In the last ten years the role of American industry has become even more powerful.

In 1963 the American magazine *Fortune* began publishing 'The Fortune directory' of 'The 200 largest industrial companies outside the U.S.'. All companies—which must have derived at least 50 per cent of their sales from manufacturing and/or mining—are ranked by sales. In 1966, among all firms doing more than a billion dollars of business a year, 60 were in the United States,[141] while 27 were not American-owned. Of the 27 not American-owned firms, 12 were German, 6 British, 2 Dutch and British, 2 French, 2 Japanese, 1 each from Britain and Switzerland; only 1 was Italian.[142]

The latest available 'directory' was published on 15 August 1969 and, of course, the figures are for the year ending on 31 December 1968.[143] Among all firms doing more than a billion dollars of business a year, 104 are owned in the United States[144] and only 48 are not American-owned. Among the 48 not American-owned firms there were 11 British, 11 German, 11 Japanese, 6 French, 2 Dutch and British, 1 Australian, 1 Canadian, 1 Dutch and 1 Swiss; only 3 were Italian. Those 48 companies had combined sales of over 92 billion U.S. dollars—53 per cent of the total for the 200 companies. Among the first 100 companies (those with sales of just over half a billion U.S. dollars) there were 28 British, 25 Japanese, 19 German, 16 French, 7 Canadian, 6 Swiss, 3 Dutch, 3 Swedish, 2 Australian, 2 Belgian, 2 Dutch and British, and 1 each from Argentina, Brazil, Luxembourg, Mexico and South Africa; only 6 were Italian.[145]

'Bigness' then, even after concentration, is very relative. Some mergers only multiply structural or managerial defects. But in general, the largest corporations are the ones most likely to undertake the investment and research activities essential to successful competition—particularly in fields of advanced technology.

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[141] See: 'The Fortune directory of the 500 largest U. S. industrial corporations', Fortune, vol. 74 (15 July 1966), pp. 232—234.
[142] See: Fortune, vol. 74 (August 1966), p. 148.
[143] See: Fortune, vol. 80 (15 August 1969), p. 106.
[144] See: 'The Fortune directory of the 500 largest U. S. industrial corporations', Fortune, vol. 79 (15 May 1969), pp. 168—170.
[145] See: Fortune, vol. 80 (15 August 1969), pp. 106 at 107.

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Among the first ten companies doing a billion dollars of business a year, Italian industry fares rather poorly among car manufacturers, a little better among chemicals producers and does not appear among the suppliers of the most important industry in the present decade, electronics.

Table 11

The Top Ten Car Manufacturers in the World (1968)[146]

Company	Sales in U. S. $
General Motors (U. S. A.)	22,755,403,000
Ford Motor (U. S. A.)	14,075,100,000
Chrysler (U. S. A.)	7,445,251,000
Volkswagenwerk (West Germany)	2,925,000,000
British Leyland Motor (U. K.)	2,222,150,000
Fiat (Italy)	2,135,544,000
Renault (France)	1,733,061,000
Daimler-Benz (West Germany)	1,699,250,000
Toyota Motor (Japan)	1,677,573,000
Nissan Motor (Japan)	1,662,300,000
Citroen (France)	1,271,900,000
Peugeot (France)	974,975,000

Source: The Fortune Directory, 15. VIII. 1969.

Table 12

The Top Ten Chemicals Manufacturers in the World (1968)[147]

Company	Sales in U. S. $
Du Pont (E. I.) de Nemours (U. S. A.)	3,481,206,000
I. C. I. (Imperial Chemical Industries) (U. K.)	2,969,520,000
Union Carbide (U. S. A.)	2,685,921,000
Montecatini Edison (Italy)	2,315,680,000
Farbwerke Hoechst (West Germany)	1,906,750,000
Monsanto (U. S. A.)	1,792,938,000
Farbenfabriken Bayer (West Germany)	1,731,250,000
Dow Chemical (U. S. A.)	1,652,493,000
BASF (Badische Anilin- & Soda-Fabrik) (West Germany)	1,394,920,000
Rhône-Poulenc (France)	1,200,694,000

Source: The Fortune Directory, 15. VIII. 1969.

[146] Data elaborated from Fortune, vol. 79 (15 May 1969), pp. 168 et seq. and Fortune, vol. 80 (15 August 1969), p. 107.
[147] Ibid.

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Table 13

The Top Ten Electronics Manufacturers in the World (1968)[148]

Company	Sales in U. S. $
General Electric (U. S. A.)	8,381,833,000
International Business Machines (U. S. A.)	6,888,549,000
Western Electric (U. S. A.)	4,031,949,000
Westinghouse Electric (U. S. A.)	3,296,147,000
Radio Corporation of America (U. S. A.)	3,106,239,000
General Telephone & Electronics (U. S. A.)	2,927,055,000
Philips' Gloeilampenfabrieken (Holland)	2,685,277,000
Hitachi (Japan)	2,281,728,000
General Electric & English Electric (U. K.)	2,155,200,000
Siemens (West Germany)	2,097,250,000

Source: The Fortune Directory, 15. VIII. 1969.

The forecast that by 1985 sixty companies—fifty of them American—will produce a quarter of all world goods could appear like a nightmare. It is not—it is just a prophecy. And fifteen years is no longer the usual limit for 'intellectual speculation', it is the minimum period for effective 'industrial programming'. By the end of the century, 300 firms will control three-quarters of the assets of the non-communist world.[149] That too might be frightening but is nonetheless true. Concentration and mergers of Italian industries as an end to itself are not the answer. The *only* possible answer that Europe and Italy may give to the American challenge rests simply on three key factors: education, research and development.

A well functioning school system is a presupposition, a *conditio sine qua non* of liberal democracy. In 1956, introducing a book on the theme 'school and democracy', *Calamandrei* observed: "No one in reviewing the supreme organs of government that give our Constitution its characteristic physiognomy feels it necessary to mention the schools. The schools are on a lower level (on the administrative level, as it were); they do not rise to constitutional importance. Yet there is no doubt that when one wishes to create, maintain, and perfect democracy, the schools are in the long run more important than Parliament or the courts. Parliament consecrates civil liberties in law, the courts protect these liberties, but the conscience of citizens is formed in the schools; the schools determine what Parliament will be tomorrow, what the courts will be, what the moral and intellectual calibre of the legislators, administrators, and judges of the future will be... The blood

[148] Id.
[149] See: *R. Lattes* et *M. Donoives, Mille milliards de dollars,* Paris 1969.

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that daily regenerates democracy comes from the schools, *seminaria rei publicae.*"[150]

One wonders whether Italians will understand that to speak of a 'managerial gap' is really too superficial, that the real gap is institutional and cultural and that in the end the success of American dynamism is due not to the size of American industries, but to social mobility, individual responsibility, the egalitarian thrust of American life and, above all, the determination to invest in human beings, especially through the promotion of education. One wonders even more if Italians, having understood the challenge, will respond to Servan-Schreiber's appeal "by acting on his book as well as by reading it" for only then "*The American challenge* may do for European unity very much what Thomas Paine's *Common sense* did for American independence."[151]

[150] See: *P. Calamandrei*, in 'Introduction' to Ferretti, Scuola e democrazia, Torino 1956, p. ix.
[151] See: *A. Schlesinger Jr.*, Foreword to Servan-Schreiber, note 117, at p. Ix.

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Japanese Anti-Monopoly Policy: 1947 — 1970

From the Dissolution of the Japan Steel to the Birth of the New Japan Steel

By *Kozo Yamamura,* Washington, D. C.

I.

In March 1970, two of the largest steel producers in Japan, Yawata and Fuji, merged to become the New Japan Steel or Shin-Nihon Seitetsu. The new super-giant is capitalized at 2,293 billion yen or approximately 6.37 billion dollars, employs about 90,000 persons, has market shares ranging between 30 to 50 per cent in all major iron and steel products and between 50 and well over 90 per cent in a dozen specialized products. New Japan Steel's total capacity is expected to exceed that of U.S. Steel, the world's largest steel producer, by the end of 1971.[1] The significance of the merger goes beyond the size of the new firm. It was a merger between two of the giant firms which were created, in 1947, out of the prewar Japan Steel by the order of the Supreme Commander of the Allied Powers.

A brief description of events leading up to the merger can serve as an excellent introduction to the current situation with regard to anti-monopoly policies in Japan. In May 1968, nearly two years before the birth of the New Japan Steel, Yawata and Fuji issued a joint statement to the effect that they planned to merge as of April 1, 1969 and that they hoped for a quick approval of the plan by the Fair Trade Commission. The reasons for the merger, they stated, were: (1) It would be desirable on technological grounds, i.e., the economics of scale would be significant; (2) A large saving could be obtained if their research efforts for technological innovations could be pooled; (3) The first two reasons would lead to an increased ability of the Japanese steel industry to increase exports, one of the major policy goals of the Ministery of International Trade and Industry (MITI); (4) The two firms are complementary in technological capabilities and productive assets owned; and (5) Numerous other types of saving could be made in the areas of joint

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[1] *Tōyō Keizai* (An Economic Monthly), Oct., 1968, p. 46.

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purchases of raw material, inventory, transportation of products, marketing, and uses of computers and other related facilities.[2]

Immediately after the above statement was issued, and even before formal hearings were begun by the FTC, high-ranking MITI officials began to make public statements strongly endorsing the merger. And, by June 1968, Japan found herself in the midst of one of the liveliest public debates in the history of Japanese economic policy. Most of the Marxist economists remained aloof because, as far as they were concerned, the merger was an "inevitable consequence" of the economic system, but economists trained in modern economic theory attacked the merger with unusual vigor. In fact, a large number of academic economists, led by Professor *Hideo Aoyama* of the Kyoto University, issued a joint statement opposing the merger and severely criticizing MITI for its endorsement.[3]

The statement, in sum, said: (1) In the interest of preserving a democratic society, the Zaibatsu were dissolved. The planned merger was contradictory to the basic principles of a democratic and efficient economy. The importance of competition as the motivating force for technological advance and as the guarantor of optimum resource allocation is well established. The planned merger would reduce the necessary competition significantly, and it was contrary to the letter and spirit of the Anti-monopoly Act in force; (2) 86 out of the 90 leading academic economists, after evaluating the pertinent factors, were strongly opposed to the merger (while only three had no objections to the merger and one had no opinion); (3) They took strongest exception to the fact that MITI and the government in general were exerting strong political pressure on the FTC. The quasi-juridical process of the FTC hearings and a consequent judgment to be rendered by the FTC should be respected; (4) In judging the case, the opinions of "neutrals", especially the specialist opinions of the economists, should be canvassed widely; and (5) The FTC should make its decision concerning the merger with special care and deliberation and with due regard to the pertinent provisions of the Anti-monopoly Act and to the interests of the entire economy.

Reflecting, perhaps, the wide public interest and the views of the Commissioner *Yamada,* the FTC, instead of giving a quick approval to the merger, asked for further information from the petitioners on the possible consequences of the merger. It soon became evident, however, from the newspaper reports that the FTC's major concern was not the overall effects and implications of the merger between the two giant

[2] *Tōyō Keizai,* July, 1968, p. 27.
[3] *Ekonomisuto* (The Economist, A weekly), 15 June 1968.

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firms but rather it was in the direct effects of the merger in four specialized product markets (including rails and steel sheets) in which the merged firm would be a virtual monopolist.[4]

The FTC's concern about these four markets and the time required for the firms to prepare answers which could satisfy the FTC in regard to these specialized markets had the effect of delaying the target date of the merger. Since the total products involved in these specialized markets were relatively small, the firms found that a delay in the merger by from several months to a year was a small price to pay for FTC approval to merge. Numerous economists expressed strong disappointment, during the latter part of 1968 into early 1969, in the direction which the hearing was taking. Newspapers attacked possible "deals" behind the scenes and MITI pressure on the FTC officials.[5]

The FTC's unusual slowness in granting approval, a constant stream of articles and debates on television—ranging from heated arguments between the industry representatives and economists to highly theoretical discussions of the effects of the merger by economists specializing in welfare economics and industrial organization— and the delay suffered by the petitioning steel producers could have easily given a foreign visitor the impression that the outcome of the deliberations by the FTC was in doubt. Had the foreign visitor's Japanese been good enough to read occasional statements issued by the Commissioner of the FTC, he would have concluded that the approval for the merger rested on the conscience of the five voting members of the commission.

It would indeed have taken a foreign visitor to make such an incorrect assessment. The FTC, MITI, the journalists and economists *knew* that the merger would be approved in the end, despite the show of an unusually deliberate attitude by the FTC and the apparent sincerity with which the issue was debated and analyzed, month after month, in newspaper columns and articles. How could they have known the outcome of the debate? The answer is that, unlike our foreign visitor, they knew the history of the economic policy which has been pursued by the government since the end of the Second World War and they also knew that, in the political arena of Japan, MITI packed far more political power than did the FTC.[6] In the early spring of 1970, when the FTC formally announced its decision and when the public learned that Commissioner Yamada and two of the five voting members of the

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[4] *Ibid.*, July 1968, p. 27, p. 136.
[5] *Tōyō Keizai*, October, 1968, p. 46.
[6] Observations contained in this and the preceding paragraph are based on the author's interviews and examinations of daily papers which he made in Tokyo in the summer of 1968 and 1969.

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Commission had resigned immediately following the announcement, there was no surprise.[7]

II.

To understand fully the signifiance of the merger and to acquaint ourselves with the salient outlines of postwar Japanese anti-monopoly policy, let us briefly examine the course, or the process of erosion, of postwar Japanese anti-monopoly policy.

As is well known, the Supreme Commander of the Allied Powers (SCAP) carried out a series of measures during the first few years of the occupation to "democratize" the Japanese economy. SCAP dissolved the large holding companies headed by the Zaibatsu families and divided giant firms to create a more competitive market structure. Shares in former Zaibatsu-connected firms were sold to "the little people" and mutual shareholding and interlocking directorships were severly restricted. SCAP directed occupied Japan to enact an anti-monopoly act, the first in the history of Japan, in order to preserve "economic democracy" which was then being imposed on Japan.[8] The act, which became law in 1947, was an ambitious one, the first article of which stated:

> This law, by prohibiting private monopolization, unreasonable restraint of trade and unfair methods of competition; by preventing excessive concentration of power over enterprises; and by excluding undue restrictions on production, sales, price, technology, etc., through combinations and agreements, etc., and all other unreasonable restraints of business activities aims to promote free and fair competition, to stimulate the initiative of entrepreneurs, to encourage business activities of enterprises, to heighten the levels of employment and national income, and, thereby, to promote the democratic and wholesome development of national economy as well as to assure the interest of general consumer.[9]

The intention of the United States was for Japan to have a strong anti-monopoly policy. Other major provisions of the Act[10] relating to the prohibition of monopolies were as follows: (a) Article 4 prohibited cartels and collusions of all types, including any concerted action to fix prices, restrict output, introduce new technology and expand capacities, or to control purchases and sales on an exclusive contract basis when competition would be hindered significantly; (b) Article 5 forbade any monopolistic and monopsonistic organization; (c) Article 6 made illegal

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[7] *Tōyō Keizai*, September 1970, p. 6.
[8] See, for a full account of the SCAP policy, *K. Yamamura*, Economic Policy in Postwar Japan, Berkeley 1967, Chapt. 1 and 2.
[9] *FTC*, Fair Trade, English version, No. 2, 1958.
[10] See Appendix in the source cited in footnote 8.

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any cartel agreement or restrictive contract with foreign firms; (d) Article 7 empowered the Fair Trade Commission to order the elimination of any restraint of trade or private monopolization; (e) Article 8 outlawed "undue substantial disparities in bargaining power between business enterprises", defined as "those not based upon technological grounds."[11] When such disparities were found, the Article stated, they would be eliminated by transferring "a part of the business facilities" or "by any necessary measure"; (f) Article 9 forbade holding companies, which were defined as those firms established for the purpose of controlling "the business activities of another company"; (g) Article 10 made it illegal for non-financial firms to acquire the voting stocks of another company, except where integration could be justified on technological grounds; (h) Article 11 prohibited financial institutions from acquiring more than five per cent of the stock of another firm, either industrial or financial. Nor could they own any stock in competing enterprises; (i) Article 13 forbade interlocking directorates among competitive firms and any corporate officer from holding more than three offices or directorships; (j) Article 14 prohibited an officer of a firm from acquiring stock in competing firms and any person purchasing more than one per cent of the issued stock of competing companies without securing FTC approval. Also, no person could own stock in more than two firms if it would substantially restrain competition; (k) Article 15 rendered mergers illegal in those cases where it did not help to "rationalize" production and where it gave rise to substantial disparities of bargaining power or restraint of trade. At one point, the Japanese Government's Economic Stabilization Committee suggested as the standard of "largeness" a market share of at least twenty per cent of the total output. But a precise method of determining the "largeness" was never defined.[12]

If enforced in entirety and literally, the Act would have meant a new world for Japanese economy which had long known cartels and which traditionally had a concentrated market structure in industries as the result of often overt government encouragement. However, as early as in 1949, the act began to be amended *de jure* and *de facto* for two reasons. The first was the rapidly changing international political scene. China was lost to the Communist block and the war in Vietnam was raging. Washington began to reevaluate its policy towards Japan. Japan now had to be made an ally in defense of democracy rather than punished for the crimes of yesteryears.

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[11] Ibid.

[12] See *S. Giga*, Gendai Nippon no Dokusen Kigyō (Monopolistic Enterprises of Contemporary Japan), Tokyo 1962, p. 133.

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The second reason was economic. During the early phase of the Occupation the reconstruction of a virtually annihilated economy necessitated finding ways to circumvent the act, such as refinancing the (Zaibatsu) "heir" companies. Even though in late 1947 SCAP was still financing an ambitious economic deconcentration program, some measures were being taken which were contradictory to SCAP policy. The most important of these was the establishment—with American funds—of the Reconstruction Bank in early 1947.[13] The Bank was created to supply operating funds for firms and to subsidize the difference between the costs of production and the decreed maximum price. By late 1947, however, it began to make loans for the purpose of capital investment as well, and by the end of 1948 the Bank had become the largest supplier of capital for the coal, iron and steel, fertilizer, electric, shipping, and textile industries.[14] These were the industries which were formerly almost exclusively controlled by the Zaibatsu.

Against this background, the first amendment of the Anti-Monopoly Act was passed in 1949.[15] Its purpose was to correct "the overshooting of the aim of the occupational authority."[16] The Amendment relaxed the original provisions concerning international agreements, stockholdings, interlocking directorships and mergers. Most significantly, Article 6, which had prohibited any entrepreneur from entering "an agreement or a contract relating to restriction of exchange of scientific or technological knowledge or information necessary for business activity" was deleted. The aim of this deletion was to encourage any foreign capital inflow likely to result from patent-licensing or exclusive-dealing agreements between Japanese and foreign firms. Also, all discriminatory clauses against foreign firms were eliminated to place such firms on an equal footing with any Japanese firm.

Article 10, which originally prohibited the purchase of voting stock of a firm by a non-financial firm, was amended to prohibit such transactions only where "such acquisition or ownership might result in substantial lessening of competition between any such firms." This meant that a firm could possess up to 100 per cent of the stock of its subsidiaries. Two restrictions with respect to interlocking directorates were eliminated from Article 13. The first involved situations where one-fourth or more of the officers of either of two companies concurrently held positions in a third company; the second was the restriction stating that "no officer" of a company shall in any case hold a position

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[13] *T. Miyashita,* Nippon Shinanshugi Taikei (The System of Japanese Capitalism), Tokyo 1957, p. 90.
[14] Ibid., p. 90.
[15] Law No. 214 of 1949.
[16] *Fair Trade Commission,* Fair Trade, Vol. 1 (1949), No. 3, p. 37.

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of officer in four or more companies." The only prohibition retained applied to cases where "both of the companies were in competition with another."

Despite this legislation, "from the end of the 1949 to the spring of 1950 the stock market became more sluggish", and the Dow-Jones industrial average declined from 150 to 101.[17] The condition of the Japanese capital market to be approaching the point of exhaustion. To implement the Dodge Line, the Reconstruction Bank had discontinued its liberal loans, and the Government had practiced a "super balanced" (deflationary) budget. Investment achieved through stock sales decreased from 40,367,000,000 yen in 1949 to 22,578,000,000 yen in 1950, and "the economy was gradually showing the signs of a deepening recession."[18]

In June of 1950, with the index of manufacturing production at only one-third of the 1931 level, the Korean War began. The economy surged with the Korean War boom which was stimulated by an initial demand for war materials of 733 million dollars,[19] approximately 15 times the volume of stock sales in 1950. Overnight, markets were created in Japan for services, supplies, and a diversity of equipment to support the war in Korea. The Dow-Jones industrial average rebounded sharply, rising from 100 to above 200 by the end of 1950, and as the war escalated, the production index continued to rise.[20]

It should be noted, however, that this increase in production was, in most cases, achieved by an extensive use of over-depreciated productive capacity. Much of the investment made during this period involved purely stop-gap measures so that every industry might take full advantage of the boom. The iron and steel industry increased its output by operating at full capacity. The industry's plants were not only in poor condition due to World War II, but were also technologically outdated and inefficient by Western standards. The result was that the cost of some steel products was said to have been as much as 50 per cent higher than equivalent products produced in the United States.[21] In the textile industry, the capacity of cotton-weaving machines increased rapidly; other industries followed a similar pattern. A frenzy of investment to increase capacity followed in the wake of the Korean War, as if the boom were to continue indefinitely.

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[17] *M. Maruyama,* Kabushikishōji Seigen no Kaisei ni tsuite (The Amendment of Limitation of Stockholding), Kosei Torihiki, March, 1947, p. 7.

[18] *MITI,* Sangyō Gōrika Hakusho (White Paper on Industry Rationalization), Tokyo 1957, p. 57.

[19] The figure is for the last two quarters of 1951.

[20] GNP in real terms grew by 13.5 per cent in 1951.

[21] *MITI,* supra note 18, pp. 338—39.

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However, in mid-May of 1951, the boom suddenly slackened when the United States discontinued its initial purchase of war material. As a consequence, "the prices of leather and rubber fell sharply, and textile products suffered a large number of cancelled orders."[22] This cutback caused bankruptcies among textile firms, including some of the larger ones. Nearly 300 cotton-weaving firms went into bankruptcy in a matter of a few days during June. In July, when the initial peace talks started in Korea, several industries—textile, rubber, artificial fibers and leather among them—were convinced that the boom had ended for them, while others, such as iron and steel, cement, lumber and machine tool industries, expected the war demand to continue, but at a lower rate.

To use a phrase of MITI officials, the Japanese economy of 1951 was then extremely "shallow based." This meant that, due to the comparative inefficiency of Japanese industry, a slight price decline in the international market could topple the whole export outlook of the economy. Although certain sectors of the Japanese economy were unable to recover from the business lost as a result of the cessation of the Korean conflict and went into bankruptcy, the economy as a whole was temporarily more prosperous. The economic indicators showed that, contrary to the impressions of journalists, the Japanese economy, in 1952, was far from a recession in the usual sense of the word. The smaller firms which were unable to withstand the post-Korea price decline were eliminated from the subsequent drive towards modernization, but for Japan as a whole, the Korean War initiated the drive towards capital investment.

In order to remain economically healthy, Japan would have to become more efficient to meet increasing competition from Western Europe. The Japanese response to the economic difficulties which followed the Korean War boom and the resumption of competition in export markets from Western Europe took two forms. One was the drive towards rationalization and the other was an attempt to emasculate the Anti-Monopoly Act. Japanese industry now realized the necessity for quick "rationalization"[23] (defined by the Japanese as investment for the purpose of attaining Western standards of efficiency) and invested in more efficient methods of production. The fertilizer industry, for

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[22] *H. Misonou,* Nippon no Dokusen (Monopolies in Japan), Tokyo 1960, p. 65.

[23] It became clear from examining the MITI rationalization plans for each industry, that rationalization could be interpreted to mean the process of cost reduction by moving a unit of production in the shortest possible period of time onto a more advanced technological function—a long-run cost-scale curve—whose optimum size is larger (not merely an economy of scale on the same long-run cost-scale curve).

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instance, updated its production methods to complete the first phase of "rationalization" by 1953. The iron and steel industry increased capital outlay with the hope of approaching the level of Western European efficiency. In short, as the investment indicators revealed, Japan had begun a drive towards "rationalization." And, rationalization could progress largely because of the newly authorized Japan Development Bank (*Nippon Kaihatsu Ginkō*), which began to make extensive loans for industrial redevelopment.[24] MITI's reasoning was that "rationalization" could continue if somehow the level of profit could be maintained by circumventing the fierce competition which threatened future Japanese industrial expansion.

During the recession, MITI took the significant step of "recommending" that certain manufacturing enterprises operate at less than full capacity (*sōtan*).[25] This applied to the three industries most affected by the sudden curtailment of Korean War orders: the artificial fiber, cotton weaving, and automobile tire industries. These "recommendations" were, in fact, administrative orders, which the Ministry could enforce through its control over foreign currencies and by restrictions on essential imported raw materials. In support of the Ministry's policy, the Bank of Japan announced that those firms complying with the MITI recommendations would receive preferential consideration for loans. Under these conditions, the affected industries immediately adjusted their production quotas and soon entered into price-fixing arrangements.

In August, as a part of what MITI called the "Prevent Bankruptcies" policy, the Conservative Party rushed the Designated Medium-Small Enterprises Act through the Diet.[26] Its aim was to protect the small-to-medium sized firms most severly affected by the sudden curtailment of military procurement orders, including small-scale textile producers (such as weavers and spinning and dyeing firms) and the china and match industries. It required the industry to make "adjustments" in production, investment, and shipping, but it did not require price-fixing.

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[24] The Japan Depelopment Bank (*Nippon Kaihatsu Ginkō*) was authorized in 1951 for the purpose of aiding "rationalization" investments. A loan was made in 1951 for 20,592,000,000 yen, which was increased to 46,049,000,000 yen in 1952. When the latter figure is compared to the total loans made by private banks in Japan (175,369,000,000 yen in 1952), we find that the Japan Development Bank made approximately 26 per cent of the loans made by all private banks. Computed from *Tōyō Keizai Shimpōsha.* Keizai Tōkeinenkan (Annual Economic Statistics), Tokyo 1962, p. 112; and the *Economic planning Agency,* Sengo Nippon no Shihon Chikuseki to Kigyō Keiei (The Capital Accumulation and Business Management in Postwar Japan), Tokyo 1957, p. 26—27.

[25] *Sōtan* literally means "short-operation".

[26] Law No. 294 of 1952, as amended by Law No. 140 of 1953 (The Medium-Small Business Stabilization Act), was repealed by Law No. 185 of 1957.

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Many of the small firms serving as subcontractors to the larger firms suddenly found themselves insolvent and with excess capacity.

In September 1951, the Peace Treaty of San Francisco was signed, and complete independence for Japan was only six months away. And, "as soon as this treaty was signed and the authority of SCAP was weakened, the attack on the Anti-Monopoly Act began with the force of water over a dam."[27] Editorials favoring the amendment of the Anti-Monopoly Act appeared and corporate executives began to express openly their dislike of the Act.[28] In both cases, it was clear that opponents now felt safer in expressing their beliefs, whereas they had been more restrained during the pre-peace treaty period. Industry knew that there were receptive ears in MITI and in the Ministry of Finance.

The Peace Treaty of San Francisco, granting Japan its independence, became effective on April 28, 1952, and SCAP was formally abolished. The Japanese government immediately nullified several measures introduced by SCAP. Significantly, the first was the order prohibiting the use of old Zaibatsu trademarks and names.[29] This immediately enabled three splinter firms of the Mitsubishi Heavy Industry to readopt the familiar three lozenges as their trademark.

During the autumn of 1952, pressure to amend the Anti-Monopoly Act increased. The amendment that had been proposed by MITI in 1951, authorizing the establishment of cartels, was now openly discussed. Government officials and corporate executives strongly favored the amendment, while Socialist deputies and leaders of the labor unions naturally opposed it. Medium and small business fiercely opposed this bill, arguing that if it were passed, large corporations would be favored at the expense of smaller firms.[30] Farmers' associations and consumer groups also voiced strong protests, fearing that cartels would raise the prices of products used by their groups. However, the return of the Conservative Party to power in April 1953 made amendment of the Anti-Monopoly Act merely a question of time. The Diet opened debate on the bill in April, but each of the numerous bills introduced in the

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[27] *H. Asano,* Dokkin-Hō wa Dokoni-iku ka? (Where Does the Anti-Monopoly Act Go?), Kosei Torihiki, Sept., 1952.

[28] A look at Japanese newspapers will disclose the fact that the word "cartel" in Japanese does not have the same connotation that it has in English. Japanese businessmen use the work in such phrases as "fair cartel" or "public cartel".

[29] Law No. 291 of 1952 which was repealed by the 1953 amendment to the Anti-Monopoly Act.

[30] This disagreement between the large and small corporate sectors caused the latter to withdraw from the Japanese Association of Manufacturers and to form the Japan Small Business Association.

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first independent Diet required considerable time for re-enactment due to the increased power of the Socialist Party and the delicate factional dispute within the Conservative Party.[31]

In the meantime, economic conditions in Japan began rapidly to "overheat",[32] defined by MITI as the continued increase in investment activities at a much faster rate than the increase in exports and domestic demand. Foreign currency reserves in 1953 dropped from 913 to 635 million dollars,[33] and exports in 1953 increased only 7.6 per cent against a 26.4 per cent increase in imports. This created an excess of imports over exports of 1.134 billion dollars, while the accumulation of industrial products rose by 20 per cent over that of 1952.[34] There was no sign that these conditions would improve in either the domestic or export market. In early 1953 the Commonwealth nations announced that the quota for Japanese exports of cotton-weaving products would be cut to 20 per cent of the low level of 1952.[35] But, by May of 1953, such industries as ammonium sulphate, steel rod, cotton weaving, and artificial fibers were dumping their products on foreign markets, since no one appeared anxious to enforce the Export Trade Act.

Finally, in September of 1953, the Diet passed a law substantially amending the Anti-Monopoly Act. The major changes were: (1) Admission of Recession and Rationalization Cartels. Cartels and other collusive activities were made legal in those cases in which the Minister concerned with a particular industry deemed it necessary to counteract a recession or to encourage rationalization. The minister in charge or any industrial group might initiate the action, although initiation by an industrial group required concurrence of the ministry. In either case, consent of the FTC was also required;[36] (2) Relaxation of Stockholding Regulation: Amended Articles 10 through 16 provided that interlocking directorates, mergers, and mutual stockhold-

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[31] The Conservative Party's strength was reduced from 222 to 199 seats while the two factions of the Socialist Party (which do not always vote together) gained 12 seats. Thirty-five members of the faction of the Conservative Party then established a splinter party, making Diet procedure for the Conservative Party extremely delicate. *Asahi Shimbun,* April 27, 1953.

[32] This phrase is often used by Japanese economists and Government officials. It implies that the country is investing too quickly and too much at one time.

[33] *Misonou,* supra note 22, p. 68.

[34] Calculated from *Tōyō Keizai,* supra note 23, p. 62.

[35] Ibid., p. 153.

[36] By "recession" MITI meant (or granted cartels as if it did) the condition in which excessive competition existed because of excess capacity. The FTC issued by-laws to govern the authorization of "recession cartels", but they were never enforced. *FTC, By-Laws, Article 32,* Dokusen Kinshi-hō Kankei Hōreishu (The Related Laws Concerning the Anti-Monopoly Act), Tokyo 1962.

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ing were legal except when in conflict with Article 9 (prohibition of holding companies) or Article 2 (limitation of stockholding by financial institutions), and when the result of these activities did not substantially limit competition in a market; (3) A redefinition of Unfair Competition. "Unfair competition" and the catch-all clause of the original Article 2.7, which read in part, "lessening of competition which is contrary to public interest," were amended to apply in six specified cases of "unfair business practices"; and (4) Modification of the Definition of "Unreasonable Restraint" of Trade. Article 4 was repealed. It had stated that any price-fixing, production restrictions, or monopolization of technology and investment would constitute a *per se* violation of the Act. Article 3, which replaced it, stated that "no entrepreneur shall effect private monopolization or shall undertake any *unreasonable* restraint of trade" (emphasis added). This was a considerable liberalization of the original standard.

Also, in the fall of 1953, the Export and Import Trading Act was enacted, and the price of domestic goods and the quantity of imports were cartelized.[37] In addition, the Act Concerning the Preservation of Liquor Tax and Liquor Business Associations[38] was enacted to authorize the Government to enforce a cartel designed to practice price-fixing and output control. Thus, these legislative changes make it clear that immediately after independence, Japan sharply altered her anti-monopoly policy in the face of her "shallow based" and "overheated" economy.

The Japanese economy continued to "overheat" during 1953—1960, registering an average annual growth of 9.3 per cent. Due to the growing demand for investment goods and increasing exports, the economic outlook remained one of steady growth, except for the short 1957—58 "recession". Although "overheated," the economy continued to grow; the real level of consumption in 1960 was nearly three times as much as that of 1947, and nearly 50 per cent higher than that of 1936.[39]

In this atmosphere, the number of cartels increased, giving "freedom of action to industries under the existing laws."[40] This was in addition to the rationalization and recession cartels authorized by MITI officials under the 1953 amendment of the Anti-Monopoly Act. In 1954 came the enactment of the Act Concerning the Promotion of the Export Marine Product Industry[41] and the Ammonium Sulphate Industry Rationaliza-

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[37] Law No. 7 of 1953. See *FTC*, Annual Report of 1957 for a detailed description of these cartels.
[38] Law No. 7 of 1953, amended by Law No. 148 of 1957.
[39] *Tōyō Keizai*, supra note 24, p. 60.
[40] *MITI*, supra note 18, p. 251.
[41] Law No. 154 of 1954.

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tion and Ammonium Export Adjustment Temporary Measures Act.[42] The former authorized agreement on capacity limitation and methods of sale. The latter legalized agreements among producers of ammonium sulphate with regard to the export of their products. In 1955 the Export and Import Trading Act[43] and the Medium-Small Business Stabilization Act[44] were amended to further ease the formation of cartels and broaden the scope of agreements.

In retrospect, a subtle, but significant change in the publicly expressed policy of the Government seems to have taken place sometime in 1955. Until that time, the Government, through MITI officials,[45] had taken an aggressive position against what it considered to be restrictive clauses in order to give industry the freedom of action necessary for economic growth. By 1955 however, the Anti-Monopoly Act was no longer being seriously enforced, and the time was ripe for the Government to begin evaluating what its declared policy should be with respect to monopolies. The Socialist Party, the only contending party, had grown visibly weaker from internal factional disputes. At its period of maximum popularity it only gained about one-third of the Diet seats, as prospering economic conditions secured the position of the Conservative Party.

The Conservative Government therefore grew bolder. Economic prosperity continued, and the Government succeeded in enacting three more laws drafted by MITI: the Coal Industry Rationalization Temporary Measure Act,[46] the Textile Facilities (capacity) Temporary Measures Act:[47] and the Machinery Industry Promotion Temporary Act.[48] The rationale of the acts was to promote the products of these industries and to establish cartels at the "suggestion" of the ministry concerned.

Despite the criticisms leveled against MITI's "willingness to foster" blind investments resulting from businessmen's belief that the Government would come to help alleviate the consequence by legalizing

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[42] Law No. 175 of 1954.

[43] Law No. 121 of 1953: This second amendment of the Export and Import Trade Act legalized cartels among producers of export goods, and/or among importers. Practically no restraints remained after this amendment was passed so long as the firms involved received the consent of MITI.

[44] Law No. 140 of 1953.

[45] The ministership of MITI is considered among Japanese politicians as the choicest cabinet position because it carries influence and power second only to the Prime Minister. For the past 17 years, except when the Socialists were briefly in power, the Conservative Party has awarded this post to its top-ranking party officials.

[46] Law No. 156 of 1955.

[47] The law was superseded by the Textile Industry Equipment Extraordinary Measures, Law No. 103 of 1964.

[48] Law No. 154 of 1954.

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cartels,"[49] the pattern of overinvestment and subsequent Government sanction continued. During the 1957 Recession more laws authorizing collusive arrangements were enacted. These acts were: the Silk Yarn Manufacturing Facilities Temporary Measure Act;[50] the Small Vessels Transportation Association Act;[51] the Licensed Business Proper Sanitation Maintenance Act;[52] the Electric Industry Temporary Act;[53] and the Medium-Small Enterprise Organization Act.[54] All conferred upon the respective industries a wide latitude in organizing price maintenance cartels, output control, and other collusive activities in varying degrees.

Even though the steel and ammonium sulphate industries suffered from large inventories[55] the Government failed to pass the two major legislative measures it had planned: the Chemical Industry Promotion Bill and the Iron and Steel Supply and Demand Stabilization Bill. The bills, as presented to the Diet by MITI, faced withering criticism from agricultural groups, which comprised a sizeable faction of the Conservative Party, and from pressure groups formed by consumers of the products of these industries. Ultimately they were withdrawn.

In December of 1957, the Cabinet decided to launch a frontal attack on the Anti-Monopoly Act. Perhaps, it realized that enactments of these numerous piecemeal laws exempting industries from the Anti-Monopoly Act did not provide in the aggregate what the Conservative Party considered to be the proper economic policy. Whatever the reason, a council to deliberate the possible amendment of the Anti-Monopoly Act was chosen under the chairmanship of Professor *Nakayama,* who had recommended the 1953 Amendment. After ten hearings in which the opinions of MITI, the FTC, industry, financial intermediaries, agricultural groups and consumers were heard, the Council suggested substantial further amendments. The opening paragraphs of its recommendation reflect the thinking of the Japanese Government:

> The promulgation of the Anti-Monopoly Act contributed much to the democratization and reconstruction of the economy after the end of the War

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[49] *Misonou,* supra note 22, p. 112. The fertilizer industry, for example, as of 1957 practiced extensive dumping and constantly suffered from excess capacity. It increased capacity as follows:

Year:	1951	1953	1955	1957
1000 Ton:	2,290	2,891	3,110	4,282

Source: *MITI,* supra note 18, p. 403.

[50] Law No. 140 of 1957.

[51] Law No. 162 of 1957.

[52] Law No. 164 of 1957.

[53] Law No. 171 of 1957.

[54] Law No. 185 of 1957.

[55] These were two major industries which did not have legalized "open" cartels in effect. Their index of accumulated stock rose from 130 in 1956 to 232 in 1957 in the iron and steel industry, and from 123 in 1956 to 142 in 1957 in the chemical industry (1955 = 100). *Tōyō Keizai,* supra note 24, p. 175.

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and should be evaluated highly. But under present economic conditions in our country, with the fact of excessive competition, and if, in the future, a keener international competition is to be faced, and also considering the long-range stable growth of the economy of our country, the regulation of the present Anti-Monopoly Act cannot necessarily be said to be most suitable for the proper operation of the economy of our country. To consider the maintenance of free competition as synonymous with the interest of the public is a misconception based upon a narrow interpretation. The concept of the interest of the public should be judged from the economy as a whole.

This council, realizing that there are several basic problems which should be solved before it determines its attitudes in regard to the basic problems in the present Anti-Monopoly Act, and after considering several conditions, and especially important points which may be impairing the operation of our economy, has come to believe that the following amendments are necessary in the spirit we have stated above.[56]

The Council proposed the formation of more cartel activities in order to help rationalize, "when there would be no evil consequences." It denounced the existing provisions for cartels as "too severe." It also recommended that the act be amended to allow mergers "in those special cases where enlargement of the scale of production is necessary for rationalization." In view of "excessive competition," the Council further recommended that some measures be taken to nurture the favorable custom of "trading," although the Council did not specify exactly what it had in mind. It should be noted that the Council did not recommend "control and coordination" of investment as requested by a MITI official at the beginning of the hearing. With respect to this point, representatives of leading firms strongly opposed it as an encroachment on private business affairs by the Government.

These recommendations were submitted to the Prime Minister in February 1958, and a bill incorporating these recommendations reached the Diet during the 1958 session. However, strong opposition from agriculture, medium-to-small business groups, trade unions, consumers, and the Socialist Party, arose even before formal debate began in the Diet. Faced with this resistance, the Conservative Party decided not to bring the bill to a vote, although it possessed an absolute majority. One plausible explanation for this decision was that passage of the bill at that time was not necessary since the economy as a whole had taken an upturn, spurred primarily by renewed vigor in investment following the 1957—58 recession. The Government optimistically announced the Double-the-National-Income-In-Ten-Years plan (*Shotoku-Baizō Kei-*

[56] The FTC kindly granted me permission to use their only copy of the record of the Council of Deliberation. The recommendation and other opinions expressed at the hearing are taken from the record. The copy is not paginated.

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kaku), which was to be accomplished by an annual growth rate of nine per cent.[57]

Despite an upturn in economic health since 1959, the steel industry still failed to produce at capacity. In 1960, alleging excessive competition, it gained permission from MITI to practice an "Open Price System". This system, which is still in existence, permitted price leadership by Yawata Steel, the largest producer.

Both the rate of investment (except for the 1957—58 recession) and the number of cartels permitted under provisions of the Anti-Monopoly Act and other laws enacted since 1953 increased rapidly in this period. In July 1957, there were 150 cartels; and by March of 1960, there were 500.[58] However, the cries of excessive competition grew louder as the decade of the 1950's neared its end. Excess capacity, which had begun to develop in 1955, increased as "rationalization" continued. Gradually, it became evident that as the capacity increased, the rate of increase in export and domestic demand failed to keep pace. As a consequence, the percentage of utilization of existing industrial capacity began to fall perceptibly after 1959. Utilization of capacity in the machine tool, paper, textile, petroleum derivatives, and chemical fertilizer industries remained at the low level of the 1957—58 recession, despite the large investment activity which had taken place since then. In short, the absolute amount of excess capacity was increasing rapidly.

Several industries attempted to limit investment by cartel agreements, but the "self-reliance limitation scheme" (supposedly followed among leading firms) rarely materialized, due to failure to agree on the procedure and the allocation of reductions in investment among them. Firms also feared being "out-rationalized" by their competitors, and there always existed the hope that exports might increase if efficiency of production were achieved after the next round of "rationalization."

MITI, during 1962, began to discuss a bill unofficially entitled "A Bill to Promote International Competitive Ability of Specified Industries."[59] According to the MITI officials, "the basic thinking of the bill was to introduce a mixed economic system of a unique kind to meet Japanese problems".[60] To do so, "the Government, as 'adjuster' would guide the

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[57] *Economic Planning Agency,* Shotoku Baizō Keikaku (The Double the National Income Plan), The Ministry of Finance, 1961.

[58] *H. Misonou's* paper (mimeo) delivered at the Economic Policy Association, Meiji University, Tokyo, May 26, 1962.

[59] "The Special Industry Promotion Bill and the Future of the Anti-Monopoly Act," Kosei Torihiki (1962), p. 2. This was a round table discussion of economic writers from five major Tokyo newspapers.

[60] One commentator, in referring to the contemporary role of FTC in Japan, had this to say:

The regulatory departments seem rather to operate with business much as the parties to a private contractual relationship in that they appear to work

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functioning of the economy much as practiced in France and Italy".[61] More specifically, the bill would actively promote concentration of production and mergers, thus suppressing excessive competition. This, MITI argued, was necessary in the face of the growing liberalization of international trade.[62]

Debate on the wisdom of the bill continued through 1962. Early in 1963, the Cabinet decided that the bill would be presented to the Diet under the official title of "A Temporary Promotion of Specified Industries Bill." Article 1 provided that:

> In view of the rapidly changing economic circumstances through the liberalization of international trade and other factors, this law aims to contribute to a wholesome development of the national economy by achieving an advanced industrial structure. To achieve this end measures will be taken to effectuate increases in the efficiency of industrial activities by means of rationalization of the scale of production and/or administration of those industries which are in need of promotion of international competitive ability.[63]

The bill, if enacted, would have authorized mergers among the leading firms in an industry, even where prohibited under existing provisions of the Anti-Monopoly Act. Article 7 of the bill provided that the Government "would endeavor to assure funds which are needed for the rationalization of the scale of production and administration"; this would be in exchange for governmental authority to "coordinate and control" investment activities. Article 2 stated that the automobile tire, iron and steel, and chemical industries would be the initial industries included under the Act.[64]

As discussion of the bill continued into the Spring of 1963, industrialists, with the exception of the iron and steel community, indicated little enthusiasm for its provisions. Many firms feared that government control would increase to prewar levels, while others suspected that

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cooperatively (though of course with a good many dissensions) without the necessity of strictly defined and detailed legislative mandate and limitations and judicial supervision. For this reason, perhaps, these departments arrive at policy decisions in a way which appears to be considerably more successful government management of overall national industrial policy than can be found in other nations which maintain pervasive economic and commercial controls. *J. Bradshaw*, Selected Legal Aspects of Business in Japan, Stanford Law Review, Vol. XIV (1962), p. 681.

[61] *Kōsei Torihiki*, May, 1963, p. 2.

[62] *H. Ashino*, Shinsangyō Chitsujo tai Dokkinseisaku (New Industrial Organization versus the Anti-Monopoly Act), Kosei Torihiki, August, 1962, p. 2; See also *Y. Chigusa*, Ed., Sangyotaisei no Saihensei (Reorganization of the Industrial Structure), Tokyo 1953 for the views of the MITI, industries and "pro-competition groups" on the bill.

[63] This has been translated from a mimeograph version of the bill made available to me by Mr. *H. Misonou*, formerly of the FTC.

[64] Petrochemical by-products and medical products are excluded.

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their capacity would be pegged at the existing level, which would favor larger firms in the industry. The Japanese Manufacturer's Association argued that in lieu of the bill, a law should be enacted to cover the needs of specific industries which, in essence, would give a freer hand to cartel activities, provide more generous tax relief and "low-cost capital", and prohibit new entries. The FTC objected to the bill, arguing that its purposes could be well-served by the existing Anti-Monopoly Act. Consumer groups and the Socialist Party also voiced strong protest against the content of the bill. As a result, by the end of the 1963 session the bill was still in the Commerce and Labor Committee of the Diet. According to a member of that Committee, "no one, except the MITI officials, came to ask for it."[65]

Even though the bill failed to be enacted, the Government began to use its considerable powers to accomplish the objective expressed in Article 1 of the bill. The Government took the initiative in a few important merger cases between the largest firms in several industries. And in the recession of 1964—65, MITI, in effect, followed the wishes of industry by condoning a larger number of extra-legal cartels.

The policy pursued since the early 1960's can only be characterized as a pro-monopoly policy. The government-authorized cartels steadily increased from 500 in 1960 to 1,040 by the end of 1967.[66] Extra-legal "administrative" cartels restricting outputs numbered 13 at the end of 1969. Also found were a large number of "underground" cartels, which were neither sanctioned by law nor "administratively" authorized by MITI. The number of mergers among the largest industrial firms—capitalized in excess of one hundred million yen—continue to increase with the strong encouragement and often active "intermediation" of MITI. Such mergers, which numbered around 300 per year during the late 1950's, rose to over 800 per year by the latter half of the 1960's.[67]

Such are the postwar Japanese anti- and pro-monopoly policies. This brief sketch could easily have been amplified by adding numerous tables presenting the changing market structure (concentration ratios), price movements, output and profit data. It could also have been easily expanded by adding theoretical discussions, for and against, measures taken by the government.[68] But interested readers can examine the data and evaluate numerous theoretical articles by economists as both are easily available in English. The point to be made here is that, for those who are familiar with the postwar Japanese economic policy, the outcome

[65] *Kōsei Torihiki*, May, 1963, p. 2. A more accurate interpretation perhaps is that MITI, in the face of political pressure, decided not to push for it harder. This was reintroduced in 1964, but no action was taken.
[66] *Ekonomisuto*, July 2, 1968, p. 64.
[67] Ibid., p. 66.
[68] See Bibliography.

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of discussions on the request for permission to merge by Yawata and Fuji was obvious. The partners in the Yawata-Fuji "marriage" after all were lovers of long-standing, and their parents in the highest policy-making echelon too were no less eager for the marriage. Under these circumstances, the protestations of "outsiders" mattered little.

III.

The "outsiders"—in this case, the Japanese public—had little reason to protest, according to MITI. To any one questioning the wisdom of the policy, the MITI had only to point to the accomplishments of postwar Japanese economy, and the accomplishments have indeed been phenomenal. MITI, the Economic Planning Agency, and independent studies groups have marshalled a convincing volume of data and graphs to show that the rapid adoption and diffusion of new technology have in fact been cost reducing and that this did require capital-intensive processes which demanded rapid capital accumulation. Their main argument usually has been and still is that, paraphrasing the basic policy of MITI, these investments were needed to bring the level of efficiency to the Western level so that Japanese exports could expand and the economy could grow.

It has been and still is argued by the government and industry that if it were not for the cartels, price competition and excess supply of goods would have reduced the profit of firms to a point so low that further adoption of technological improvements would not have been possible. This is, the industry representatives reiterate, because the more efficient unit of production is almost always larger due to the "lumpiness" of modern technology. Hence, the firm must anticipate an increase in demand rather than merely adjust to it. Also, a familiar argument goes that from the individual firm's point of view, if it does not innovate and expand, others will do so, thus threatening its share in the market. The post-Korean War investments, in fact, achieved the rapid increase in efficient capacity which sharply increased exports and accelerated the growth of the economy. More efficient technology increased the productivity of labor, thus benefiting them with a larger number of jobs at higher real wage rates. This simple argument, then, underwent a significant change in tone after the 1958 recession. It was obvious, MITI and the large firms argued, that after some point, if all continued to invest, the rate of increase of excess capacity must rise at an accelerated rate. The desired goal in maximizing efficiency is to have fewer firms which are increasing capacity.[69]

[69] For a theoretical analysis of this point, see Yamamura, supra note 8, Chapt. 5 and 6.

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As we have seen, the views of government and of industry began to diverge at this point. MITI was prepared to reduce the number of firms and supply low cost capital, provided that it could gain legal power to "adjust" investments and keep its watchful eye on prices, output and profits. The large firms saw government "intervention" in this conditional consent of MITI to mergers among the leading firms and absorption of the weaker oligopolist firms by the largest ones. Industry would have liked to have had "low cost capital" to finance new investments, since the absolute capital requirement of newer technology was becoming extremely large and burdensome. But, the industries strongly opposed what they considered government "intervention." This was the reason why the two attempts by the government to "adjust" investment in 1958 and in 1963 failed, though bills could have passed the Diet controlled by the Conservative Party by a large margin. The industry has since then been successful in winning concessions from the government on its own terms. The government, failing to win support for its "adjustment" provisions, is following the line essentially desired by the large firms. The liberalization of restrictions on international trade provided an excellent political escape "hatch" in allowing and even promoting mergers among the largest firms.

One can hardly deny the efficiency of the course followed by the Japanese economy in achieving her rapid growth. In the postwar years when the rate of technological advance has been rapid and competition with the giant U.S. oligopolistic firms and intra-EEC mergers was necessary to be able to export, the Japanese policy to aid rapid capital accumulation and to encourage rationalization performed an important function. Some Japanese economists of the *Marx*ist persuasion miss the point in equating largeness per se with undesirableness. Undeniable facts of modern technology refuse to be contrained in a textbook-type competitive market, envisioned by the 1947 version of the Anti-Monopoly Act.

However, the justifications for negating the "American" policy are not justifications for a continued pro-monopoly policy, and the view that the policy which has worked in the past two decades will continue to work commands the support of few economists in 1970. The government would vehemently deny that it holds such a view, but the denial can convince few after the birth of the New Japan Steel. Are we to believe that the birth of the new super-giant steel maker does not signify the last gasp of what little remained of the spirit of Article 1 of the Anti-Monopoly Act?

To evaluate the course of Japanese economic policy and the current issues rigorously and fully a large volume would be necessary. Regret-

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tably, all this short essay can do is to refer the readers to many useful discussions on the subject.[70] Hopefully, this essay, as short and inadequate as it is, will entice a few readers to examine the literature on the postwar Japanese anti and pro-monopoly policies.

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Unternehmenskonzentration in Japan aus betriebswirtschaftlicher Sicht

Von *Tasuku Noguzi*, Tokio

I. Unternehmenskonzentration vor dem zweiten Weltkrieg

II. Gesamtüberblick über die gegenwärtige Unternehmenskonzentration

III. Die Struktur der japanischen Konzerngruppen
1. Die Faktoren der Unternehmenskontrolle
2. Die Schichtstruktur der Kontrolle
A. Die Zentral-Kontrollorgane der Konzerngruppe
B. Alleinige Kontrolle der Konzerngruppe
C. Gemeinschaftliche Kontrollausübung mit andern Konzerngruppen oder Trusts
D. Nach Finanzierung angeordnete Unternehmensgruppierungen

IV. Die konkrete Schichtstruktur der sechs großen japanischen Konzerngruppen

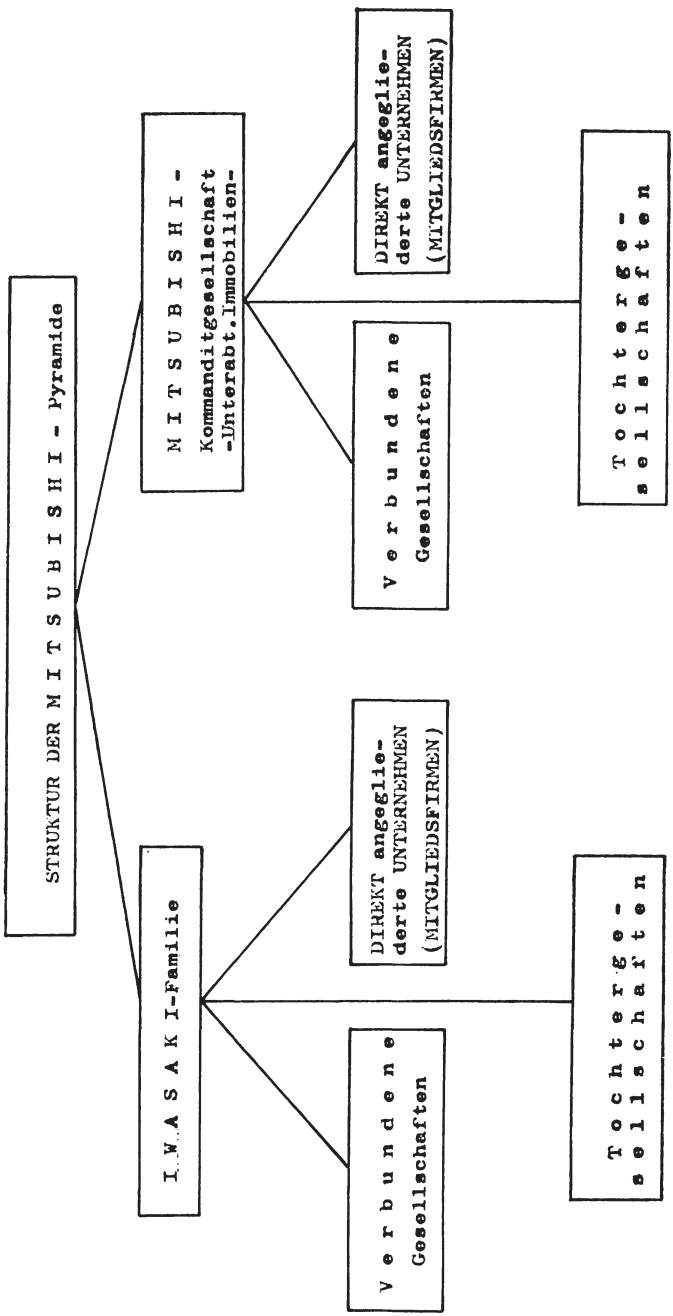
V. Umfang und relative Bedeutung der großen japanischen Konzerngruppen
A. Der Umfang der drei größeren Konzerngruppen
B. Größenverhältnis und Konzentrationsgrad der einzelnen Konzerne in verschiedenen Sektoren

I. Unternehmenskonzentration vor dem zweiten Weltkrieg

Um die gegenwärtige Situation der Unternehmenskonzentration in Japan zu verstehen, ist ein Vergleich mit der Lage der Unternehmenskonzentration vor dem zweiten Weltkrieg von Bedeutung, denn im Hinblick auf die Unternehmenskonzentration sind die Trusts und Kartelle selbstverständlich heute andersgeartet, ebenso hat sich auch die Struktur der Konzerngruppen verändert. So haben gegenüber den vier großen Konzerngruppen vor dem Kriege heute sechs Konzerngruppen innerhalb der japanischen Unternehmenskonzentration das größte Gewicht. Wenn man aber die Pyramiden-Struktur der Vorkriegskonzerngruppen nicht kennt, so ist auch die moderne Pyramiden-Struktur der Nachkriegskonzerngruppen schlecht zu verstehen.

In erster Linie ist die *Mitsui*-Konzerngruppe zu nennen, die vor dem zweiten Weltkrieg die größte war und deren Unternehmensstruktur als Pyramide aus der folgenden Abbildung ersichtlich ist.

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Die Mitsui-Konzerngruppe hatte eine dreifache Vertikalstruktur, die unmittelbar angegliederte Unternehmen, Tochtergesellschaften und verbundene Gesellschaften umfaßte. So konnte Mitsui zu einer gewaltigen Organisation werden. Dies wird besonders deutlich, wenn man bedenkt, daß die dreifache Schichtstruktur nicht allein von der Hauptgeschäftsstelle, der sogenannten „Mitsui — Offene Handelsgesellschaft" beaufsichtigt und beherrscht wurde. So gab es unter den direkt angegliederten Gesellschaften die mit großer Vollmacht ausgestattete Zentralgesellschaft „Mitsui-Bussan", die berühmte Gesamthandelsgesellschaft. Diese „Mitsui-Bussan" hatte selbst wieder riesige direkt angegliederte Tochtergesellschaften unter ihrer Kontrolle.

Beim *Mitsubishi*-Konzern handelt es sich wie bei Mitsui nicht nur um eine vertikal strukturierte Unternehmenskonzentration, sondern der Aktienbesitz der Hauptgesellschaft lag in Händen von Familien. Daher bildete sich die Form einer Familienkonzerngruppe. Bei Mitsui lag die Kontrolle beim Hause Mitsui, bei Mitsubishi in Händen der Familie *Iwasaki*. Allerdings kontrollierte die Familie Iwasaki nicht nur die Hauptgesellschaft von Mitsubishi, sondern hatte weitere unmittelbar angegliederte Tochtergesellschaften und verbundene Gesellschaften unter ihrer Kontrolle (Tabelle 1).

Diese Familien-Kontrolle wurde nach dem zweiten Weltkrieg durch das Entflechtungsgesetz aufgehoben. Die Hauptgesellschaften der Konzerngruppen wurden aufgelöst und die unmittelbar angegliederten Gesellschaften in kleinere Einheiten zersplittert.

II. Gesamtüberblick über die gegenwärtige Unternehmenskonzentration

In der Nachkriegsgeschichte bildet das Jahr 1955 einen Wendepunkt, da die Unternehmenskonzentration der Trusts und Kartelle wieder einen hohen Grad erreichte, wenn auch die Vorkriegskonzerne in einer von der Vorkriegszeit verschiedenen Form wiederhergestellt wurden. Weiter war das Jahr 1955 insofern eine Wendemarke, als das Wirtschaftswachstum rascher voranschritt und das bis dahin höchste Produktionsvolumen — der Gipfel lag während der Kriegszeit im Jahre 1944 — erreicht und überschritten wurde. Anstelle der vier Konzerngruppen der Vorkriegszeit hatten sich sechs Konzerngruppen gebildet. Sie standen in starker Konkurrenz zueinander und wurden als Promoter zu wichtigen Elementen des hohen japanischen wirtschaftlichen Wachstums. Welche Stellung diese modernen Konzerngruppen in der japanischen Gesamtindustrie und in der gesamten verarbeitenden Industrie wie im Umlaufprozeß selber einnehmen, ist aus Tabelle 2 ersichtlich.

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Tabelle 1

Zugehörige und angeschlossene Unternehmen von Mitsubishi im Jahre 1945

Name der *zugehörigen* Unternehmen	Grundkapital 1000 Yen	Gesamtzahl der Aktien	Hauptgeschäft und Familie			
			Eingezahlte Summe 1000 Yen	%	Aktienbesitz (Zahl)	
Mitsub. Schwerind.	1.000.000 (750.000)	20.000.000	173.129	23.1	4.615.786	23.1
Mitsub. Lager	20.000 (15.000)	400.000	8.386	55.9	189.300	47.3
Mitsub. Handelsges.	100.000 (100.000)	2.000.000	41.367	41.4	827.350	41.4
Mitsub. Bergbau	407.400 (254.625)	8.148.000	109.816	43.1	3.514.724	43.1
Mitsub. Bank	135.000 (87.675)	2.700.000	31.653	36.1	871.952	32.3
Mitsub. Elektriz.	120.000 (120.000)	2.400.000	53.597	44.6	1.071.950	44.6
Mitsub. Treuhand	30.000 (7.500)	600.000	1.884	25.1	150.720	25.1
Mitsub. Immobilien	18.500 (14.750)	370.000	10.137	68.7	247.000	66.7
Mitsub. Erdöl	20.000 (15.000)	400.000	6.000	40.0	180.000	45.0
Mitsub. Chemie	110.790 (110.790)	2.251.580	28.726	26.0	574.539	25.5
Mitsub. Stahl	100.000 (100.000)	2.000.000	51.047	51.0	1.020.940	51.0
Summe	2.061.690 (1.575.340)	41.269.580	515.755	32.7	13.264.261	32.1

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Angeschlossene Firmen:						
Shanghai Mitsub. Lager	1.000 (1.000)	20.000	500	50.0	10.000	50.0
Mitsub. Dampfschiffahrt	70.000 (70.000)	1.400.000	5.000	7.1	100.000	7.1
Tawao-Industrie	3.000 (3.000)	60.000	1.500	50.0	30.000	50.0
Hootons-Industrie	2.000 (2.000)	40.000	1.000	50.0	20.000	50.0
Japan. Getreide-Mühlen	7.600 (7.600)	152.000	3.990	52.5	79.800	52.5
Japan. Aluminium-Industrie	14.000 (14.000)	280.000	4.125	29.5	82.500	29.5
Korea-Anthrazit	50.000 (42.500)	1.000.000	6.484	15.3	172.920	17.3
Japan. Aluminium	60.000 (60.000)	1.200.000	7.868	13.1	157.377	13.1
Mitsub. Werkzeugmaschinen	20.500 (20.000)	410.000	2.600	12.7	52.000	12.7
Japan. Baustahlfabriken	20.000 (3.200)	400.000	6.000	30.0	120.000	30.0
Kotokukichiso	3.200 (3.200)	64.000	2.400	75.0	48.000	75.0
Mitsubishi-Magnesium	5.200 (2.500)	100.000	1.250	50.0	50.000	50.0
Mitsub. Konlo-Magnesium	15.000 (3.750)	300.000	935	25.0	75.000	25.0
Japan. Optische Industrie	50.000 (50.000)	1.000.000	11.094	22.2	221.885	22.2
Tokyo See- und Feuerversich.	80.000 (62.000)	1.600.000	9.846	15.9	257.636	16.1
Meiji-Lebensversicherung	2.700 (2.700)	27.000	599	22.2	5.999	22.2
Gesamt-Summe	404.000 (364.750)	8.053.000	65.196	17.9	1.482.844	18.4

Quelle: Japanische „Zaibatsu" (Finanzringe und Familienstiftungen) und deren Entflechtung, S. 111, „Mochikabugaisha-seiri-iinkai" Tokio 1951.

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Tabelle 2

Konzentrationsgrad der 6 großen Konzerngruppen nach Gesamtkapital 1962—1964

	1962	1963	1964	1962—1964
Gesamte Industrie	100	100	100	—
Mitsui	11.93	12.39	12.59	0.66
Mitsubishi	12.66	12.80	13.07	0.41
Daiichi	12.21	12.56	12.87	0.66
Sumitomo	7.94	7.88	7.92	— 0.02
Fuji	7.46	7.36	7.46	0
Sanwa	7.02	7.12	7.46	0.44
Summe	59.22	60.11	61.37	2.15
Verarbeitende Industrie	100	100	100	—
Mitsui	13.09	13.23	13.35	0.26
Mitsubishi	13.93	14.24	14.42	0.49
Sumitomo	14.85	15.09	15.08	0.23
Fuji	9.45	9.30	9.01	— 0.44
Daiichi	10.88	10.61	10.62	— 0.26
Sanwa	8.57	8.67	9.07	0.50
Summe	70.77	71.14	71.55	0.78
Handel	100	100	100	—
Mitsui	23.03	24.06	23.77	0.74
Mitsubishi	16.75	15.66	15.25	— 1.50
Sumitomo	19.54	19.82	20.53	0.99
Fuji	12.56	11.97	12.46	— 0.10
Daiichi	4.94	5.23	5.14	0.20
Sanwa	8.88	9.09	8.82	— 0.06
Summe	85.70	85.83	85.97	0.27

Quelle: Keisaichosakyokai „Wirtschaftsberichte" 1967.

Die folgende Tabelle 3 erläutert, welchen Kapitalkonzentrationsgrad, nach Industrien getrennt, die vier bedeutenderen Konzerne unter den sechs modernen Nachkriegskonzernen für sich beanspruchen.

In der Gesamtindustrie besitzt der *Mitsubishi*-Konzern den größten Gesamtkapitalanteil. Die *Sumitomo*-Konzerngruppe steht an erster Stelle in der verarbeitenden Industrie, dagegen nimmt *Mitsui*, gekennzeichnet durch seine vielen Handelsgesellschaften, den ersten Rang in der Volkswirtschaft insgesamt ein. Die gleiche Tendenz zeigt sich, nach Industrien getrennt, im Kapitalkonzentrationsgrad; so nimmt Sumitomo in der Schwernindustrie den ersten Rang ein, Mitsubishi im sogenannten tertiären Sektor, im Dienstleistungssektor.

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Tabelle 3

Konzentrationsgrad der 4 großen Konzerngruppen nach Branchen getrennt (Stand 1950, nach eingezahltem Kapital)

		Mitsui-Reihe	Mitsubishi-Reihe	Sumitomo-tano-Reihe	Fujiyasuda-Reihe
Schwerindustrie und Chemie	Erste Metalle	3.340	0.828	12.107	0.906
	Maschinenbau	7.238	13.644	8.838	1.361
	Chemie	13.569	9.003	8.707	4.045
	Zwischensumme	7.324	8.109	9.950	1.815
Tertiäre Industrie (Dienstleistungen)	Groß- und Kleinhandel	2.439	3.144	2.785	1.123
	Finanzwesen	1.843	2.253	2.048	2.253
	Immobilien-Lager	2.137	8.484	—	2.960
	Landtransport	—	2.460	3.936	1.257
	Seetransport	3.619	14.636	9.345	—
	Andere	—	1.698	1.192	—
	Zwischensumme	1.526	3.250	2.526	1.195
Andere	Land- und Forstwirtschaft				
	Fischerei und Nahrung	0.970	8.869	—	4.795
	Bergbau	13.465	12.175	8.027	
	Textilien	4.704	6.195	2.915	1.897
	Papier u. Zellstoff	5.215	3.331	3.115	—
	Glas, Ton, Keramik	16.634	12.475	3.465	—
	Andere	—	—	—	1.896
	Zwischensumme	4.504	5.642	1.956	1.925
Alle Branchen		3.968	5.275	4.755	1.520

Quelle: Akira Sakaguchi „Mitsubishi" Tokio 1956, S. 175.

III. Die Struktur der japanischen Konzerngruppen

1. Die Faktoren der Unternehmenskontrolle

Für die Erfassung der Unternehmenskonzentration im allgemeinen ist es nötig, sich die Grundlagen für die Unternehmenskonzentration einer Konzerngruppe zu vergegenwärtigen. Für die Kombination von Unternehmen einer Konzerngruppe gibt es eine allgemeine Basis. Ob diese Basis tragfähig ist, hängt in erster Linie davon ab, ob der zur Kontrolle der einzelnen Unternehmen nötige *Aktienbesitz* ein Minimalvolumen

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erreicht. Dieser Aktienbesitz ist die Grundlage. In zweiter Linie bestimmt — mittels der verschiedensten Finanzinstitute der Konzerngruppe — die langfristige oder kurzfristige *Finanzierung* die jeweilige Kontrollfunktion.

Natürlich ist die Kontrolle über verschiedenste Finanzierungsbeziehungen äußerst fließend, sie kann zunehmen oder abnehmen. Aber die Kontrolle über die Finanzierung kann einen wichtigen Einfluß ausüben, sobald sie in Verbindung mit Aktienbesitz einen bestimmten Grad erreicht. Wo das für die Kontrolle erforderliche Minimum an Aktienbesitz oder im Finanzierungsgrad im einzelnen liegt, ist betriebswirtschaftlich gesehen von Wichtigkeit. Dieses Minimum variiert je nach der geschichtlichen Entwicklung wie nach der Struktur eines Landes. Es ist im allgemeinen umgekehrt proportional zur Streuung des Aktienbesitzes und kann entsprechend der Gesamtfinanzierungssumme bzw. der Finanzierungsrate entsprechend stark variieren.

Persönliche Beziehungen sind oft mit Aktienbesitz und Finanzierungsbeziehungen gekoppelt und erlauben eine Entsendung von Direktoren in den Vorstand der Unternehmen. In der Unternehmenskonzentration der Konzerngruppe werden die Kombinationsmöglichkeiten durch persönliche Beziehungen beträchtlich gefördert. Das Gewicht dieser Beziehungen bildet eine Kennziffer der Unternehmenskonzentration, jedoch ist es nicht die einzige. Immerhin können diese persönlichen Beziehungen bei der Kontrolle der Unternehmenskonzentration als Maßstab für das Minimum an Kontrollmacht zu einem wichtigen Barometer werden.

Diese oben genannten drei Faktoren sind wichtige Kennziffern für die Beurteilung der Kontrolle über eine Konzerngruppe, allerdings sind sie nicht gleichwertig. In Wirklichkeit sind die Finanzierungsbeziehungen vorrangig, denn wenn sie einen bestimmten Grad erreichen und in Verbindung mit persönlichen Beziehungen auftreten, verändert sich später das erforderliche Minimum an Aktienbesitz, der sich auf den vorhergehenden Grundlagen vergrößert. Nach der Vervollständigung der Kontrolle auf Grund des Aktienbesitzes und seinem Volumen wachsen erneut sowohl die Finanzierungsbeziehungen wie auch die persönlichen Verbindungen. Nach diesem quantitativen Grad bestimmt sich die Anordnung in der vertikalen Schichtstruktur der modernen Konzerngruppe.

Außerdem gibt es Fälle von relativer Einflußmöglichkeit auf Grund von Beziehungen in *produktionstechnischer* Hinsicht wie auch durch Beziehungen über *Handelsverbindungen*. Diese bilden keine entscheidenden Kennziffern für das Ausmaß der Kontrolle, aber in Verbindung mit den oben genannten drei wichtigen Faktoren werden sie zu wich-

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tigen Voraussetzungen für die Kontrolle einer Konzerngruppe. Besonders außerhalb der Konzerngruppe liegende Trusts können sie über diese Voraussetzungen kontrollieren oder, im umgekehrten Fall, sich von ihr lösen. Deshalb darf man sie in der Analyse nicht vernachlässigen. Diese Tatsache wird besonders deutlich in der gegenwärtigen Periode der technologischen Veränderungen im Produktionsablauf, wo die Unternehmenskombination durch diese beiden Faktoren stark beeinflußt werden kann. Es ist ganz offensichtlich, daß auch das zunehmende Volumen des Handelsgeschäftsverkehrs, je größer es wird, für die Kontrolle in der Unternehmenskonzentration zu einer wichtigen Grundvoraussetzung wird.

2. Die Schichtstruktur der Kontrolle

Die im Zentrum der japanischen Unternehmenskonzentration liegende Schichtstruktur der Kontrolle über die Konzerngruppe hat sich nach dem zweiten Weltkrieg gegenüber der anfangs erwähnten Vorkriegsfamilienkontrolle auch im Hinblick auf ihre pyramidische Struktur stark verändert. Die damalige vertikale Schichtstruktur der Konzerngruppe wurde modernisiert. Dementsprechend müssen zunächst die verschiedenen pyramidischen Schichtstrukturen im einzelnen untersucht werden. Wir erläutern deshalb die konkrete Gestalt der seit 1955 im Mittelpunkt der japanischen Unternehmenskonzentration stehenden sechs großen Konzerngruppen und stellen dann im folgenden einige pyramidische Schichtstrukturen derselben dar.

A. Die Zentral-Kontrollorgane der Konzerngruppe

Das Zentral-Kontrollorgan der Konzerngruppe ist eine Organisation von Unternehmensgruppierungen, d. h., unter den wechselseitig verbundenen Unternehmen der Kontrollgruppe gibt es eine enge Verflechtung; besonders groß ist das Gewicht der Finanzinstitute, der Unternehmen der Schwerindustrie sowie der Gesamthandelsgesellschaften. In der Vergangenheit wie in der Gegenwart hat sich vielfach gezeigt, daß die Finanzinstitute in der Kontrollgruppe das höhere Gewicht besitzen, aber es kommt auch vor, daß Unternehmen der Schwerindustrie die höhere Stellung einnehmen. Weiter gibt es im Hinblick auf andere Unternehmen die Möglichkeit der Bildung eines kontrollierenden Verbindungskörpers mit Hilfe einer Gruppierung des Aktienbesitzes. Eine solche Aktionärkontrollgruppe kann, konkret ausgedrückt, zum Zwecke der modernen Unternehmensverwaltung der Konzerngruppe eine Versammlung der Präsidenten der Gesellschaften ins Leben rufen. Mit Hilfe dieser *Versammlung der Präsidenten* soll eine einheitliche Willensbildung der Unternehmen der Konzerngruppe er-

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reicht werden. Bei ihr als zentralem Kontrollorgan des Konzerns liegt die Entscheidung über Aktienbesitz, Finanzierung und Personalpolitik. Aber auch im Hinblick auf Produktionstechnik, auf Probleme der Geschäftsbeziehungen, auf die Verwaltung im Innern des Konzerns oder in Reaktion auf die Veränderungen der industriellen Struktur zwecks Vordringen in strategische Industrien wie etwa auf dem Gebiet der Elektronik, der Kunststoffchemie oder der Atomenergie, bestimmt diese Präsidentenversammlung die Politik. Bei ihr liegt auch die Entscheidungsbefugnis für Strategien der Binnenwirtschaft wie für die Außenwirtschaft.

In den Präsidentenversammlungen der sechs japanischen großen Konzerngruppen gibt es allerdings sowohl Fälle von Kooperation wie auch von einander widerstreitenden Strömungen im Prozeß der Willensbildung.

B. Alleinige Kontrolle der Konzerngruppe

1. Direkte Kontrolle

Direkt ist die Kontrolle, wenn die Herrschaft auf Aktienbesitz wie auch auf anderen Verbindungen beruht, d. h., daß eine die Präsidentenversammlung beschickende Unternehmensgruppierung durch Aktien, Finanzierung, Entsendung von Verbindungspersonen in die Vorstände, wie auch auf Grund von anderen Bedingungen die Kontrolle ausübt.

2. Indirekte Kontrolle

Es handelt sich hier um den Fall von Unternehmen, die unter der Kontrolle einer der den Konzern bildenden Kontrollgruppenunternehmen stehen. Es gibt auch den Fall, daß Unternehmen unter der alleinigen Kontrolle eines Unternehmens stehen, das wiederum von der Konzernkontrollgruppe direkt kontrolliert wird. Im letzten Fall muß sich die Konzerngruppe mit einer indirekten Kontrolle zufriedengeben.

C. Gemeinschaftliche Kontrollausübung mit andern Konzerngruppen oder Trusts

Diese Art von Unternehmensgruppierung ist dadurch gekennzeichnet, daß die Unternehmen in gegenseitiger Konkurrenz innerhalb der Konzerngruppe oder auch in Konkurrenz bzw. Zusammenarbeit mit dem Konzern oder den Trusts stehend, auf Grund von Querverbindungen zu gemeinschaftlich Kontrolle ausübenden Unternehmenszusammenschlüssen werden. Der Inhalt der gemeinschaftlichen Kontrolle bestimmt sich direkt proportional zum Grad der Konkurrenz resp. zum Grad der Zusammenarbeit.

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D. Nach Finanzierung angeordnete Unternehmensgruppierungen

Weiter gibt es Unternehmensgruppierungen, die untereinander über die Finanzierungsvermittlung der Finanzinstitute des Hauptkonzerns verknüpft werden. Diese Unternehmen stehen genaugenommen noch nicht unter der Kontrolle des Konzerns, aber die Möglichkeit ist sehr groß, daß bei diesen Unternehmen im Verhältnis zur Zunahme des Finanzierungsvolumens über den Weg der persönlichen Verbindungen eine Verschiebung im Aktienbesitz vorkommt.

IV. Die konkrete Schichtstruktur der sechs großen japanischen Konzerngruppen

1. Die Kontrollunternehmen des *Mitsubishi*-Konzerns sind im sogenannten „Freitagsunternehmenskongreß" zusammengefaßt. Unter den 25 Gesellschaften, die den Freitagsunternehmenskongreß bilden, nehmen die vier Hauptfinanzinstitute und vier Trusts eine auf Aktienbesitz des Konzerns basierende zentrale Stellung ein. Besonders stark ist der Einfluß der vier Finanzinstitute sowie der Mitsubishi-Schwerindustrie-Gesellschaft im Hinblick auf die gegenseitigen Beziehungen der Unternehmen im *Freitagskongreß* wie auch gegenüber den direkt alleinige Kontrolle ausübenden Unternehmen des Konzerns (Tabelle 4).

Die Direktorenversammlung des Freitagsunternehmenskongresses hat über Aktienbesitz und Finanzierung entscheidende Machtbefugnisse und bestimmt die Willensbildung des ganzen Konzerns, wenn auch ihre Organisation nach außen hin recht lose zu sein scheint. Die organisatorische Unternehmensverwaltung geschieht heute also in der gleichen Weise wie vor dem Kriege die Verwaltung der großen Familienstiftungen und Finanzringe, die unter dem Namen *„Zaibatsu"* bekannt sind.

Eine weitaus größere Machtzusammenballung als beim Freitagskongreß des Mitsubishi-Konzerns finden wir beim berühmten *„Weißwasserunternehmenskongreß"*, der Kontrollgruppe des *Sumitomo*-Konzerns. Der Weißwasserunternehmenskongreß setzt sich aus 16 Gesellschaften zusammen, unter denen 4 große Finanzinstitute eine zentrale Stellung besitzen (Tabelle 5).

Beim *Mitsui*-Konzern bilden 27 Gesellschaften den *„Montagskongreß"*, der eine beherrschende Rolle im Konzern spielt (Tabelle 6). Schließlich gibt es die Konzerne *„Fuji"*, *„Sanwa"* und *„Daiichi"*, bei denen die Kontrollgruppe nicht auszumachen ist, weil die Machtverhältnisse fließend sind. Allerdings haben bei „Fuji" und „Sanwa" die jeweiligen Finanzinstitute gleichen Namens das Übergewicht, während bei „Daiichi" zwei

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Tabelle 4

Mitsubishi-Konzern Zentral-Unternehmen 1966 (Freitagskongreß)
Einheit: 1 Million Yen

Name des Unternehmens	Grund-kapital	Umsatz	Gesamt-ver-mögen	Ertrag	Ange-stellte	Rang
Mitsub. Bank	22.000	75.029	2.279.659	3.187	14.026	(3)
Mitsub. Treuhand	5.000	47.616	776.162	1.273	4.035	(1)
Tokyo See u. Feuervers.	9.000	*41.311	97.173	1.084	3.346	(1)
Meiji Lebensvers.	—	*39.754	215.769	5.101	7.733	(4)
Mitsub. Bergbau	7.473	18.774	49.798	— 202	10.925	119
Kirin Brauereien	15.343	77.068	85.865	1.705	5.985	14
Mitsub. Faser	7.780	33.634	67.127	451	6.977	39
Mitsub. Papier	4.600	8.838	25.444	112	3.720	160
Mitsub. Chemie	22.722	45.718	151.389	1.498	7.896	27
Mitsub. Ölverwertg.	10.125	18.264	74.509	1.614	3.022	132
Mitsub. Monsant	3.000	*5.813	16.329	82	1.690	310
Mitsub. Edogawa-Chemie	2.400	3.688	15.525	250	1.603	380
Mitsub. Plastik	3.150	5.879	16.119	0	3.055	258
Mitsub. Erdöl	10.000	51.144	80.574	708	2.225	28
Asahi Glas	21.600	27.340	92.456	2.457	9.406	59
Mitsub. Zement	3.500	9.909	28.663	193	1.099	177
Mitsub. Stahl	4.767	7.330	26.356	9	4.602	212
Mitsub. Metallgergw.	10.000	33.800	72.159	1.238	12.851	46
Mitsub. Werkzeug-maschinen	1.200	3.003	6.596	114	1.302	453
Mitsub. Elektrizität	43.200	79.233	231.730	745	49.781	15
Mitsub. Schwerind.	79.532	202.550	693.004	3.757	83.751	1
Mitsub. Handels-gesellschaft	22.500	742.734	512.895	2.193	7.189	(2)
Mitsub. Immobilien	24.750	7.436	118.228	1.867	2.165	(2)
Japan Dampfschiff-fahrt	14.600	34.532	106.676	1.947	4.946	(3)
Mitsub. Lager	2.000	4.838	11.362	261	1.347	(1)
Gesamtsumme	350.242	1.625.235	5.851.567	31.626	254.677	

Quelle: Bilanzberichte (Yukashoken — Hokokusho).

* Firmen mit einmaligem Jahresbilanzabschluß, daher Umsatz halbiert.

größere Schwerindustriegruppen, nämlich die *Furukawa*-Trust-Gruppe und die *Kawasaki*-Trust-Gruppe, im Mittelpunkt stehen.

2. Als nächstes sei die Zahl der Gesellschaften mit direkter oder indirekter alleiniger Kontrolle genannt. Beim *Mitsubishi*-Konzern gibt es mit alleiniger Kontrolle 31 Unternehmen sowie 54 Unternehmen, deren Kontrolle durch einfache Tochtergesellschaften des Konzerns festliegt.

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Tabelle 5

Sumitomo-Konzern Zentral-Unternehmen 1966 (Weißwasserkongreß)
Einheit: 1 Million Yen

Name des Unternehmens	Grund-kapital	Umsatz	Gesamt-ver-mögen	Derzeit. Ertrag	Ange-stellte	Rang
Sumitomo Bank	22.400	62.750	2.253.102	3.514	13.556	(2)
Sumitomo Treuhand	5.000	40.588	690.244	1.274	4.358	(2)
Sumitomo See u. Feuervers.	5.400	*33,300	40.382	1.273	2.245	(7)
Sumitomo Lebens-versicherung	1	*97.341	223.326	5.219	7.266	(3)
Sumitomo Kohlen-bergbau	3.228	14.089	43.481	— 208	8.726	149
Sumitomo Chemie	25.200	41.546	155.419	1.511	12.503	31
Sumitomo Zement	5.550	15.176	49.956	8.640	3.953	102
Japan-Ita-Glas	8.000	12.259	40.737	779	4.151	150
Sumitomo Metall-Industrie	61.785	86.153	252.894	3.113	22.896	11
Sumitomo Metall-Bergbau	5.573	19.741	40.006	425	5.238	70
Sumitomo Kabel	13.500	36.369	73.556	951	8.119	40
Sumitomo Maschinen	5.400	10.341	34.493	432	3.070	173
Sumitomo Elektrizität	20.000	44.486	131.154	1.920	24.818	32
Sumitomo Handels-gesellschaft	7.000	256.247	209.820	669	39.962	(6)
Sumitomo Immobilien	122	*349	10.254	20	398	—
Sumitomo Lager	1.800	2.928	7.763	151	1.028	(3)
Gesamtsumme	189.909	773.663	4.256.587	29.683	162.287	

* Firmen mit einmaligem Jahresbilanzabschluß, daher Umsatz halbiert.

Quelle: Bilanzberichte (Yukashoken — Hokokusho).

Beim *Sumitomo*-Konzern finden wir 34 Unternehmen mit alleiniger Kontrolle, von denen 24 zum Weißwasserkongreß gehören. Mit dem Weißwasserkongreß und anderen Tochtergesellschaften verbunden sind 5 weitere Unternehmen.

Beim *Mitsui*-Konzern gibt es 38 Unternehmen mit alleiniger Kontrolle. Hiervon gehören zum „Montagskongreß" 34 Kontrollunternehmen. Außerhalb des Montagskongresses stehen 4 Unternehmen, die ihre Kontrolle über Aktienbesitz oder andere Verbindungen ausüben.

Die Tochtergesellschaften des Sumitomo-Konzerns kontrollieren insgesamt 49 Unternehmen, bei Mitsui sind es 38.

3. Hinsichtlich der dritten Schichtstruktur der Konzerngruppen, der obengenannten gemeinschaftlichen Kontrolle, liegen die Zahlenwerte für den *Mitsubishi*-Konzern bei 32, für *Sumitomo* bei 53, für *Mitsui*

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Tabelle 6

Mitsui-Konzern Zentral-Unternehmen 1966 (Montagskongreß)
Einheit: 1 Million Yen

Name des Unternehmens	Grund-kapital	Umsatz	Gesamt-ver-mögen	Derzeit. Ertrag	Ange-stellte	Rang
Mitsui-Bank	22.000	45.536	1.734.672	2.006	8.473	(7)
Mitsui Treuhand	5.000	38.258	585.319	1.175	34.307	(3)
Taishō See- und Feuerversicherung	6.400	*39.152	43.694	1.284	2.546	(4)
Mitsui Lebensvers.	1	*46.059	104.690	2.699	3.901	(7)
Mitsui Bergbau	3.000	24.319	72.089	— 246	16.796	81
Hokkaidō Kohle	7.022	17.906	46.709	— 331	10.579	115
Mitsui-Hoch- und Tiefbau	2.040	18.145	24.561	251	2.532	(9)
Sanki-Industrie	2.500	14.439	17.342	373	2.505	133
Mitsui Land- und Forstwirtschaft	330	* 3.421	3.754	33	809	438
Japan Mühlen	3.450	20.703	17.657	326	1.667	93
Toyō-Faser	42.048	90.498	208.382	2.384	27.530	12
Mitsui-Chemie	8.809	19.980	64.183	— 360	6.256	80
Mitsui-Petrochemie	5.000	14.961	62.325	508	2.379	117
Tōyō-Kōatsu-Industrie	13.143	20.694	77.911	640	6.499	79
Japan-Stahl	8.701	13.034	51.710	197	7.672	127
Mitsui-Metall Bergbau	10.800	31.313	64.755	710	10.365	56
Mitsui Miike Maschinen	1.000	3.135	9.133	7	2.430	461
Mitsui Feinmech. Ind.	612	2.749	12.579	— 61	2.023	—
Mitsui Schiffsbau	11.900	28.940	87.995	668	9.082	62
Shōwa-Flugzeuge	248	1.418	3.018	34	1.347	—
Mitsui-Bussan	13.309	777.061	801.983	1.373	9.770	(1)
General Erdöl	1.714	29.954	35.605	156	856	(23)
Tōyō-Menka	7.425	325.128	237.179	0	4.186	(5)
Tōshoku	2.800	75.581	52.858	144	805	(14)
Mitsui-Immobilien	4.198	7.777	62.869	1.081	42.412	(1)
Osaka-Shosen-Mitsui-Sempaku	13.100	34.745	89.689	1.490	5.798	(1)
Mitsui-Lager	2.027	3.888	9.612	183	1.315	(2)
Gesamtsumme	198.577	1.748.794	4.582.273	16.724	224.840	

* Firmen mit einmaligem Jahresbilanzabschluß, daher Umsatz halbiert.

Quelle: Bilanzberichte (Yukashoken — Hokokusho).

bei 41, wobei die beiden letzteren offensichtlich stärkeres Gewicht haben. In dieser dritten Schichtstruktur finden sich verschiedene Typen. So gibt es z. B. bei Mitsui im Falle der gemeinschaftlichen Kontrolle die Kontrolle als Mitsui-Konzerngruppe wie auch die Kontrolle des „Montagskongresses", sodann die gemeinschaftliche Kontrolle der Tochtergesellschaften unter dem Schirm der Konzerngruppe.

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4. Endlich gibt es noch die Unternehmen, die zwar nicht direkt zu den Kontroll-Unternehmen des Konzerns gehören, die aber finanzierungsmäßig mit dem Konzern verbunden sind. Im ganzen setzt sich ein Konzern auch aus diesen Unternehmen zusammen. Bei *Mitsubishi* werden 87, bei *Sumitomo* 69 und bei *Mitsui* 59 Unternehmen auf diese Weise kontrolliert.

V. Umfang und relative Bedeutung der großen japanischen Konzerngruppen

Im Mittelpunkt der Unternehmenskonzentration in Japan stehen die erwähnten sechs Konzerngruppen. Ihr Umfang und ihr Gewichtsverhältnis zueinander sind historisch entstanden. Insofern hat jeder Konzern eine geschichtliche wie auch eine aktuelle Komponente. Interessanterweise haben die Konzerne in Japan Namen, die wieder Aufschluß über ihre Entwicklung geben. Die folgenden Bezeichnungen sind geläufig: *„Organisierte Mitsubishi"*, *„Persönliche Mitsui"*, *„Vereinigte Sumitomo"*, *„Phantom-Fuji"*, *„Zusammengewürfelte Sanwa"* und *„Vagabundierende Daiichi"*. Tabellen 7 a—f zeigen die Gesamtbilanzen der sechs Konzerne per 31. 3. 1966.

Tabelle 7 a

Mitsubishi-Konzern (87 Gesellschaften) Gesamtbilanz 31. 3. 1966
Einheit: 1 Million Yen

Aktiva			Passiva		
Umlaufvermögen		2.196.026	Anleihen	2.001.544	
			Hypotheken	903.083	
Festes Vermögen			Rücklagen	44.660	
Sachanlagen	1.124.342		Gesamtverbindl.		2.949.287
Good-will	17.231		Grundkapital	496.120	
Investitionen	381.842		Kapitalreserve	52.675	
	(+ 1.586)	1.525.001	Gewinnreserve	246.176	
Saldo		23.231	Kapitalsumme		794.971
		3.744.258			3.744.258

Quelle: Tasuku Noguzi (Ed.), Mitsubishi-Konzerngruppe, Tokio 1968.

Anm.: Gemeinschaftliche Kontrollunternehmen und finanzierte Unternehmen inbegriffen, aber Banken und Versicherungen ausgenommen. Diese Gesamtbilanz ist nicht identisch mit der konsolidierten Bilanz.

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Tabelle 7 b

Mitsui-Konzern (98 Gesellschaften) Gesamtbilanz 31. 3. 1966
Einheit: 1 Million Yen

Aktiva			Passiva		
Umlaufvermögen		2.581.406	Anleihen	2.448.639	
			Hypotheken	871.519	
Festes Vermögen			Rücklagen	52.865	
Sachanlagen	1.108.984		Gesamtverbindl.		3.373.023
Good-will	19.222		Grundkapital	501.889	
Investitionen	468.504		Kapitalreserve	65.397	
			Gewinnreserve	272.622	
	(+ 7.919)	1.604.629			
Saldo		26.896	Kapitalsumme		839.908
		4.212.931			4.212.931

Quelle: Tasuku Noguzi (Ed.), Mitsubishi-Konzerngruppe, Tokio 1968.

Anm.: Gemeinschaftliche Kontrollunternehmen und finanzierte Unternehmen inbegriffen, aber Banken und Versicherungen ausgenommen. Diese Gesamtbilanz ist nicht identisch mit der konsolidierten Bilanz.

Tabelle 7 c

Sumitomo-Konzern (92 Gesellschaften) Gesamtbilanz 31. 3. 1966
Einheit: 1 Million Yen

Aktiva			Passiva		
Umlaufvermögen		2.389.086	Anleihen	2.019.222	
Festes Vermögen			Hypotheken	737.615	
			Rücklagen	36.174	
Sachanlagen	866.692		Gesamtverbindl.		2.793.011
Good-will	12.776		Grundkapital	533.447	
Investitionen	424.418		Kapitalreserve	48.577	
	(+ 1.552)	1.305.438	Gewinnreserve	337.550	
Saldo		18.061	Kapitalsumme		919.574
		3.712.585			3.712.585

Quelle: Tasuku Noguzi (Ed.), Sumitomo-Konzerngruppe, Tokio 1968.

Anm.: Gemeinschaftliche Kontrollunternehmen und finanzierte Unternehmen inbegriffen, aber Banken und Versicherungen ausgenommen. Diese Gesamtbilanz ist nicht identisch mit der konsolidierten Bilanz.

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Tabelle 7 d

Fuji-Konzern (72 Gesellschaften) Gesamtbilanz 31. 3. 1966

Einheit: 1 Million Yen

Aktiva		Passiva		
Umlaufvermögen	1.481.589	Anleihen	1.436.074	
Festes Vermögen	965.533	Hypotheken	467.550	
Saldo	14.587	Rücklagen	26.627	
		Gesamtverbindl.		1.930.251
		Grundkapital	327.699	
		Kapitalreserve	35.199	
		Gewinnreserve	168.560	
		Kapitalsumme		531.458
	2.461.709			2.461.709

Quelle: Tasuku Noguzi (Ed.), Fuji-, Sanwa-, Daiichi-Konzerngruppe, Tokio 1970.

Tabelle 7 e

Sanwa-Konzern (49 Gesellschaften) Gesamtbilanz 31. 3. 1966

Einheit: 1 Million Yen

Aktiva			Passiva		
Umlaufvermögen		1.283.821	Anleihen	1.264.181	
			Hypotheken	411.767	
Festes Vermögen			Rücklagen	11.356	
Sachanlagen	580.260		Gesamtverbindl.		1.687.304
Good-will	8.372		Grundkapital	297.874	
Investitionen	255.001		Kapitalreserve	26.266	
		843.633	Gewinnreserve	125.398	
Saldo		9.388	Kapitalsumme		449.538
		2.136.842			2.136.842

Quelle: Tasuku Noguzi (Ed.), Fuji-, Sanwa-, Daiichi-Konzerngruppe, Tokio 1970.

A. Der Umfang der drei größeren Konzerngruppen

Der Umfang einer jeden Konzerngruppe ist an den Durchschnittszahlenwerten abzulesen. Nach Grundkapital, Gesamtumsatz und Angestelltenzahl steht Mitsubishi an erster Stelle. Nach Vermögenssumme und gegenwärtiger Ertragslage liegt Sumitomo an der Spitze. Schließlich läßt sich die Gesamtgröße von Mitsubishi erfassen, wenn man sie nach der Vertretung am ersten und zweiten Wertpapiermarkt bemißt, sie beläuft sich auf 172 Gesellschaften. Als Unternehmensverband ist die Stärke von Mitsubishi auch aus dem oben angeführten Schaubild ersichtlich. Wenn man jedoch nur den ersten Wertpapiermarkt berücksichtigt, umfaßt Mitsubishi rein quantitativ 25 Branchen mit 98 Unternehmen, Sumitomo 24 Branchen mit 89 Unternehmen und Mitsui

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Tabelle 7 f

Daiichi-Konzern (44 Gesellschaften) Gesamtbilanz 31. 3. 1966
Einheit: 1 Million Yen

Aktiva		Passiva		
Umlaufvermögen	1.209.483	Anleihen	1.012.309	
Festes Vermögen	709.969	Hypotheken	484.620	
Saldo	7.781	Rücklagen	15.104	
		Gesamtverbindl.		1.512.033
		Grundkapital	286.319	
		Kapitalreserve	21.016	
		Gewinnreserve	21.016	
		Kapitalsumme		415.198
	1.927.233			1.927.231

Quelle: Tasuku Noguzi (Ed.), Fuji-, Sanwa-, Daiichi-Konzerngruppe, Tokio 1970.

21 Branchen mit 101 Unternehmen. Allein innerhalb aller Industriezweige weist Mitsubishi die meisten Unternehmen auf. Legt man den ersten und den zweiten Wertpapiermarkt zugrunde, dann steht Sumitomo mit Mitsubishi, abgesehen vom Gesamtumsatzvolumen, auf gleicher Stufe, allerdings wird Mitsubishi von Sumitomo im Gesamtvermögen übertroffen. Dazu ist zu bemerken, daß Sumitomo bedeutenden Besitz in der Schwerindustrie aufzuweisen hat und auch der Anteil in der verarbeitenden Industrie das Fünffache oder Sechsfache des Anteils in der nicht-verarbeitenden Industrie beträgt (Tabelle 8).

Tabelle 8

Durchschnittsindices der einzelnen Konzerne im Jahr 1966
Einheit: 1 Million Yen

	Mitsubishi	Mitsui	Sumitomo
Grundkapital	14.010	7.355	11.869
Umsatz	65.009	64.770	48.354
Gesamtvermögen	234.063	169.714	266.037
Derzeitiger Ertrag	1.265	619	1.855
Angestellte	10.187	8.327	10.143

Quelle: Siehe die vorherigen Tabellen.

Was den Gesamtumfang dieser Konzerngruppen betrifft, so läßt er sich durch Vergleich der Gesamtkonzernbilanzen nach Finanzierungs- und Unternehmenssubstanz erfassen. Hierbei steht Sumitomo in beider Hinsicht an der Spitze, gefolgt von Mitsubishi und Mitsui. Es zeigt sich, daß Mitsubishi im Gesamtvolumen vorne liegt, aber qualitativ von Sumitomo im Jahre 1965 eingeholt wurde.

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B. Größenverhältnis und Konzentrationsgrad der einzelnen Konzerne in verschiedenen Sektoren

Schaut man auf das Größenverhältnis der einzelnen Konzerne innerhalb der Industrie, so ergibt sich im Konzentrationsgrad nach dem Gesamtgrundkapital innerhalb der verarbeitenden Industrie folgendes Bild: der *Mitsubishi*-Konzern belegt 11,2 %, *Sumitomo* 8,2 %, *Mitsui* 7,5 %. In diesen Werten sind allerdings die gemeinschaftlichen Kontrollunternehmen sowie die Reihe der nach Finanzierung angeordneten Unternehmen nicht enthalten. Selbst hiervon abgesehen sind etwa 27 % des gesamten Grundkapitals in diesen drei Konzernen konzentriert.

Am Umsatz sind *Mitsubishi* mit 11,4 %, *Sumitomo* mit 6,8 % und *Mitsui* mit 8,1 % beteiligt. Es entfallen somit auf diese 3 Konzerne 26,3 % des gesamten Umsatzes.

Vom Netto-Gewinn vereinigt *Mitsubishi* 9,8 % auf sich, *Sumitomo* 7,8 % und *Mitsui* 5,0 %, der Gesamtanteil der drei Konzerne liegt bei 22,6 %. In der nicht-verarbeitenden Industrie, wobei die Gemeinschaftskontrollunternehmen und die Reihe der finanzierten Unternehmen wiederum ausgenommen sind, liegen die entsprechenden Zahlenwerte für Grundkapital, Umsatz und Netto-Gewinn des *Mitsubishi*-Konzerns bei 8,2 %, 13,8 %, 7,9 %, für *Mitsui* bei 5,9 %, 21,0 %, 8,0 % und für *Sumitomo* bei 3,6 %, 14,1 %, 3,9 %. Bemerkenswert ist, daß der Mitsui-Konzern in gleicher Weise wie vor dem zweiten Weltkrieg ein relativ großes Gewicht besitzt.

Der Konzentrationsgrad im Bereich des Bankwesens, der Versicherungen und des Wertpapiermarktes beläuft sich nach Grundkapital für *Mitsubishi* auf 13,8 %, für *Mitsui* auf 7,9 % und für *Sumitomo* auf 8,9 %. Vom Gesamtumsatz vereinigt *Mitsubishi* 16,4 %, *Mitsui* 13,9 % und *Sumitomo* 14,2 % auf sich, vom Netto-Gewinn *Mitsubishi* 8,5 %, *Mitsui* 8,3 % und *Sumitomo* 11,3 %.

Werden verarbeitende Industrie, Bankwesen, Versicherungen und Wertpapiermarkt zusammengenommen, so liegt *Mitsubishi* an der Spitze. In der nicht-verarbeitenden Industrie liegt *Mitsui* vorn, allerdings immer unter Ausschluß der Gemeinschaftskontrollunternehmen und der Reihe der finanzierten Unternehmen. Schließt man diese jedoch mit ein, so kommt im Bereich der verarbeitenden Industrie, des Bankwesens, der Versicherungen und des Wertpapiermarkts der *Sumitomo*-Konzern an Mitsubishi nah heran.

Die obengenannten Fakten geben einen Begriff von der japanischen Unternehmenskonzentration, soweit sie in den großen Konzerngruppen zum Ausdruck kommt, auch wenn der vorliegende Artikel die Situation nur bis zum Jahre 1966 berücksichtigt.

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Summary

Concentration in Japan from the Viewpoint of Business Administration

The preceding paper deals with certain aspects of industrial concentration in Japan.

Firstly the role of family-controlled combines in Japan before World War II is displayed shortly.

Subsequently the author gives by the aid of quantitative data a general survey with regard to industrial concentration in contemporary Japan.

Then the structure of Japanese consolidated groups is analyzed in the course of which the importance of the hierarchies concerning the control of enterprises is stressed.

Finally the actual structure of the balances of power within the six biggest Japanese consolidated groups and the relative importance of these groups in various sectors of the Japanese economy is investigated, both quantitatively and qualitatively.

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Konzentration und Konzentrationspolitik in den skandinavischen Ländern

Von *Günter Zenk*, Berlin

I. Einführende Bemerkungen
II. Entwicklung und Stand der Konzentration
A. Konzentration in Industrie und Handel
B. Bankenkonzentration
C. Konzentration von Verfügungsmacht
III. Konzentrationspolitik
A. Wettbewerbspolitik
B. Einfluß der Besteuerung auf die Unternehmenskonzentration
C. Ansätze eines neuen konzentrationspolitischen Konzeptes in Schweden

I. Einführende Bemerkungen

Die Probleme der ökonomischen Konzentration — insbesondere die hier näher zu untersuchende Ballung ökonomischer Größen im Unternehmenssektor — sind in den skandinavischen Ländern Dänemark, Norwegen, Schweden zum Teil gleichartig, zum Teil differieren sie wegen der unterschiedlichen ökonomischen Verhältnisse. Gemeinsame Kennzeichen der Länder sind: eine Orientierung am Wettbewerbsprinzip als Lenkungsmechanismus, eine geringe Unternehmenstätigkeit des Staates und eine relativ hohe Abhängigkeit vom Außenhandel (Export- und Importquoten zwischen 20 % bis 40 %). Infolge der kleinen Inlandsmärkte — die Bevölkerungszahlen schwanken zwischen 4 Mio. in Norwegen und 8 Mio. in Schweden — sind effiziente, international wettbewerbsfähige Unternehmens- und Betriebseinheiten in Bereichen mit Massenproduktion nur bei einer Konzentration der Produktion auf wenige Unternehmen möglich.

Die zwischen den skandinavischen Ländern bestehenden Unterschiede in der Wirtschaftsentwicklung und der Wirtschaftsstruktur machen sich im bereits erreichten Stand der Unternehmenskonzentration bemerkbar. Das industriell am höchsten entwickelte Land mit den größten Betriebs- und Unternehmens- resp. Konzerneinheiten ist Schweden. Hier haben die Fragen der ökonomischen Machtkonzentration in jüngster Zeit die stärkste Beachtung gefunden. Die schwedische Regierung hat im Jahre 1960 eine Konzentrationskommission (Koncentrations-

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utredningen) berufen, die bisher in einer Reihe von Teilgutachten verschiedene Aspekte der ökonomischen Konzentration analysiert hat[1].

Zwar gehört auch Norwegen zu den entwickelten Industrieländern, die Betriebs- und Konzerneinheiten sind aber erheblich kleiner als die schwedischen. Da das Land nur über wenige Rohstoffe verfügt, ist die norwegische Industrie primär auf der Verarbeitungsstufe tätig. Daraus ergibt sich eine starke Abhängigkeit von der Belieferung mit Rohstoffen und Halbfabrikaten durch das Ausland. Das gleiche gilt auch für die dänische Industrie. Ferner ist zu berücksichtigen, daß sich in Dänemark erst Mitte der 50er Jahre der Übergang vom Agrar- zum Industriestaat vollzogen hat.

Im internationalen Maßstab sind von den skandinavischen Großunternehmen bzw. Konzernen lediglich einige schwedische bedeutsam. So waren 1968 unter den 200 größten Industrieunternehmen der Welt außerhalb der USA 6 schwedische vertreten, dagegen kein Unternehmen aus den übrigen skandinavischen Ländern[2]. Unter den 141 nordischen Unternehmen, die 1963 einen Jahresumsatz von mehr als 100 Mio. skr hatten, befanden sich 95 schwedische, 26 finnische, 11 norwegische und 9 dänische[3]. Die geringen Unternehmensgrößen in Dänemark und Norwegen lassen sich zu einem Teil daraus erklären, daß eine Reihe von Industriezweigen, in denen Großunternehmen überwiegen (z. B. Automobilindustrie), nicht vertreten sind. Hier dominieren ausländische Großunternehmen am inländischen Markt. Zum Teil setzen aber auch die verfügbaren Ressourcen, die Wirtschafts- und Bevölkerungsstrukturen sowie die engen Inlandsmärkte Grenzen für das Wachstum der Betriebs- und Unternehmenseinheiten in den vorhandenen Industrien.

Die zunehmende internationale Integration, insbesondere auch die EFTA-Bildung, hat für die skandinavischen Länder die relevanten Märkte erheblich erweitert und zwingt zu bedeutenden Umstrukturierungen im Unternehmenssektor. Diese Tendenz dürfte sich bei einem EWG-Beitritt noch verstärken.

Die mit dem Umstrukturierungsprozeß verbundene Konzentration der Produktion und des Umsatzes auf wenige Unternehmen, das Anwachsen der Verflechtungen zwischen den Unternehmen und die Verlagerung ökonomischer Entscheidungen in wenige Beschlußzentren wirft

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[1] Die bisherigen Teilgutachten betrafen Konzentration und Wettbewerbsverhältnisse in der Benzinbranche (1966), im Kreditwesen (1968), in der Industrie (1968), im Handel (1968) und in der Arzneimittelindustrie (1969) sowie Fragen des Besitzes und Einflusses in der privaten Wirtschaft (1968) und die Vorteile des Großbetriebes in der Industrie (1970).

[2] Vgl. The 200 Largest Industrial Companies Outside the U. S., Fortune, August 15, 1969, S. 108 ff.

[3] Vgl. *T. Skarpnes*, Strukturendringer i norsk naeringsliv, Bedriftsøkonomen, 3 (1969), S. 118.

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für die Wirtschafts- und Gesellschaftsordnung der skandinavischen Länder bedeutsame Probleme auf. Dabei steht die Frage im Vordergrund, wie verhindert werden kann, daß die aus diesem Prozeß resultierende ökonomische Macht mißbraucht wird.

II. Entwicklung und Stand der Konzentration

A. Konzentration in Industrie und Handel

1. Industrie

Die industrielle Konzentration ist in Schweden bereits stark ausgeprägt. So betrug der Anteil der 40 größten Konzerne an der Wertschöpfung der Gesamtindustrie Mitte 1963 rd. 34 % und der Anteil der 100 größten rd. 46 %. Bis Anfang 1967 waren die entsprechenden Anteile auf 37 % bzw. auf 49 % angestiegen[4]. Dies bedeutet zugleich — wie aus Tabelle 1 ersichtlich wird —, daß bei der Inlandsproduktion in einer Vielzahl von Industriezweigen wenige Unternehmen dominieren. Nach Untersuchungen der schwedischen Konzentrationskommission

Tabelle 1

Branchenkonzentration in verschiedenen Industriesektoren 1963

Industriesektor	Anzahl der Unternehmen	*Anteil in % der Wertschöpfung*		
		größtes Unternehmen	8 größte Unternehmen	Großunternehmen a)
Bergbau	10	82	99	96
Chemie	8	67	97	75
Metall	8	59	96	78
Elektrotechnik	45	51	90	81
Getränke und Tabak	36	50	77	68
Transportmittel	201	43	78	65
Papier und Zellulose	27	24	78	57
Leder, Gummiwaren	40	32	76	18
Textil	19	49	86	41
Erde und Steine	53	43	79	45
Maschinen	251	22	59	45
Chemisch-technische Industrie	29	52	88	45
Lebensmittelindustrie	46	48	81	52
Graphische Industrie	209	25	52	42

a) Als Großunternehmen werden Unternehmen mit mehr als 500 Beschäftigten eingestuft.

Quelle: SOU 1968, 5, S. 61.

[4] Vgl. SOU 1968, 5, Industrins struktur och konkurrensförhållanden, Koncentrationsutredningen III, Stockholm 1968, S. 14.

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handelt es sich vor allem um solche Branchen, die sich durch hohe Kapitalintensität, Massenproduktion und relativ hohe Forschungskosten auszeichnen[5]. Bei einer näheren Aufgliederung der Produktion nach Produktgruppen tritt die Bedeutung weniger Unternehmen noch deutlicher hervor. So ergab sich bei einer Untergliederung in 450 Warengruppen (rd. 75 % der schwedischen Industrieproduktion) für die vier größten Hersteller in rd. zwei Dritteln aller Fälle ein Produktionsanteil von mindestens 70 %. Der jeweils größte Produzent erstellte in 40 % aller Warengruppen mindestens die Hälfte der Produktion.

In der *dänischen* und *norwegischen* Industrie ist nicht nur die absolute Größe der Betriebe und Unternehmen geringer als in Schweden, sondern auch die „overall concentration", d. h. der Anteil der größten Konzerne an der gesamten Inlandproduktion. Gleichwohl gilt auch hier, daß auf relativ wenige Unternehmen der Hauptteil der Gesamtproduktion entfällt[6] und daß in einer Reihe von Industrien bereits ein Unternehmen dominiert[7]. Ferner ist vor allem in Norwegen in einem Teil der weiterverarbeitenden Industrien der Spezialisierungsgrad hinsichtlich von Produkten und Prozessen hoch. Dies gilt insbesondere für Produkte wie Nickel, Zink, Kupfer, Aluminium und bestimmte Ferro-Legierungen. Hier haben meist Tochtergesellschaften ausländischer Konzerne eine starke Position. Dagegen ist in anderen Industriezweigen, z. B. bei dauerhaften Konsumgütern, das Produktionsprogramm für eine Ausnutzung der Vorteile der Massenproduktion vielfach zu breit[8]. In solchen Bereichen lassen sich deshalb durch eine verstärkte Spezialisierung die Produktionskosten erheblich senken.

Die Konzentration der Produktion ist zwar für die inländische Wirtschaftsstruktur, Beschäftigung, Investitionstätigkeit usw. relevant, für eine Beurteilung der Marktstrukturen sowie der Wettbewerbsverhältnisse aber unzureichend. Dafür sind zum einen die Importe, zum anderen die Konzentration ökonomischer Macht zu berücksichtigen, die aus bestehenden Verflechtungen und Abhängigkeiten zwischen den Unternehmen, aus vertraglichen Regelungen (Kartelle usw.) sowie faktischen Beschränkungen (Parallelverhalten) resultiert. Vor allem hinsichtlich des zweiten Aspektes sind die vorhandenen Angaben unzulänglich, zum Teil entziehen sie sich auch einer quantitativen Bewertung. Die schwe-

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[5] Vgl. SOU 1968, 5, Koncentrationsutredningen III, a. a. O., S. 15.

[6] So betrug beispielsweise der Anteil der 500 größten Industrieunternehmen an der inländischen Industrieproduktion in Norwegen im Jahre 1967 rd. 56 %. Vgl. *A. S. Økonomisk Literatur (Hg.)*, Norges 500 største bedrifter, Oslo 1968², S. 10.

[7] Dies ist in Dänemark beispielsweise in der Zucker-, Papier-, Kunstdünger- und Zementindustrie der Fall.

[8] So wurden in Norwegen im Jahre 1966 rd. 23 verschiedene Varianten von Haushaltswaschmaschinen hergestellt, gegenüber 7 in Schweden und 11 in England. Vgl. *Erik Brofoss*, Aktuelle økonomiske spørsmål, Oslo 1966, S. 125.

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dische Konzentrationskommission hat für 1963 versucht, das Ausmaß der Verkaufskonzentration unter Berücksichtigung der Importe und der offiziell registrierten Kartellabsprachen zu ermitteln. Allerdings blieben dabei die bestehenden Abhängigkeiten und faktischen Beschränkungen zwischen den Unternehmen unberücksichtigt. Jedoch ergab bereits diese Untersuchung ein Bild hoher Monopolisierung resp. Kartellierung eines Teiles der schwedischen Wirtschaft. So lag bei einem Viertel von 446 untersuchten Warengruppen (rd. 75 % der schwedischen Industrieproduktion) eine Marktbeherrschung vor, entweder infolge der marktbeherrschenden Stellung des größten Unternehmens oder infolge von Kartellen. Ein weiteres Viertel hatte eine oligopolistische Marktstruktur[9].

In Dänemark und Norwegen lassen sich zwar ähnliche Konzentrationstendenzen erkennen, jedoch ist vor allem bei industriellen Standardgütern die Marktstellung ausländischer Anbieter in der Regel stärker als in Schweden. Deshalb ist für die jeweiligen Marktverhältnisse entscheidend, ob Importe vorliegen und wie sich die ausländischen Unternehmen an den Märkten verhalten.

Die Stellung inländischer Unternehmen ist besonders in Bereichen stark, in denen hohe Transportkosten, Importbeschränkungen, internationale Marktaufteilungsabsprachen oder starke Nachfragepräferenzen für inländische Produkte gegeben sind. In solchen Industrien beherrschen häufig inländische Einzelunternehmen, Unternehmenszusammenschlüsse, Syndikate und Kartelle die Märkte, oder es besteht ein kollegiales Verhalten der Anbieter. So ist beispielsweise das dänische Verkaufssyndikat für Mehl, Dansk Mel-Central I/S, marktbeherrschend. Es ist durch Importbeschränkungen vor einem ausländischen Wettbewerb geschützt. Relativ hohe Transportkosten und starke Nachfragepräferenzen haben die marktbeherrschende Stellung der zwei großen dänischen Brauereien A/S De forenede Bryggerier (Tuborg) und Carlsberg begünstigt. Beide Unternehmen gingen bereits 1903 eine bis zum Jahre 2000 unkündbare Interessengemeinschaft ein. Eine paritätisch zusammengesetzte Leitung legte Produktion, Investitionen usw. fest und nahm einen Gewinnausgleich zwischen den Unternehmen vor[10]. Inzwischen sind beide Unternehmen auch offiziell zu einer Gesellschaft zusammengefaßt worden.

Der Bereich, in dem inländische Unternehmen über eine dominierende Marktstellung verfügen, ist durch die zunehmende Handelsliberalisierung (EFTA), die zu erhöhten Importen geführt hat, eingeengt worden.

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[9] Vgl. SOU 1968, 5, a. a. O., S. 82.

[10] Vgl. *H. Winding Petersen,* Industriens struktur och sammenslutninger, 1965, S. 153.

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Dementsprechend stieg die Anzahl der Märkte, in denen die Marktprozesse jeweils davon abhängig sind, inwieweit inländische Unternehmen entweder mit ausländischen Anbietern kooperieren oder sich in ihrer Unternehmenspolitik nach Bedingungen richten müssen, die von den ausländischen Unternehmen gesetzt sind.

Der letztere Aspekt gewinnt auch wegen der zunehmenden internationalen Konzentration an Bedeutung. So bewirkt zum einen die steigende Konzentration der Patente und des know-how's bei den internationalen Konzernen eine verstärkte Abhängigkeit der inländischen Unternehmen. Dies ist eine Ursache, weshalb sie in steigendem Maße mit ausländischen Konzernen gemeinsame Unternehmen (joint ventures) errichten oder ihnen unmittelbar Beteiligungen einräumen. Zum anderen machen sich für die skandinavischen Unternehmen wegen ihrer hohen Exportabhängigkeit die Marktzutrittsbarrieren resp. Ausschlußeffekte der horizontalen und vertikalen Konzentration auf den Auslandsmärkten besonders bemerkbar. Denn die skandinavischen Unternehmen können vielfach eine effiziente Produktion nur durchführen, wenn zugleich ein erheblicher Teil der Produkte im Ausland abgesetzt werden kann. Dies erfordert bedeutende ökonomische Ressourcen für die Erschließung und Sicherung ausländischer Absatzmärkte, über welche selbst die größten norwegischen und dänischen Unternehmen nicht verfügen. Je mehr nun die aktuellen oder potentiellen Abnehmer in ausländische Konzerne integriert werden, desto schwächer wird die Position der inländischen Unternehmen. Mitunter bleibt als Alternative zur Stillegung nur die teilweise oder vollständige Übertragung des Unternehmens an einen ausländischen Konzern übrig.

Am stärksten hat sich diese Entwicklung bisher in Norwegen bemerkbar gemacht. Hier befindet sich bereits seit längerer Zeit ein erheblicher Teil der Unternehmen im Bergbau und in der Industrie in ausländischem Besitz[11]. Obwohl sich die norwegische Regierung bemüht hat, die verbleibenden Unternehmen in inländischem Besitz zu halten und in einer Reihe von Fällen die erforderliche Genehmigung für eine Übernahme inländischer Unternehmen durch Ausländer verweigerte, konnte sie ein weiteres Vordringen ausländischer Konzerne nicht verhindern. Dies zeigte sich deutlich im Falle A/S Årdal og Sunndal Verk, dem größten norwegischen Aluminiumproduzenten, das mit zu den rentabelsten Unternehmen in Norwegen gehört. Dieses Unternehmen, das bis 1966 im alleinigen Staatsbesitz war, ist von der Belieferung mit Bauxit usw. abhängig. Die Rohstoffquellen werden von den führenden Aluminium-

[11] So betrug der Anteil des von Ausländern gehaltenen Aktienkapitals am gesamten Aktienkapital in Industrie und Bergbau im Jahre 1962 rund 23 %. Vgl. *Arthur Stonehill*, Foreign Ownership in Norwegian Enterprises, Oslo 1965, S. 60.

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konzernen der Welt beherrscht, die zugleich als Anbieter von Aluminium mit dem norwegischen Unternehmen konkurrierten. 1966 sah sich der Staat gezwungen, dem kanadischen Konzern „Aluminium Ltd." (Alcan) eine 50%ige Beteiligung einzuräumen, weil die Konkurrenten, insbesondere Alcan, sich wesentliche Abnehmer von Årdal angegliedert hatten. So fiel beispielsweise der Marktanteil Årdal's in Dänemark von 41 % auf 2,6 %, nachdem Alcan sich dort in der aluminiumverarbeitenden Industrie etabliert hatte[12]. Nach der Beteiligung Alcan's an Årdal belieferte letzteres den US-Markt nur noch zu den auch von den anderen führenden Aluminiumherstellern eingehaltenen US-Inlandspreisen.

Die norwegische Regierung hält die Bildung einiger weniger norwegischer Konzerne für erforderlich, die über hinreichende ökonomische Macht verfügen, um sich gegenüber ausländischen Konzernen zu behaupten. Ob dieser Weg geeignet ist, die Selbständigkeit norwegischer Unternehmen zu bewahren, erscheint angesichts der zunehmenden internationalen Konzentration wegen der hohen Abhängigkeit der inländischen Unternehmen von ausländischen Beschaffungs- und Absatzmärkten zweifelhaft.

2. Handel

Ebenso wie im Industriesektor ist im *schwedischen* Handel eine zunehmende Konzentration zu beobachten. Zum einen werden die Handelsgeschäfte durchgehend größer, zum anderen steigt die Bedeutung der Warenhäuser und Mehrfilialunternehmen an, und schließlich breitet sich die vertikale Integration auf immer mehr Sektoren des Handels aus. Die Kluft zwischen großen und kleinen Handelsunternehmen erhöht sich ständig. Während die großen Unternehmenseinheiten wachsen, stagnieren die kleinen oder gehen zurück[13].

Die Konzentration im Einzelhandel vollzieht sich entweder besitzmäßig oder als Zentralisierung der Beschlüsse. Die wichtigsten Gruppen sind[14]:

1. *Warenhausketten* (Epa, Tempo, Domus): Die drei Gruppen umfaßten 1965 rd. 290 Warenhäuser, ihr Anteil am Einzelhandelsumsatz betrug 15 %. Bis 1970 dürfte dieser Anteil auf rd. 20—25 % gewachsen sein.
2. *Mehrfilialunternehmen:* Unternehmen mit 10 oder mehr Geschäften hatten 1965 einen Marktanteil von rd. 5 %.
3. *Konsumgenossenschaften (KF):* Die Geschäfte der Konsumgenossenschaften bilden einen völlig integrierten Block. Sie hatten 1965 einen Markt-

[12] Vgl. Handelsblatt vom 30./31. 12. 1966, S. 10.
[13] Vgl. SOU 1968, 6, Strukturutveckling och konkurrens inom handeln, Koncentrationsutredningen IV, Stockholm 1968, S. 17.
[14] Vgl. ebenda, S. 18.

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anteil von 15 %. Er war bis 1968 auf 20 % angestiegen. Auf die ebenfalls zu den Konsumgenossenschaften gehörende Warenhauskette Domus entfiel rd. 5 % des Einzelhandelsumsatzes.

4. *Zentrale Branchenorganisationen:* Die Einzelhandelsunternehmen delegieren in steigendem Maße eine Reihe ihrer Funktionen (Einkauf, Marktführung usw.) an ein gemeinsames zentrales Organ. Dieses legt in der Regel auch die Preise für die Produkte fest, die von den angeschlossenen Einzelhändlern loyal eingehalten werden. Im Jahre 1965 entfielen 27 % des Einzelhandelsumsatzes auf Unternehmen mit einer entsprechenden Gruppenzusammenarbeit.

Insgesamt hatten die horizontal integrierten Gruppen im Jahre 1965 einen Umsatzanteil von 60 %. Bis 1970 dürfte dieser Anteil auf rd. drei Viertel angestiegen sein.

Neben der horizontalen Konzentration gewinnt die vertikale Integration zunehmend an Bedeutung. So wurden 1965 rd. 85 % des Umsatzes im Lebensmitteleinzelhandel von Unternehmen erstellt, die vertikal mit Großhandelsunternehmen oder Zentrallagern verbunden waren. Vielfach umfaßt die vertikale Konzentration auch bereits die Herstellungsstufe. Insbesondere bei den Konsumgenossenschaften wird rd. 40 % des Einzelhandelsumsatzes im eigenen Block hergestellt. Die zunehmende Blockbildung im Einzelhandel hat vor allem die Verhandlungsposition kleinerer und mittlerer Hersteller geschwächt. Sie sind gegenüber Preisnachlaßforderungen ihrer Hauptabnehmer weitgehend machtlos, zumal sie meist nicht auf Exporte ausweichen können[15].

Im dänischen und norwegischen Handel ist die horizontale und vertikale Konzentration weniger stark als in Schweden. Hier ist in den letzten Jahren aber ebenfalls eine Umstrukturierung eingetreten. Insbesondere sind Großmärkte, Einkaufszentren und Warenhäuser entstanden. Ebenso haben die Einzelhändler verstärkt Einkaufsvereinigungen gebildet.

B. Bankenkonzentration

Ähnlich wie in anderen hochentwickelten kapitalistischen Ländern haben die privaten Geschäftsbanken in den skandinavischen Volkswirtschaften eine zentrale Stellung. Zwar sind im Kreditsektor neben den privaten Geschäftsbanken auch staatliche Banken, staatliche Kreditfonds, Sparkassensysteme und Kreditgenossenschaften tätig, jedoch ist deren Einfluß auf die private Wirtschaft infolge spezialisierterer Anlageformen wesentlich geringer als derjenige der privaten Geschäftsbanken.

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[15] Das schwedische Preis- und Kartellamt gibt die Höhe der Machtrabatte, d. h. Rabattforderungen von Großabnehmern, die sich nicht auf Kosteneinsparungen infolge von Großaufträgen usw. zurückführen lassen, mit 4—10 % an. Vgl. Pris-och Kartellfrågor, 7 (1968), S. 66 ff.

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Die starke Position der privaten Bankgruppen resultiert aus ihren Kapitalbeteiligungen an Unternehmen des Nichtbankensektors, aus dem Kreditgeschäft und den personellen Verflechtungen zwischen Banken und übriger Wirtschaft. Letztere sichern entweder bereits bestehende Abhängigkeiten zusätzlich ab, oder sie spiegeln gemeinsame Interessen der jeweiligen Gruppen wider. Eine Anhäufung von Verfügungsmacht auf dem Wege des Depotstimmrechts ist dagegen in den skandinavischen Ländern nicht üblich.

In *Schweden* ist die Finanzkonzentration am weitesten fortgeschritten. Hier entfielen auf die drei größten privaten Geschäftsbanken (Svenska Handelsbanken, Skandinaviska Banken, Stockholms Enskilda Bank) im Jahre 1964 rd. 62 % aller Einlagen im Geschäftsbankensektor[16].

Nach dem schwedischen Bankgesetz dürfen die Banken nur in Ausnahmefällen Aktien anderer Unternehmen erwerben. Diese Vorschrift ist relativ wirkungslos geblieben, weil die Banken Holdings-, Investmentgesellschaften sowie verschiedene Fonds bildeten, bei denen die Kapitalbeteiligungen zusammengefaßt sind. Zwischen Banken und Holdings bestehen indirekte Kapitalverflechtungen, Personalunionen sowie sonstige organisatorische Verbindungen.

Nach Untersuchungen der schwedischen Konzentrationskommission hatten die drei größten privaten Bankgruppen 1963 insgesamt wesentliche Beteiligungen an 48 % aller börsennotierten Unternehmen. Tabelle 2 verdeutlicht die zentrale Stellung dieser Bankgruppen in einer Reihe von Industriezweigen. Die Verflechtungen zwischen den Bankgruppen und den zu ihrem Einflußbereich gehörenden Unternehmen werden durch die Kreditbeziehungen verstärkt[17].

Ferner sind in Schweden die personellen Verflechtungen zwischen Großbanken und der übrigen Wirtschaft stark ausgeprägt[18]. Die Verwaltungsratsmitglieder der vier größten privaten Geschäftsbanken hatten 1963 insgesamt 236 Verwaltungsratsposten in 255 untersuchten Großunternehmen. Diese Posten waren bei einer geringen Zahl von Personen konzentriert. So entfielen auf die 15 meist beauftragten Personen 200 Sitze in Konzernspitzen oder formell selbständigen Gesellschaften, die Zahl ihrer Gesamtposten belief sich auf 391.

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[16] Vgl. SOU 1968, 3, Kreditmarknadens struktur och funktionssätt, Koncentrationsutredningen II, Stockholm 1968, S. 102.

[17] Bei der Stockholm Enskilda Bank (Wallenberggruppe) stammten 1963 über 40 % der Einlagen von nahestehenden Unternehmen, umgekehrt entfielen 25 % der Bankkredite auf solche Unternehmen. Für die übrigen Bankgruppen ließ sich allerdings eine solch starke Kreditausrichtung auf kapitalmäßig verbundene Unternehmen nicht feststellen. Vgl. SOU 1968, 3, a. a. O., S. 11 f.

[18] Vgl. SOU 1968, 3, a. a. O., S. 13.

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Tabelle 2

Anteil (in %) der Unternehmen mit kapitalsmäßiger Abhängigkeit von den drei größten privaten Bankgruppen an der Wertschöpfung ausgewählter Industrien im Jahre 1963

Art der Beteiligung	Eisen, Stahl und sonstige Metall-Industrie	Transport-mittel-Industrie	Maschinen-industrie	Elektro-technische Industrie	Papier- und Zellulose	Chemische Industrie
1. *Majoritäts-, dominierende* oder *starke Minoritätsbeteiligung*	47,5	38,0	27,3	36,1	32,0	44,2
a davon Svenska Handelsbanken (*Industrivärden*)-Gruppe	16,9	0,3	5,6	1,8	11,0	7,2
b davon Skandinaviska-Banken (*Custos/Säfveån*)-Gruppe	14,0	13,2	8,3	—	10,6	19,3
c davon Familie *Wallenberg — Stockholms Enskilda Bank*	16,6	24,6	13,4	34,3	10,3	17,7
2. Ziffer 1 zusammen mit einer anderen Besitzgruppe	10,7	—	6,9	31,6	1,7	2,7
a davon Familie Wallenberg mit Industrivärden- oder Custos/ Säfveån-Gruppe	—	—	0,4	31,6	—	—
b davon Familie Wallenberg mit anderen Besitzgruppen	10,7	—	6,5	—	1,7	2,7
Summe	58,2	38,0	34,2	67,7	33,7	47,0

Quelle: SOU 1968, 3, a. a. O., S. 61.

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Bei den personellen Verflechtungen zwischen den Großbanken und den übrigen Großunternehmen spielt auch der Aspekt eine Rolle, die Bankgeschäfte von Großunternehmen, soweit keine sonstigen Abhängigkeiten bestehen, an die jeweilige Bank zu binden. Dies ist eine Erklärung dafür, daß beispielsweise 1963 rd. 90 % aller börsennotierten Unternehmen in einem Bankenverwaltungsrat repräsentiert waren. Entsprechend hatten 80 % der börsennotierten Unternehmen seit 25 Jahren nur eine Bank- oder eine Hauptbankverbindung.

Die bedeutende ökonomische Machtkonzentration bei den privaten Geschäftsbanken hat in Schweden eine intensive Diskussion ausgelöst. Insbesondere wird verstärkt eine öffentliche Kontrolle bzw. weitergehend eine Verstaatlichung gefordert. Die schwedische Regierung hat Mitte 1970 dem Reichstag einen Gesetzesvorschlag über die Bestellung öffentlicher Repräsentanten in die Verwaltungsräte der privaten Geschäftsbanken vorgelegt. Sie hält diese Maßnahme gegenwärtig für geeigneter als eine Verstaatlichung.

Im *dänischen* und *norwegischen* Geschäftsbankensektor dominieren ebenfalls die privaten Geschäftsbanken. So entfielen Mitte der 60er Jahre auf die drei größten dänischen Geschäftsbanken drei Fünftel der Bilanzsumme und auf die drei größten norwegischen rd. 50 %[19]. Die Gesamtzahl der norwegischen Geschäftsbanken verminderte sich vor allem infolge von Fusionen von 105 im Jahre 1938 auf 48 im Jahre 1968. Dabei hat sich der Konzentrationsprozeß in den letzten Jahren abgeschwächt. Umgekehrt war die Zahl der privaten Geschäftsbanken in Dänemark mit 115 im Jahre 1968 vergleichsweise hoch, jedoch hat hier in den letzten Jahren die Zahl der Fusionen zugenommen.

Aktienbesitz ist den norwegischen und dänischen Geschäftsbanken im Unterschied zu den schwedischen nicht verboten. Sie verfügen über eine Reihe von Kapitalbeteiligungen an anderen Unternehmen. Ebenso bestehen personelle Verflechtungen zwischen den Banken und der übrigen Wirtschaft, jedoch ist weder der Umfang der Verflechtungen noch die Konzentration von Verwaltungsratsposten auf einzelne Personen so hoch wie in Schweden.

C. Konzentration von Verfügungsmacht

In den skandinavischen Großunternehmen ist das Aktienkapital im Durchschnitt breit gestreut. So betrug in Schweden 1963 die durchschnittliche Zahl der Aktionäre in den börsennotierten Aktiengesell-

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[19] Vgl. *Einar Hope*, En analyse av konsentrasjonen innen norsk bankvesen, Statsøkonomisk tidsskrift 2 (1965), S. 55, sowie *Helge Nørgard*, Nationaløkonomi, Haslev (1965) 1969³, S. 283.

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schaften 5600[20]. Dabei steigt die Anzahl der Aktionäre mit der Unternehmensgröße an. Der Hauptteil des Aktienkapitals entfällt allerdings auf wenige Aktionärsgruppen. So hatten die jeweils 20 größten Aktionäre in allen börsennotierten Unternehmen 1963 durchschnittlich einen Anteil von 41 % am Aktienkapital. Diese setzten sich zur Hälfte aus juristischen Personen, darunter verschiedene Fonds und allgemeinnützige Stiftungen, zusammen. Vielfach verdanken letztere ihre Entstehung der Absicht des Stifters, die Erbschaftssteuer zu umgehen und die Verfügungsmacht über das Vermögen den Erben zu erhalten.

Auf den Hauptversammlungen der Gesellschaften sind überwiegend nur Vertreter für die größeren Aktienpakete anwesend. Diese sind dann auch im Verwaltungsrat repräsentiert. Eine Einsammlung von Stimmvollmachten durch die Verwaltung (proxy-system) tritt vor allem dann auf, wenn einzelne Aktionärsgruppen nicht über eine beherrschende, sondern lediglich über eine starke Minoritätsbeteiligung verfügen. Somit dient das System der Proxies überwiegend zur Verstärkung der Stellung des bereits größten Aktionärs, dagegen weniger einer von den Eigentümern unahängigen Verwaltung. Entsprechend hatten 1963 in drei Vierteln aller börsennotierten Unternehmen ein bis drei Personen zusammen die Stimmenmajorität auf der Hauptversammlung. In keiner der börsennotierten Unternehmen waren mehr als 10 Personen für die Stimmenmajorität erforderlich.

Die schwedische Konzentrationskommission hat eingehend die Konzentration von Besitz und Verfügungsmacht in der privaten Wirtschaft untersucht. Dabei ergab sich eine überragende Bedeutung von 13 Besitzgruppen. Diese umfaßten 10 Familien- oder Verwandtschaftsgruppen (einschließlich der Wallenberggruppe), die beiden größten Geschäftsbanken bzw. die ihnen nahestehenden Holdings usw. sowie eine Besitzgruppe, die vollständig aus Fonds und Stiftungen besteht. Diese Gruppen hatten 1963 — vielfach in Form eines Pyramidenbaus — Majoritäts-, dominierende Minoritäts- und starke Minoritätsbeteiligungen an Unternehmen, die insgesamt 36 % der industriellen Wertschöpfung erstellten[21]. Meist waren es die größten Unternehmen, an denen entsprechende Beteiligungen bestanden.

Der starken Besitzkonzentration entspricht eine Kumulierung von Verwaltungsratsposten in den schwedischen Unternehmen. So hatten 1962/63 in den 305 größten schwedischen Unternehmen zwei Drittel aller Verwaltungsratsmitglieder einen Posten. Dagegen entfielen auf die 20 meist beauftragten Personen 500 Posten als Verwaltungsratsmitglied oder geschäftsführender Direktor[22].

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[20] Vgl. SOU 1968, 7, Ägande och inflytande inom det privata näringslivet, Koncentrationsutredningen V, Stockholm 1968, S. 18.

[21] Vgl. SOU 1968, 7, a. a. O., S. 23.

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Die umfangreichen finanziellen und personellen Verflechtungen in der schwedischen Wirtschaft gestatten eine enge Koordinierung der Unternehmenstätigkeit. Sie ermöglichen eine weitgehende Steuerung des Wirtschaftsablaufes durch wenige Kapitalgruppen resp. Personen.

Für *Dänemark* und *Norwegen* liegen gleichwertige Untersuchungen über die Konzentration von Besitz und Verfügungsmacht nicht vor. Sie ist auch nicht so ausgeprägt wie in Schweden. Zwar entfiel auch in Norwegen beispielsweise 1963 die Mehrheit des Aktienkapitals in 75 % aller börsennotierten Gesellschaften auf die jeweils 20 größten Aktionäre und in 15 % auf den jeweils größten Aktionär, jedoch ist das Ausmaß der finanziellen und personellen Verflechtungen insgesamt geringer[23].

Zusammenfassend läßt sich für die skandinavischen Länder feststellen, daß in Schweden der Prozeß der Unternehmenskonzentration am weitesten vorangeschritten ist und daß er sich darüber hinaus in den letzten Jahren dort am stärksten beschleunigt hat. Dies wird aus der ständig steigenden Zahl von Fusionen, Unternehmensabsprachen sowie Betriebs- und Unternehmensstillegungen ersichtlich, die höher ist als in den übrigen skandinavischen Ländern.

III. Konzentrationspolitik

Die staatliche Beeinflussung der Unternehmenskonzentration vollzieht sich in den skandinavischen Ländern auf zwei Ebenen. Die eine umfaßt die Monopol- resp. Wettbewerbspolitik, durch die verhindert werden soll, daß sich die aus dem Konzentrationsprozeß resultierenden Wettbewerbsbeschränkungen auf Konsumenten und andere Unternehmen nachteilig auswirken. Die andere Ebene betrifft alle staatlichen Maßnahmen, die direkt oder indirekt die Unternehmenskonzentration begünstigen. So fördern die staatlichen Instanzen in Norwegen und Schweden Umstrukturierungen im Unternehmenssektor zum Teil direkt durch steuerliche und kreditäre Maßnahmen, um die Bildung größerer Betriebs- und Unternehmenseinheiten zu erleichtern. Dadurch soll zum einen eine verstärkte Rationalisierung in der Produktionssphäre erreicht, zum anderen die Position der Unternehmen auf den Absatzmärkten, insbesondere gegenüber ausländischen Konkurrenten, gestärkt werden. Als besonders bedeutsam hat sich ferner die steuerliche Be-

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[22] Vgl. ebenda, S. 26.

[23] So hatten 76 % der in den untersuchten Gesellschaften tätigen Verwaltungsratsmitglieder einen Posten inne und 1,5 % (16 Personen) mehr als 5 Sitze. In zwei Fällen wurden 10 Posten ermittelt. Vgl. *Norges offisielle statistikk*: Aksjonaerforhold og styresammensetning i aksjeselskaber 1963, Oslo 1967, S. 24.

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günstigung der Selbstfinanzierung erwiesen, die die Konzentration der ökonomischen Macht im Unternehmenssektor wesentlich forciert hat. Diese staatlichen Aktivitäten tragen dazu bei, den Bereich einzuengen, der für wettbewerbsfördernde Maßnahmen verbleibt.

A. Wettbewerbspolitik

Erste Ansätze zu einer Antikartellpolitik finden sich in den skandinavischen Ländern bereits in den 20er Jahren dieses Jahrhunderts. Infolge der Depression in den 30er Jahren verlor jedoch das Wettbewerbsprinzip als Koordinationsinstrument allgemein an Bedeutung. Die anschließende Kriegs- und Nachkriegszeit war dann durch eine mehr oder minder starke direkte staatliche Wirtschaftslenkung unter Einschaltung von Branchenorganisationen der Wirtschaft gekennzeichnet. Mit dem Abbau der staatlichen Regulierungstätigkeit Anfang der 50er Jahre wurde zugleich die zukünftige Ausgestaltung der Wettbewerbsordnung neu durchdacht. Dies führte in allen skandinavischen Ländern zu einer Neufassung der Gesetzgebung gegen Wettbewerbsbeschränkungen, die im wesentlichen Mitte der 50er Jahre abgeschlossen war[24].

Ausgestaltung und praktische Handhabung der Wettbewerbspolitik divergieren zwar in den einzelnen Ländern erheblich, jedoch lassen sich trotz aller Unterschiede im einzelnen folgende gemeinsame Grundprinzipien erkennen.

1. *Registrier- und Publizitätsprinzip:* Wettbewerbsbeschränkungen werden registriert, um den zuständigen Kartellbehörden Informationen über Umfang und Wirkungen zu verschaffen, sie werden ferner veröffentlicht, um die Beteiligten von schädlichen Wettbewerbsbeschränkungen bzw. von der Ausnutzung ihrer Machtstellungen abzuhalten. Insgesamt hat sich allerdings das Publizitätsprinzip nicht als wirksam erwiesen, weil es das Verhalten der Unternehmen nicht spürbar beeinflußt hat.

2. *Mißbrauchsprinzip:* Wettbewerbsbeschränkungen sind im allgemeinen nicht verboten. Vielmehr sind ihre Wirkungen im Einzelfall zu prüfen. Nur wenn schädliche Wirkungen festgestellt werden, sind administrative Eingriffe möglich. Ausnahmen bilden vertikale Preisbindungen und Submissionskartelle, die verboten sind. Ferner besteht in Norwegen seit 1960 ein Preiskartellverbot.

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[24] Die gesetzlichen Grundlagen der Wettbewerbspolitik sind: in Schweden das Gesetz zur Verhinderung von Wettbewerbsbeschränkungen in der Wirtschaft von 1953 (lag om motverkande i vissa fall av konkurrensbegränsning inom näringslivet), in Norwegen das Preisgesetz von 1953 (prisloven), in Dänemark das Monopolgesetz von 1955 (lov om tilsyn med monopoler og konkurrencebegraensninger).

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Aus dem Vorherrschen des Mißbrauchsprinzips wird ersichtlich, daß sich die Wettbewerbs- resp. Monopolpolitik der skandinavischen Länder nicht gegen den Monopolisierungsprozeß als solchen richtet. So können die Träger der Wettbewerbspolitik das externe oder interne Unternehmenswachstum nicht lenken, selbst wenn dieser Prozeß zu Monopolen führt[25]. Ebenso sind — selbst bei schädlichen Wirkungen — keine nachträglichen strukturverändernden Eingriffe möglich. Die Gesetzgeber gingen davon aus, daß angesichts der skandinavischen Größenrelationen effiziente Unternehmensgrößen vielfach mit einer marktbeherrschenden Stellung verbunden sind. Deshalb verbleibe nur die Möglichkeit, über eine Kontrolle bzw. Korrektur der Verhaltensweise marktbeherrschender Unternehmen und der sich einstellenden ökonomischen Ergebnisse zu verhindern, daß die Unternehmen ihre ökonomischen Machtpositionen mißbrauchen. Häufig würde aber auch die hohe Importkonkurrenz verhindern, daß inländische Unternehmen monopolistische Marktstellungen erlangen.

Da in den skandinavischen Ländern Rechtsvermutungen über die Schädlichkeit bestimmter Wettbewerbsbeschränkungen fehlen[26], müssen die jeweils zuständigen staatlichen Instanzen diesen Nachweis erbringen. Dies erweist sich aber in der Praxis als außerordentlich schwierig, weil der Vergleichsmaßstab zu den ökonomischen Ergebnissen fehlt, die sich bei einem wirksamen Wettbewerb einstellen würden. Die jeweiligen Gesetze gegen Wettbewerbsbeschränkungen enthalten zwar Anhaltspunkte dafür, wenn eine Wettbewerbsbeschränkung als schädlich anzusehen ist. So werden unter anderem unangemessene Preise, Behinderung der Tätigkeit anderer Unternehmen oder Hemmung einer effizienten Unternehmensstruktur angeführt. Sie erweisen sich jedoch in der Praxis nur in begrenztem Maße als praktikabel.

Die Eingriffsbefugnisse der Behörden sind in den einzelnen Ländern unterschiedlich ausgestaltet. Am schwächsten sind sie in Schweden. Hier kann die zuständige Behörde außer bei Lieferdiskriminierungen nur in Verhandlungen mit den Unternehmen versuchen, schädliche Wirkungen von Wettbewerbsbeschränkungen zu beseitigen. In Dänemark und Norwegen haben die Behörden weitergehend die Befugnis, Absprachen, Beschlüsse oder Bestimmungen aufzuheben, Änderungen von Preisen und sonstigen Geschäftsbedingungen anzuordnen sowie Maximalpreise festzusetzen.

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[25] Eine Ausnahme bildet der Bankensektor. Für Bankenfusionen ist in allen drei Ländern eine staatliche Genehmigung erforderlich. Bisher hat dies aber nur in Schweden zu einer gewissen Stabilisierung der Bankenstruktur beigetragen.

[26] Eine Ausnahme bilden vertikale Preisbindungen und Submissionskartelle, die verboten sind.

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Mit der Handhabung der Gesetzgebung gegen Wettbewerbsbeschränkungen sind folgende Instanzen betraut:

1. *Schweden:* Das staatliche Preis- und Kartellamt (statens pris- och kartelnämnd) hat die Preis- und Wettbewerbsverhältnisse zu untersuchen, Wettbewerbsbeschränkungen zu registrieren und zu publizieren. Der Bevollmächtigte für Wirtschaftsfreiheitsfragen (näringsfrihetsombudsman), der zur Exekutive gehört, hat zu prüfen, ob Wettbewerbsbeschränkungen schädliche Wirkungen haben und gegebenenfalls als eine Art öffentlicher Ankläger vor dem Wirtschaftsfreiheitsrat (näringsfrihetsrådet) aufzutreten. Der Rat soll dann in Verhandlungen mit den Unternehmern versuchen, die schädlichen Wirkungen zu beseitigen, jedoch werden die Verhandlungen in der Praxis meist bereits vom Bevollmächtigten geführt. Von den insgesamt neun Ratsmitgliedern sollen drei unabhängig sein, drei Unternehmerinteressen und weitere drei Verbraucher- und Arbeitnehmerinteressen vertreten.

2. *Dänemark:* Die Überwachung von Monopolen und sonstigen Wettbewerbsbeschränkungen erfolgt durch die Monopolüberwachungsbehörde (monopoltilsynet), die aus einem Rat und einem Direktorat besteht. Während das Direktorat die laufenden Geschäfte, insbesondere die Untersuchungen, durchführt, entscheidet der Rat über die vorgelegten Fälle und überwacht die Tätigkeit des Direktorates. Von den insgesamt 15 Ratsmitgliedern soll die Mehrheit von Wirtschaftsunternehmen oder -organisationen unabhängig sein. Gegen die Entscheidungen der Monopolüberwachungsbehörde kann beim Monopolbeschwerdeausschuß (monopol-ankenaevnet), der aus drei Mitgliedern besteht, Beschwerde eingelegt werden.

3. *Norwegen:* Zuständig sind das Preisdirektorat und der Preisrat. Das Preisdirektorat führt die laufende Kontrolltätigkeit durch, während der Preisrat, der gerichtsähnlichen Charakter hat, für die Entscheidung bestimmter Streitfälle, z. B. Diskriminierungen, zuständig ist.

Hinsichtlich der Behandlung bestimmter Konzentrationsformen lassen sich für die einzelnen Länder folgende Tendenzen erkennen.

Marktbeherrschenden Unternehmen

In Schweden wurden Verfahren gegen marktbeherrschende Unternehmen wegen unzulässiger Monopolpreise, Kapazitäts- und Investitionsbeschränkungen bislang selten durchgeführt. Sie verliefen meist ergebnislos, da es nicht gelang, überhöhte Preise oder Gewinne nachzuweisen. Ein Beispiel hierfür ist die Untersuchung über die Preise resp. die Rentabilität des marktbeherrschenden Unternehmens in der Glas- und Blechverpackungsindustrie, *AB Plåtmanufakturs*. Da der Bevollmächtigte die Gewinne des Unternehmens nicht als besonders hoch betrachtete, sah er keine Veranlassung zu weiteren Maßnahmen. Ebenso konnte er im *Maizena*-Fall keine überhöhten Handelsspannen feststellen, als er die Preise der schwedischen Verkaufsgesellschaft für Maizena untersuchte. Da aber das Unternehmen, eine Tochtergesellschaft des amerikanischen *Corn Products-Konzerns*, das Produkt vom deutschen *Maizena-Werk* bezog, das ebenfalls dem amerikanischen Kon-

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zern angehört, blieb offen, inwieweit die Beschaffungspreise überhöht waren[27].

In Dänemark unterliegen marktbeherrschende Unternehmen[28] einer schärferen Kontrolle als in Schweden. Die dänische Monopolbehörde konnte mehrfach in Verhandlungen mit den Unternehmen als überhöht angesehene Preise[29] senken. Dagegen blieben Anordnungen auf Preisherabsetzungen relativ selten[30]. Dies läßt sich zum Teil daraus erklären, daß als marktbeherrschend registrierte Einzelunternehmen, Unternehmensverbindungen und Kartelle keine Preiserhöhungen ohne Genehmigung der Behörde durchführen dürfen und somit einer permanenten Preiskontrolle unterliegen. Die Monopolbehörde hat in einer Vielzahl von Fällen beantragte Preiserhöhungen ganz oder teilweise abgelehnt. Meist vereinbart sie mit den Unternehmen Kalkulationsordnungen, nach denen sich die Unternehmen in ihrer Preispolitik richten müssen. Bei einer Änderung der Marktverhältnisse werden die Ordnungen der neuen Situation angepaßt.

In Norwegen haben die staatlichen Instanzen die generelle Befugnis, Maximalpreise, Gewinne und sonstige Geschäftsbedingungen festzulegen. Diese Vorschrift wird außer auf subventionierte Waren primär auf Bereiche angewendet, in denen Produktion und Umsatz auf zusammenarbeitende Gruppen oder auf Unternehmen mit starker Marktstellung konzentriert sind[31]. So wurde beispielsweise im Jahre 1959 angeordnet, daß der Hersteller von Zyanamid seine Produkte an die norwegische Landwirtschaft zu einem Preis verkaufen sollte, der um 10 % niedriger lag als der Exportpreis. Weitere Beispiele sind die für Volldünger des größten norwegischen Unternehmens *Norsk Hydro* festgelegten Kalkulationsvorschriften und die Maximalpreise für Mineralöle.

Diese Fälle zeigen, daß sich die Kontrolle von marktbeherrschenden Unternehmen überwiegend auf einen Aktionsparameter der Unter-

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[27] Vgl. Pris- och Kartellfrågor, 1 (1964), S. 87 f.

[28] Nach dem dänischen Monopolgesetz (§ 6) sind solche Unternehmen marktbeherrschend, die einen wesentlichen Einfluß auf Preis-, Produktions-, Umsatz- oder Transportverhältnisse ausüben.

[29] Das Zentralproblem bei der Kontrolle von Monopolpreisen besteht in der Bestimmung angemessener Kosten und Gewinne. Vergleichsgrundlage sind Unternehmen, die technisch und kommerziell angemessen geführt werden. Für die Höhe des angemessenen Gewinnes wird kein feststehendes Maß angewandt. Sie richtet sich nach dem Risiko, Investitionserfordernissen usw. des jeweiligen Unternehmens.

[30] So ordnete die Monopolbehörde beispielsweise Anfang 1970 für ein Margarineprodukt des Margarinesyndikats „A/S Margarine-Compagniet M.C." wegen einer zu hohen Bruttogewinnspanne eine Preisherabsetzung an. Gleichzeitig wurde das Unternehmen, das bereits für andere Margarineprodukte als marktbeherrschend erfaßt war, auch für dieses Produkt als marktbeherrschend registriert. Vgl. Meddelelser fra Monopoltilsynet 6 (1970), S. 175 ff.

[31] Vgl. Stortings melding, 40 (1968/9), S. 8.

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nehmen, nämlich auf den Preis, beschränkt. Dagegen bleiben Qualität und Menge der angebotenen Produkte sowie die Produktionstechnik weitgehend außerhalb der Überwachungstätigkeit. Damit ist aber insgesamt die Frage offen, inwieweit marktbeherrschende Unternehmen im Einzelfalle eine Politik betreiben, die sich auf den technischen und ökonomischen Fortschritt hemmend auswirkt.

Kartelle

Der schwedischen Wettbewerbspolitik gelang es zwar, eine Reihe von wettbewerbsbeschränkenden Absprachen aufzuheben bzw. abzuändern, jedoch war die überwiegende Zahl von geringerer volkswirtschaftlicher Relevanz. Ein extremes Beispiel hierfür ist die Preisabsprache der Großhändler der Begräbnisbranche über Leichenhemden, die auf Veranlassung des Bevollmächtigten Anfang 1965 aufgehoben wurde[32]. Dagegen konnten mitunter bei bedeutsamen Kartellen und Syndikaten entweder keine schädlichen Wirkungen festgestellt werden[33], oder es kam zu langwierigen Untersuchungen bzw. Verhandlungen zwischen Bevollmächtigtem und Unternehmen. Als Beispiele seien Kartelle in der Papier-, Stahl- und Mühlenindustrie angeführt[34]. Der am stärksten kartellierte Wirtschaftszweig ist die Papier-, Pappe- und Zelluloseindustrie. Hier werden die Inlandsmärkte ferner durch internationale Marktaufteilungsabsprachen (Heimatmarktschutzabkommen) mit finnischen und norwegischen Produzenten abgesichert. So konnte beispielsweise bei Papier und Pappe im Schutze einer internationalen Absprache mit finnischen und norwegischen Produzenten, die bis zum Jahre 1918 zurückreicht, eine umfassende und wirksame inländische Kartellierung durchgeführt werden, die eine stärkere Spezialisierung der inländischen Hersteller verhinderte, wenig leistungsfähige Unternehmen am Leben erhielt und somit insgesamt eine effiziente Strukturentwicklung hemmte. Zwar hat der Bevollmächtigte diese negativen Wirkungen erkannt[35], jedoch wurden keine Maßnahmen ergriffen, weil offensichtlich befürchtet wurde, daß hierdurch die Position inländischer Unternehmen gegenüber ausländischen Produzenten geschwächt werden könnte.

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[32] Vgl. Kartellregisternummer 323 (Pris-och kartellfrågor, Sakregister) 1957—1966, S. 44.

[33] Beispiele sind die Syndikate für Leichtbeton (Pris-och kartellfrågor, 8/9 [1965], S. 5 ff.) und für Zeitungspapier (Pris-och kartellfrågor, 2 [1965], S. 52 ff.), die nach Ansicht des Bevollmächtigten nicht zu überhöhten Preisen geführt hätten.

[34] Beim Mühlenkartell, dem sämtliche schwedischen Mühlenunternehmen außer dem Unternehmen der Konsumgenossenschaften (KF) angehören, stellte der Bevollmächtigte 1967 eine Beeinträchtigung der Preis- und Wettbewerbsverhältnisse sowie der Strukturrationalisierung fest, jedoch wurden bisher keine Maßnahmen ergriffen. Vgl. Pris-och kartellfrågor, 9/10 (1967), S. 115.

[35] Vgl. Pris-och kartellfrågor, 4 (1966), S. 70 ff.

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Ferner läßt sich häufig beobachten, daß in Fällen, in denen die Absprachen aufgehoben wurden, die Unternehmen sich ohne Absprachen gleichförmig verhalten oder später erneut gleichartige Absprachen treffen. Letzteres zeigte sich am Beispiel des Kartells für Hartmetalle, das seit 1945 bestand und ganz Skandinavien umfaßte. Hier konnte die Kartellbehörde die Unternehmen im Jahre 1961 zur Aufhebung ihrer Kartellabsprache bewegen. In der Folgezeit sanken die Preise und von den sechs in diesem Bereich tätigen Unternehmen der Eisen- und Stahlindustrie übertrugen vier ihr Produktionsprogramm für Hartmetall auf die restlichen zwei. Diese gingen 1969 erneut eine Preis- und Rabattabsprache ein, die unmittelbar nach ihrem Inkrafttreten am 1. Februar 1969 zu einer Preiserhöhung führte[36].

Die dänische Monopolbehörde hat bisher nur in wenigen Fällen eine vollständige Beseitigung von Absprachen verlangt. Häufiger waren Auflockerungen oder Aufhebungen von Teilbestimmungen, Herabsetzung unangemessen hoher Preise oder Verweigerungen von beantragten Preiserhöhungen. So lehnte beispielsweise die Monopolbehörde in der Periode 1967 bis 1970 wiederholt gestellte Preiserhöhungsanträge des marktbeherrschenden Brauereikartells „Bryggeriforeningen" ab, weil die Gewinnspanne der Kartellmitglieder als ausreichend angesehen wurde[37].

In Norwegen besteht seit 1960 ein Preiskartellverbot. Es wurde damit begründet, daß Preisabsprachen höhere Preise bewirken und die angestrebte Rationalisierung der Unternehmensstruktur verhindern. Befreiungen können erteilt werden, wenn die Preisabsprache Bestandteil einer Zusammenarbeit zwischen Unternehmen ist, die zu Produktverbesserungen und Rationalisierungen führt. Die Beweislast hierfür liegt bei den Unternehmen. Freigestellte Unternehmen dürfen ohne Genehmigung des Preisdirektorats weder die Preise erhöhen noch andere Geschäftsbedingungen zuungunsten der Abnehmer verändern.

Diskriminierungen

Diskriminierungsverfahren beschäftigten insbesondere die schwedische Kartellbehörde stark. Überwiegend handelte es sich dabei um Fälle, in denen Hersteller oder Großhändler die Belieferung bestimmter Einzelhändler verweigerten, weil diese zu niedrigeren Preisen als die übrigen Händler verkauften. Die Hersteller bzw. Großhändler waren dann oft dem Druck von Händlerverbänden ausgesetzt, dieses Unternehmen nicht mehr zu beliefern, oder die Hersteller befürchteten ein

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[36] Vgl. Pris-och Kartellfrågor 2 (1961), S. 125 f.; 8 (1969), S. 44 f.; Dagens Nyheter vom 13. Juli 1969, S. 20.

[37] Vgl. Meddelelser fra Monopoltilsynet 3 (1970), S. 97 ff.

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geringeres Interesse der übrigen Händler an ihren Produkten. In diesem Bereich erwies sich die Tätigkeit der Kartellbehörde insgesamt als erfolgreich.

Zusammenfassend läßt sich für die Monopol- resp. Wettbewerbspolitik der skandinavischen Länder feststellen, daß sie die Ballung ökonomischer Macht im Unternehmenssektor nicht merklich beeinflußt hat und daß bei der Mißbrauchskontrolle nur ein Teil der Konzentrationsformen mit wettbewerbsbeschränkenden Effekten erfaßt wird. So bleiben unter anderem Kapitalverflechtungen weitgehend und personelle und kreditmäßige Verflechtungen völlig unberücksichtigt. Ähnliches gilt für Fälle, in denen Unternehmen die Abhängigkeit von Lieferanten oder Abnehmer ausnutzen, um sich ökonomische Vorteile zu verschaffen. Ferner haben die staatlichen Instanzen nur begrenzte Möglichkeiten, um zu verhindern, daß sich internationale Konzentrationserscheinungen auf den Inlandsmärkten schädlich auswirken. So entzieht sich die Geschäftspolitik international verflochtener Unternehmen ebenso einer wirksamen inländischen Kontrolle wie internationale Kartellvereinbarungen. Da der Konzentrationsprozeß durch steigende Verflechtungen zwischen inländischen Unternehmen einerseits und ein Fortschreiten der internationalen Konzentration andererseits charakterisiert ist, wird der Operationsbereich für die Wettbewerbs- resp. Monopolpolitik zunehmend eingeengt.

Die staatlichen Instanzen stehen bei ihrer Konzentrationspolitik vor einem innerhalb der bestehenden Wirtschaftsordnung mit freiem Dispositionsrecht der Unternehmer kaum zu überwindenden Dilemma. Zum einen werden wegen der technischen und ökonomischen Entwicklung, insbesondere aus Gründen internationaler Wettbewerbsfähigkeit, die Bildung größerer Unternehmens- und Konzerneinheiten sowie verstärkte Kooperationen zwischen inländischen Unternehmen als unvermeidlich angesehen und zum Teil direkt gefördert. Zum anderen hat dies aber in den kleinen skandinavischen Volkswirtschaften zwangsläufig zur Folge, daß sich die ökonomische Macht in wenigen Zentren zusammenballt, die außerhalb einer wirksamen öffentlichen Kontrolle stehen.

B. Einfluß der Besteuerung auf die Unternehmenskonzentration

Steuerliche Maßnahmen, die unter dem Gesichtspunkt der Konjunkturstabilisierung und des wirtschaftlichen Wachstums die Selbstfinanzierung der Unternehmen begünstigen, haben wesentlich zur ökonomischen Machtkonzentration im inländischen Unternehmenssektor beigetragen. Da die Steuervergünstigungen vor allem den Großunternehmen zugute kommen bzw. von ihnen ausgenutzt werden können, erleichtern sie das unproportionale Unternehmenswachstum. Die weitgehend steuerfreie

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bzw. steueraufschiebende Akkumulation von Gewinnmitteln in den Unternehmen über Abschreibungen usw. ermöglicht zugleich den in den Unternehmen dominierenden Gruppen eine raschere Expansion des Einflusses resp. eine raschere private Vermögenskonzentration als im Falle der Gewinnausschüttungen. Denn bei einer Gewinnausschüttung fällt nicht nur die proportionale Körperschaftsteuer an, sondern auch die progressive Einkommensteuer für die Gewinnempfänger.

Sofern für die Unternehmen mit thesaurierten Gewinnmitteln im ursprünglichen Tätigkeitsbereich keine Expansionsmöglichkeiten mehr bestehen, stoßen sie in vor- oder nachgelagerte Bereiche vor oder entwickeln sich zu „Conglomerates". Die Konzernbildung wird dadurch erleichtert, daß die Unternehmen für Gewinne auf Kapitalbeteiligungen entweder nicht besteuert werden (Norwegen) oder ein Schachtelprivileg (25 % Aktienkapitalanteil) besteht. Ferner wird in Schweden und Norwegen zur Förderung der Unternehmenskonzentration bei Unternehmensveräußerungen auf eine Besteuerung des Realisationsgewinnes weitgehend verzichtet oder es werden niedrigere Steuersätze angewendet.

Am stärksten hat sich der beschriebene Prozeß in Schweden bemerkbar gemacht, wo die Selbstfinanzierung über Abschreibungen, Lagerbewertungen, Bildung von Pensions- und Investitionsfonds am stärksten gefördert wird[38]. Hier kommt als weiterer Faktor die Existenz bedeutsamer „allgemeinnütziger" Stiftungen hinzu, die — meist unter Einfluß bestimmter Familien stehend — infolge ihres umfangreichen Aktienbesitzes einen wesentlichen Einfluß auf die Wirtschaft ausüben.

C. Ansätze eines neuen konzentrationspolitischen Konzeptes in Schweden

Angesichts der starken Konzentration privater Verfügungsmacht in den Händen weniger Kapital- bzw. Personengruppen und der Steuerung des Wirtschaftsablaufes durch die Zentren integrierter Unternehmensblöcke vollzog sich in Schweden in jüngster Zeit eine Neuorientierung der sozialdemokratischen Konzentrationspolitik. So wird zum einen eine verstärkte staatliche Unternehmenstätigkeit angestrebt. Zum anderen sollen Kontrollmechanismen geschaffen werden, durch die sichergestellt wird, daß bei den Entscheidungen privater Machtzentren gesellschaftliche Interessen berücksichtigt werden. Denn die Beschlüsse der privaten Machtzentren haben zwar erhebliche Auswirkungen auf die makro-

[38] Auch für Dänemark stellt *Erik J. B. Schmidt* (Dansk økonomisk politik, København 1968, S. 185) fest, daß die starke Förderung der Selbstfinanzierung eine erhebliche private Vermögenskonzentration bewirkt hat, mit der Folge, daß „viele mit größter Sorge auf eine Entwicklung sehen, die in Richtung einer erhöhten Ungleichheit und verstärkten Machtkonzentration führt".

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ökonomischen Größen wie Beschäftigung, Investitionen usw., sie entziehen sich aber einer öffentlichen Einsicht und Kontrolle. Um eine Berücksichtigung gesellschaftlicher Interessen zu erreichen, ist beabsichtigt, öffentliche Repräsentanten in die Geschäftsbanken, Großunternehmen und Stiftungen zu entsenden. Inwieweit dieser Plan realisiert werden kann, hängt von der weiteren Entwicklung der politischen Kräfteverhältnisse ab.

Die überragende Stellung der Großunternehmen in der Wirtschaft zwingt den Staat dazu, deren Entscheidungen bei seinen Aktivitäten zu berücksichtigen. Umgekehrt ist aber auch die staatliche Tätigkeit von erheblicher Bedeutung für die Kalküle der Unternehmen. Deshalb wird in Schweden eine stärkere direkte Koordinierung der Pläne der staatlichen Instanzen mit denjenigen der Unternehmen angestrebt[39]. Dies dürfte die bestehenden Tendenzen zu einer kooperativen Wirtschaftsordnung unter Einschaltung des Staates verstärken.

In den übrigen skandinavischen Ländern ist eine ähnliche Entwicklung nicht feststellbar. Dies beruht zum Teil auf dem geringeren Stand der industriellen Entwicklung, dem geringeren Ausmaß der Verflechtungen sowie auf den unterschiedlichen politischen Kräftekonstellationen.

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[39] Vgl. SOU 1970. 41, Företag och Samhälle, Stockholm 1970.

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Summary

Concentration and Concentration Policy in the Scandinavian Countries

First, the extent and development of concentration in industry, trade, and banking is described. There we notice an increase of overall concentration, of interlockings and consequently of the degree of monopolization. Especially in Sweden there is a high concentration of economic power in the hands of big private banking houses and a limited number of other financial groups respectively families. They can considerably influence the entire economic process.

On the one hand the state favours economic concentration directly or indirectly through credits, remission of taxes etc., since larger firms and combines are held necessary on account of efficiency and international competition. On the other hand it tries to control the restraint of trade to avoid harmful effects of monopolization. However, this control led to no satisfactory solution. Finally there is a description of the attempt of the Swedish Social Democrats to take into consideration the general social interest by appointing public representatives in private centres of power.

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Concentration Policy in the United Kingdom

By *P. Sargant Florence,* Birmingham

I.

It is a matter of general comment that until recently there had for centuries been no British legislation on business concentration and monopoly. Attention should however be drawn to the case of the railways, which were nominally run by private enterprise; yet as early as 1844 and again in 1854, 1873, 1888, 1894 and 1913 Acts were passed prohibiting "undue preference" and first laying down maximum prices they could charge and then curtailing their powers to make changes even within those maxima.

This exception and also the regulation of public utilities, such as gas and electricity demonstrates that British economic policy was not entirely of a dogmatic laissez faire type; and the question whether to apply *laissez faire* to the monopolies was not decided dogmatically, without discussion. Around 1906, when there was a flood of amalgamations at least two leading English economists wrote standard works discussing the pros and cons of the question. They were H. W. *McCrosty* in his *Trust Movement in British Industry* and D. H. *McGregor,* later professor of economics at Oxford University, in his *Industrial Combinations,* Alfred *Marshall* in his *Industry and Trade,* published in 1919, excused himself in fact, from detailed arguments because (page 577) "such excellent accounts have recently appeared of aggregations and federations in British industry."

I shall refer later to some of the policies advocated by these English economists. But as far as manufacturing goes a policy of *laissez faire* certainly prevailed much longer than in the United States or Germany.

The reasons given usually by economists for this British peculiarity were (a) the maintenance of Free Trade till 1933 (b) the lack of concentration in national resources—coal and iron-ore deposits and natural ports were geographically scattered and (c) the British spirit of individualism, Marshall, indeed, prints in italics as the heading of a whole section of *Industry and Trade* (iii, xi, 2) *"The strong individuality, which created Britain's industrial leadership, is still her most important asset."* In case this opinion might appear merely British pride, I

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should point out that this view of the British character was also held by German scholars, linked with the trend for the individual taking up, to quote *Sombart,* "an aristocratic manner of living."[1] I have also adduced the testimony of a second German scholar for this linked characteristic of the British that helps to avoid monopoly. It is their "Gentlemanideal" pointed out by Wilhelm *Dibelius* in his *England.*[2]

This feeling for fairness handed on in the Public Schools can still be found among English industrialists. In spite of its possible profitability, ruthless aggressive empire building is not approved. As I have written of the British family business, the head of the family who sent "his sons to the same (good old) Public School that he attended..." "may not be ambitious and may often take up a dillettante attitude to business".[3]

In short, for economic and also for sociological reasons, monopolistic tendences were not as strong in the British as in other industrial economies and the need for legislation against them did not arise so obviously.

II.

What, then, stimulated the United Kingdom finally to embark upon a policy of government interference at the very heart of industrial organization. Mainly I think it was the realization how greatly Britain's economic position was deteriorating compared to other industrial countries. Perhaps the most all-embracing indicator is Gross National Product per head of population. In 1937 the United Kingdom came only second to the United States, but is now losing rank. What, however, impressed politicians most in the midst of balance of payments crises (in spite of tariffs imposed and devaluations in 1947 and 1967) was the fall of Britain's share in the export trade, and Britain's comparatively slow growth-rates. The growth-rates of the major industrial countries are shown in Table 1 for the last two decades.

To account for this deterioration in the position of the British economy several explanations have been brought forward of which the most popular are the small scale of British production, and the absence of the aggressive competitive spirit. Some truth may underlie the latter explanation as we have seen. But as far as the size of industrial plants and firms goes little difference appears at least on the surface between Britain and America.

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[1] *W. Sombart,* Quintessence of Capitalism. Translation by M. Epstein, London 1915, p. 151.

[2] Published in 1922. See my Logic of Industrial Organization, London 1933, p. 252.

[3] *P. S. Florence,* Logic of British and American Industry, London 1953, VII § 4 1 B.

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Table 1

Annual Growth in Gross National Product*

1950—60		1960—70	
Japan	10.8 %	Japan	11.1 %
Germany	7.8 %	France	5.9 %
Italy	5.5 %	Italy	5.9 %
France	4.8 %	Germany	4.9 %
U.S.A.	3.2 %	U.S.A.	4.5 %
G. Britain	2.7 %	G. Britain	2.6 %

* Economist, Sept. 5th 1970, pp. 69—70.

In 1963, a year when both countries conducted a census, the average British factory exceeded the average American in the number of persons employed. Concentration ratios are increasing slightly faster perhaps in Britain than America. But averaging the ratios of all industries the result does not appear very different in the two countries in any of the years 1939 to 1963, when opinion was being formed. There was, too, a general similarity in the particular industries that were strongly or that were weakly concentrated.

However, in some industries it was held that the size of British firms was too small to secure the full advantages of the economies of scale or were badly managed and here the government formed, as I will explain later, the Industrial Reorganization Corporation to encourage consolidation under efficient management particularly in the face of large foreign consolidations.

While events alarming to the British economy were unfolding, general political philosophy was altering. The United Kingdom was, as railway legislation showed, never entirely dogmatic against government interference and had become less dogmatic in the course of the twentieth century. It must be remembered that the 'Manchester' school of thought was originally associated with Liberal party policy. It did not form the basis of the philosophy, either of the Conservative or the Labour parties, which, after 1923, alternated in power. Moreover, during both world wars the country became accustomed to strict government regulation of industry. By 1941, indeed, trades unnecessary for carrying on the war were being ruthlessly contracted and the factory space that was saved made available for the trades needed in wartime. By 1948, the frame of mind of the country was not unaccustomed to government interference and both parties, Conservative and Labour agreed to some government control of the organization of industry to avoid monopolistic exploitation. The practical question was in what directions and with what methods, control should be applied.

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III.

With competition assumed, the capitalist system had been supposed to supply what people demanded at the lowest price to cover necessary costs of the labour, management and capital required. Now prices could be higher than these costs because with insufficient competition undue payment was made to those in control, e.g. because the consumer was being exploited by a "capitalist" monopoly or because of payment higher than necessary to labour or management, e.g. because organization and the sizes of organizations were inefficient.

The situation where costs and prices are higher than necessary owing to the size of organizations being too small for efficiency poses the central dilemma for government concentration policy. Organization of larger firms to obtain economies of scale may introduce a monopolistic situation. This dilemma will be discussed later. In discussing policies aimed against monopolistic exploitation we will begin with policies aimed at limiting undue payment to those in control either A.1. by *directly* regulating the payment to existing structures or A.2. by creating a new structure for the whole industry (e.g. by nationalization) that will not exact these payments. We will then proceed to policies *indirectly* limiting exploitation in strengthening competition B by prohibiting restrictive practices C by setting up new competing structures or finally D by "busting" existing dominant structures or preventing new dominant structures (e.g. mergers) being formed.

It will be noted that cutting across my main classification some policies A_1, C, D are structural, others A_2 B attack industrial behaviour such as restrictive practices. My analysis of policies may be set out in a table:

Analysis of Government Policies Aimed Against Monopolistic Structures

A. Directly limiting monopolistic exploitation
   1. By nationalization of the industry.
   2. By governmental regulation of the existing organization.

B. Prohibition of restrictive practices.

C. Supporting competing small structures.

D. Breaking up existing large structures or prohibiting formation of new large structures (mergers).

A. Nationalization as a remedy for monopolistic exploitation was discussed fairly early by orthodox economists and several of them were inclined to fovour this policy. D. H. *MacGregor*[4] quotes H. W. *MacCrosty* "there is only one solution, the public ownership of monopolies". In

[4] *D. H. MacGregor,* Industrial Combination, London 1906, p. 220.

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his own text MacGregor[5] singles out goods that are "natural" monopolies where "one part of the supply cannot be transported so as to compete with another part." They include transport and the supply of water and gas. MacGregor makes a careful analysis of the significant characteristics of this type of industry and concludes that "the real meaning of the natural tendency is revealed rather in the alternative name of local monopoly. The economic cause is, then, based on some limitation of the market."

Since MacGregor's day nationalization of these natural monopolies was, in Britain, almost completed during the years, 1945—51, by Mr. *Attlee's* Labour Government. In an analysis of Britain's mixed economy in 1951[6] I have given a prominent place to the 'need, likelihood or fact of monopoly' in explaining why certain economic activities were nationalized. The activities marked "M" in that chart included the public utilities of gas, electricity and water supply, communications (e.g. posts, telegraphs and telephones) and railways. This method of avoiding "capitalist" exploitation may seem too obvious to European readers to be worth mentioning, but it is far from obvious to American readers. Not one of the activities I have mentioned, except posts, are nationalized in the United States where the favoured policy is government regulation of capitalist firms, that is the type of policy marked A.2. in my analysis.

Though important in the United States (the Inter-State Commerce Commission and Federal Trade Commission come to mind), the policy of government regulation is no longer so in the United Kingdom. It was adopted for the natural monopolies before they were nationalized but is no longer necessary except in those natural monopolies which are not yet completely nationalized. The Traffic Commissioners for instance exercised supervision in regulating the number of services and charges of bus companies not yet nationalized, or municipalized under the control of the urban authorities.

B. In 1948 the British Labour Government produced the first legislation, as A. K. *Rowley*[7] says, "for three centuries that deals with market dominance by private enterprise organizations as a general matter for public supervision and control". This legislation was the Monopolies and Restrictive Practices (Inquiry and Control) Act. Its title indicated clearly the extent of the powers granted to the government. A Monopolies Commission was set up to investigate and take action

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[5] *Op. cit.*, Part 111, Chapter 11, pp. 222 ff.

[6] *P. S. Florence,* Logic of British and American Industry, London 1953, p. 228 (a new edition is now in preparation).

[7] *A. K. Rowley,* The British Monopolies Commission, London 1966, first sentence of the book.

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both in the matter of industrial structure (i.e. the monopolistic dominance of any one or of a few firms) and also in the matter of industrial behaviour (e.g. monopolistic practices). It was granted powers to require evidence and make recommendations to Parliament. It had a former civil servant as full-time chairman and included as part-time members two university economists, two lawyers and several business executives. Secretariat and staff were provided from the civil service. The Commission was to proceed to an inquiry only on the authority of the Board of Trade—and there was no power for the Commission to enforce its recommendations except through the Board of Trade.

The work of the Commission was essentially to judge how the "public interest" was affected (as the Act put it) by the "things done by the parties concerned"; but what the public interest consisted in was left vague and members of the Commission had mainly to be guided by their own views. At first the Conservative Government which succeeded to office after 1951 did not apparently take the Commission very seriously. Few important industries were referred to it, though the number increased gradually. Between 1951 and 1955, inclusive, only two reports were issued per year, in 1955 four, and in 1957 five; and the recommendations of the report were but seldom translated into positive Board of Trade Orders. However, government officials were gaining experience and it became realized that restrictive practices and concentration of monopoly power in a single firm by a merger or otherwise should be attacked by different procedures; the first by a formal quasi-legal court procedure, the latter by more informal enquiry. Since we are concerned here with Government policy on industrial cocentration I shall pay most attention (in III D) to the govermental attack on the possible concentration of power arising from the structure of an industry. But the two lines of attack are connected and in this section (III B) I must refer to the government's attack on firm *behaviour* such as their restrictive practices.

One of the connections between the two lines of policy for maintaining competition is that the fewer the firms structurally i.e. the more concentrated, the more likely they are to make a success of restrictive practices. And, of course, the area of a restrictive agreement could be considered as though subject to the jurisdiction of one firm, particularly if the agreement was sponsored by an association or 'cartel'. Indeed, the original Act of 1948 stipulated that before an investigation takes place, the Commission must be sure that a certain proportion of the industry in question is controlled by one firm *or by a group of firms* bound by restrictive agreements.

The policy of controlling possible monopolies was supported by the Conservative Government quite as strongly as by the Labour Party,

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and, while in power, the Conservative Government passed a more drastic law. The Restrictive Practices Act of 1956 called for the registration of all restrictive agreements with a Registrar of Restrictive Trading Agreements, and for the scrutiny of individual industries, as the Registrar would indicate, by an independent judicial court.

Setting up a judicial tribunal to make economic decisions was a revolutionary step in British constitutional law and procedure; a lawyer and an economist have written jointly[8] reflecting critically upon the new development. But the fact that such a step was taken and approved by both political parties is evidence of the serious concern with which British economists and the British public view the possible decline of competition, as well as evidence of the respect paid to American procedures.

The Conservative, but to British thinking, revolutionary Act of 1956 also prohibited collective schemes for resale price maintenance though making the enforcement of schemes of individual manufactures easier.[9] The Monopolies Commission was continued, at first on a smaller scale, to deal with possibly monopolistic dominant firms and, later, with mergers between large firms, as distinct from restrictive agreements between firms within an industry.

In its scrutiny of the industries selected for possible restrictive practices the judicial tribunal, presided over by Mr. Justice *Devlin,* was at first severe. Between 1958 and March 1961 out of 13 contested cases, in two, only, was the agreement upheld. Many industries then voluntarily abandoned their agreements as likely to prove hopeless cases. After March 1961, when other judges sat, 40 per cent of the agreements were upheld. The law had laid down six so-called gateways through which agreements could escape condemnation and defending lawyers gradually learned through which gateways their clients could most easily escape. The first gateway on which they relied, that the agreement protected the public against injury, was not considered applicable even to the retail chemists, and two gateways were not tried—that the agreement protected against a monopoly, and against local unemployment. A fourth gateway—that the agreement protected export earnings—was only moderately successful. The exits really successful in court were (5) that the agreement protected against a predominant buyer or seller and (6) the loosely conceived gateway that the agreement "offered a specific and substantial advantage." The Cement-Makers Federation, for instance was held to pass this test

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[8] *R. B. Stevens* and *B. S. Yamey,* The Restrictive Practices Court. A Study of the Judicial Process and Economic Policy, London 1965.

[9] This, too, was prohibited later.

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because collusion and collaboration among producers offered, as a well documented brief claimed, price advantages to the consumer. The return on capital in new investment was also considered reasonable, as less than 10 per cent per annum.

Professor G. C. *Allen* has claimed the decision as marking a "change of direction," promising "cartels a new lease of life." Certainly an American commentator[10] was surprized that the Court found the basing-point pricing scheme operated by the Cement Federation not contrary to the public interest. This scheme was for common delivered prices in which firms agreed to charge the same price whatever the distance delivered and which involves subsidizing buyers remote from the plant producing cement, at the cost of the neighbouring buyers. This scheme undoubtedly misallocates transport resources which in the case of heavy goods of low value, such as cement, is a serious consideration. The argument that appealed to the Court was somewhat sophisticated. It was that the common price reduced risks and that, without the certainty about prices created by the agreement, the increased risk to investors in the industry would have so raised the minimum supply-price of capital that prices charged to the consumer would have gone higher still. As Professor *Caves* comments: "Even if voiding the agreement caused prices to fall (due to competition) and then rise again (as battered risk avoiders leave the scene) they could hardly rise enough in the long run to match the monopoly gains yielded by the agreement."[11] Similar arguments persuaded the Court to allow similar practices of agreed delivered prices for glazed and floor tiles.

Other cases where the restrictive practices were allowed included that of black nuts and bolts where the argument was accepted that price agreements save customers wasting time and money "shopping around" among competitors, though a similar argument was rejected in other industries. Cases allowed include, too, the interesting „New Book Agreement" fixing prices for books. Book buyers today take fixed prices for granted though it was not introduced till 1890 (curiously enough with the first edition of *Marshall*'s Principles of Economics). The particular argument for book price-fixing which the Court accepted has been acknowledged by quite a number of economists. I may quote Professor G. C. *Allen* for a considerable period himself a member of the Commission.[12]

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[10] *G. C. Allen,* Monopoly and Restrictive Practices, London 1968, p. 94.
[11] Professor Caves in Britain's Economic Prospects (ed. *R. E. Caves),* Washington 1968, pp. 314—5.
[12] *G. C. Allen,* op. cit., p. 96.

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The Court accepted the argument that unrestricted competition among retailers, while lowering the price of popular books, would reduce the net revenue of the stock-holding booksellers on whom publishers rely for the sale of serious, slow-moving books. As a result, the number of those booksellers would decline and the number of titles in the more serious class of book would diminish. It was likely, moreover, that their prices would rise, because publishers would have to offer higher gross margins to the stock-holding booksellers. As the reading public would then lose 'specific and substantial benefits', the Court decided that the agreement should continue. The apparently sophisticated economic reasoning behind this decision has been subjected to harsh criticism. The decision itself may nevertheless be defensible, if not for economic reasons, by reference to the (undemocratic) proposition that it is fitting that the reader of popular books should subsidize the student and the scholar.

British policy on restrictive practices is, to sum up, laid down by a quasi-judicial court, and the general trend has been mainly to disallow the practices except for exceptional circumstances. What is exceptionally allowed has, so far, been somewhat arbitrary and not always based on consistent economic reasoning. Where restrictive practices are disallowed the firms of the industry concerned have frequently reorganized to exchange information in an informal "Information Agreement".[13] The policy of the Restrictive Practices Court seems to depend, in that event, on whether the new organization was behaving in contempt of undertakings previously given. If it was so deemed the agreement is declared illegal; if not, it has been suggested the case be referred to the Monopoly Commission to judge the balance of advantage and disadvantage to the public interest. In 1968 a further Restrictive Trade Practices Act specified certain classes of information agreements that were to be registered.

C. The policy of supporting competing structures by encouraging small or medium sized firms to get on their feet had its origins in 1931. A committee presided over by Lord *MacMillan* of which Lord *Keynes* was a member, reported, in 1931, a gap, referred to ever since as the "MacMillan gap." There appeared to the committee to be a range of businesses whose needs were not strictly for short-term banking accomodation but which, owing mainly to the firm's size, were unsuitable for the long-term issue market.

An attempt to fill the MacMillan gap was the creation in 1945, with Government encouragement, of the Industrial and Commercial Finance Corporation or I.C.F.C., to "provide credit and finance by means of loans or the subscription of loan and share capital or otherwise..." The corporation operates independently of Government, the shares

[13] For greater detail see *D. P. O'Brien* and *D. Swann*, Information Agreements, Competition and Efficiency, London 1968, but see in the contrary sense *G. C. Allen*, op. cit., pp. 159—160 footnote.

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being held by some 20 banks in proportions corresponding to their deposits. The Bank of England subscribed £1/2 million in shares and up to £1 million in loans. The Corporation was thus assured the availability of £15 million in share capital and £30 million in loans.

Since I.C.F.C.'s inception and up to and including September 1969 it has advanced over £200 millions to 2,500 customers. More than two thirds of this was advanced in the last ten years, that is in the 1st 40 % of its life. As of March 1969 the outstanding investment was £110.8 million spread over 1.800 customers nearly half in the form of secured loans and one-sixth in ordinary shares.

A special survey of the years 1955 to 1964 showed according to the corporation that on average the 300 small or medium companies (mostly with assets between £100,000 and £500,000) where sufficient data were available, were more profitable than, on average, the larger companies quoted on the London Stock Exchange in 8 years out of the 9 years. Their ratio of net profit before tax to total net assets averaged during the 9 years for small companies 15.5 percent, as against the quoted companies' only 13.7 percent. And after 1964 profits before tax rose steadily from £2,887,000 in 1964 to £4,748 in 1970.

D. In Britain, as in America, it has been easier to prove and to stop restrictive practices among a number of firms as in a cartel than to prove restriction by the monopoly power of a single firm or merger. But it is suspected that when cartel practices are stopped there is a natural tendency for firms to merge and to continue restriction so to speak "underground" i.e. *within* their own organization. Hence the importance today of tackling the problem of dominant monopolistic firms—not only their practice but their structure i.e. by some form of the American "trust-busting" which can apply to existing structures or to proposed new structures i.e. mergers.

When, in 1956, the Monopoly Commission was freed from the pursuit of restrictive practices it was reduced in membership, but soon in 1967, it was increased again in size to nineteen members including several economists and a lawyer, Mr. Ashton *Roskill* Q.C. as Chairman. Concern with monopolistic structure increased further when, in 1965, the Government passed the Monopolies and Mergers Act. Since then interest has centred mainly on the decisions of the Commission in recommending the Board of Trade either to permit or to forbid proposed mergers that the Board has referred to it. In making its reference, the Board looks at the structural situation such as whether concentration is over 33 1/3 % or the total assets involved more than £5 million.

The procedure of the Commission is characterized by (1) a time-limit set to making the decision (2) a case-to-case, *ad hoc,* consideration (3)

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absence of set guide lines such as the "Gateways" of the Restrictive Practices procedure, as to what sort of pleas are permissible. The time limit was imposed because delays in reaching decisions had been costly to the industry concerned; but obviously when no 'gateways' in pleading are set out, it takes longer to come to a decision. And it is at this point that criticism has been forming of the recent activities of the Commission and the condition under which it has to work.

In favour of the ad hoc British procedure is (1) the fact that industries vary widely in their circumstances and that general principles are in many cases not relevant to the aim in view (2) that the Commission concerns itself with the performance of the dominant firm, and is not confined to the firm's structural position within the industry. This policy contrasts with the American. As G. C. *Allen* puts it[14] "the administrators of the American anti-trust policy have not been deeply concerned with a firm's or an industry's performance. American opinion" "regards as axiomatic the proposition that more competition is to be preferred to less competition" and "insists that efforts shall be made to preserve a large number of independent business units, because they are believed to be socially and politically desirable". British policy, on the other hand, is free (as we shall see in Section IV) to advocate mergers and larger firms generally, if that would lead to greater efficiency or stability or progress. (3) Dealing with conglomerates straddling many industries, the *ad-hoc* British procedure, as J. B. *Dirlam* points out[15] is more relevant. They cannot be examined from the standpoint of less competition within *any one industry;* but they can from that of efficiency of management. Against the British procedure is the difficulty of considering within a given time limit all the factors, which it is relevant to examine, involved in a particular case. A. K. *Rowley* points out that: "The (Monopoly) Commission in the short space of six months can scarcely be expected to produce a first-class efficiency audit of the separate companies and a convincing analysis of the economic effects of combination."[16] The task would be more feasible if a body of knowledge independent of the examined company's own assessment were building up to some conclusion about the complexities of the organization of various British industries. Unfortunately the type of research required seems to have fallen out of fashion which produced G. C. *Allen's The Industrial Development of Birmingham and the Black Country,* or the symposium edited by D. *Burns* on the *Structure of British Industry,* or P. W. S. *Andrews' Manufacturing Business.* It was a type embodied in Alfred *Marshall's*

[14] Op. cit., pp. 135, 139.
[15] St. John's Law Review, 1970, pp. 209—10.
[16] *C. K. Rowley,* Mergers and Public Policy in Great Britain, Journal of Law and Economics, University of Chicago, Vol. XI (April 1968), p. 131.

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Principles of Economics and fully developed in his *Industry and Trade,* and which Marshall encouraged his pupils to pursue. Examples were Sir John *Clapham's* the *Wool and Worsted Industry,* S. J. *Chapman's The Lancashire Cotton Industry,* D. H. *MacGregor's Evolution of Industry,* C. R. *Fay's Co-operation at Home and Abroad.*

The fashion among economists is now for mathematical models based on rather too simple assumptions, not applicable in particular cases. Recently, however, the question of Government policy monopoly power and industrial concentration has revived interest in the closer observation of British industrial structure as is shown by many of the references in Professor *Hart's* contribution to this volume. We may note in particular the work of Professor Hart himself, J. H. *Dunning,* A. *Silberston,* M. A. *Utton* and G. D. *Newbould.* A number of economists, moreover, are working at the Board of Trade. Many critics of the Monopoly Commission complain of the lack of quantification. But in most of these cases, the basic statistics have not yet been collected. It would have been a great help if more academic research had been encouraged into measuring the structure and behaviour of particular industries and especially the relation between structure and behaviour. In six months the Commission cannot *ad hoc* and without prior analysis collect the facts at source in the field and draw comprehensive conclusions. However, several of the decisions on mergers of the Monopolies Commission bring out the difficulties in analysis that characterize particular industries and that need long-term research, if possible quantified.

1. Permission was refused for merging two large manufacturing and multiple retailers of men's outerwear.[17] This refusal involved an analysis of the structure of the industry; it was based mainly on the high percentage of the market that would be formed by the joint sales of the two companies. Here one of the difficulties that needed further research was to define precisely the scope and limits of a market. The Commission took the narrow view and defined the relevant market on the cheaper ranges of complete men's suits, not including separate coats and trousers. The proportion sold by the two companies in this narrow market probably was considerably higher than their 36 % of all men's outerwear generally.

Further difficulties arose in considering the market position of the two companies, not as oligopolists but as oligopsonists. What proportion

[17] Structural analysis was undertaken by the Commission for several other industries, but resulted in discouraging a merger rather than a decision to reject a merger, as in the asbestos and textile industries; or in permission as in brewing. Proposed conglomerate mergers such as de la Rue with Ranks were on the whole discouraged (See the Economist, No. 6563, p. 76; No. 6569, p. 61; No. 6574, p. 60).

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of the required cloth would the two companies be buying; and jointly could they not bring undue pressure on the cloth manufacturers?

2. The decisions of the Commission rest not only upon the dominance of a firm and the risk of a monopoly in the market. The "public interest" is involved, and, in particular, the loss of efficiency in production or distribution, if any, which a merger might cause. Here the difficulty lies in finding a statistical measure of efficiency. In the clothing companies case to test if one company would gain by merging with the other, several measures were put forward, none of them satisfactory. Physical output per worker ignored qualitative differences, value added per worker ignored other inputs besides labour, e.g. the degree of mechanization. It is known, however, that in clothing manufacture, factories, to be efficient, do not have to be very large and in fact each of the two companies in the case owned a number of small and medium-sized factories. So there is a presumption that the efficiency of production would not gain by the large-scale provided by any merger.

Other industries may also not gain much in large-scale economies. *Sutherland* indeed suggests this of detergents.[18] In all such cases the Monopoly Commission could legally recommend not only against a proposed merger but for a break-up of the existing structures into smaller units and thus less concentration of the industry.

3. Besides defining the scope of the market so as to calculate the concentration ratio's denominator, and testing the efficiency of large-scale operation there is the difficulty of the rate of profits. A high rate of profit is usually taken as a sign of monopoly, and the Monopoly Commission has certainly had recourse to a comparison of the rate of profit of the firms under examination with some average for manufacturing generally; notably in the case of Pilkington's flat glass. But industries vary in the rate of profit per assets according to factors such as the risks incurred or the need of ploughing back profits into research. In highly capitalized industries absolute profits may be high, but so are the assets and the *rate* of profit may be fairly low. In science-based industries, however, the highly-paid research staff does not appear among assets and the rate of profit must appear high. A somewhat similar difficulty which faced the Commission in the detergent industry, arises in the case of large-scale advertizing—for efficiency and progress, perhaps, not so necessary as research. In the duopoly situation of the detergent industry with high profits the Commission at first recommended a 40 % cut in advertizing permitting a large cut in price.

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[18] *A. Sutherland,* The Monopolies Commission in Action, Cambridge 1969, pp. 50, 95.

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Quite apart from the technical accounting problem such as historical or replacement valuation of assets, finding criteria for "reasonable" profit in the different circumstances of different industries is thus a task in which economists could, if their research were relevant, help the Monopoly Commission.

British legislative procedure unfortunately contains nothing equivalent to the United States Senate Hearings. The Sub-Committee on Anti-Trust and Monopoly of the U.S. Senate Committee on the Judiciary, (Dr. John *Blair* was its senior economist) has published a series of such hearings embodying research relevant to the problems of concentration in different industries. They include those just mentioned, of definition of markets, scale economies and the significance of rates of profit.

IV.

Concentration within separate industries has on the whole been increasing in the United Kingdom, as Professor *Hart*'s contribution has shown, but not increasing very fast. The trend which is developing fast in the United Kingdom and which can be shown even more clearly in the United States is the increasing size of firms in manufacturing *taken as a whole*. This apparent paradox is due to firms spreading into a number of industries, in each of which, separately, they may only play a small part.

This spread in the scope of firms' activities used to be known as integration and is called "vertical" if successive processes are combined, or "lateral" if different processes or products at the same stage are combined. Recently the adjective 'conglomerate' has taken the place of 'integration' to include cases where there is no technical link, neither vertical or lateral between the different industries combining, sometimes known as inorganic integration. Legally this presents no threat of monopoly or even of industrial concentration, since in any one market the shares of individual companies have not increased; but in reality the threat of barriers to competition is present and government policy should be prepared to meet it.

For the practical purpose of preventing monopoly exploitation a distinction should be drawn between 'vertical' and 'inorganic' integration. The Monopoly Commission had, in fact, an important example of vertical integration put before it in the proposed merger between the British Motor Corporation and the Pressed Steel Corporation—the first case referred to it under the 1965 legislation. Pressed Steel was a very large independent motor-car body manufacturer and supplied

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other motor-car assembly companies besides The British Motor Corporation. If it became controlled by one motor assembler, would it not be likely to starve the others?

In its recommendations however, the Commission agreed to the merger and merely demanded assurances that in spite of British Motor Car Corporation control rival assemblers would be fairly treated. But the question remains can vertical integrators controlling most of any one process always be relied upon to supply their competitors who do not include this process? The conglomerate firm which integrates inorganically also threatens monopoly, though indirectly; by cross-subsidization it can finance one particular activity through surplus profits from another. It's broader based finance, to be precise enables the firm by undercutting prices below cost, to ruin a rival or erect a barrier against a potential rival in that particular activity.

Individual integrations thus differ, and the British *ad hoc* case-by-case approach, often called "pragmatic", is best able to meet the varying circumstances threatening monopoly exploitation. In the United States where, in policy decision, monopoly is equated to a high concentration ratio in any one industry, the conglomerate company with relatively small interests in any one industry is difficult to prove guilty.

The British procedure, being flexible, can adapt itself readily to the varying circumstances of different industries. Some industries may have too many small firms competing at home and with high costs be unable to meet the prices of larger foreign firms; other industries, maybe, have too little competition to keep their prices down. The Monopoly Commission is free to take account of all the various considerations, not only the absolute and relative size of firms but their type and degree of integration. British policy intervening in industrial organization has indeed aimed considerably wider than, by controlling the size of firms, preventing monopoly. In fact it has included in some industries the opposite policy of encouraging larger sizes of firms. The Industrial Reorganization Corporation set up by the Labour Government was foreshadowed in its National Plan presented to Parliament in September 1965. In this Plan (p. 18) a "Check List of Action Required" includes the following paragraph headed "Rationalization".

> Various industries, including machine tools, electrical engineering and wool textiles, will examine their structure to see where rationalization and larger units would increase competitive efficiency. Government will assist in the promotion of mergers which will have this result.

To American observers, these simultaneous policies of stimulating competition, and also mergers seem illogical, if not contradictory. But it must be borne in mind that the most efficient organization of dif-

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ferent industries—the size of their plants and firms, their degree of localization and of integration—is very different. Organization depends logically on different technological and marketing factors. Some industries have to meet strong foreign competition, some are based on science and require plough-back for research, others require intensive capitalization, others a mass demand, others involve certain risks. There is no reason why the most efficient size of potentially competing firms should be the same for all industries.[19]

Certainly there often is a dilemma. Larger firms will often, thanks to scale economies, be the more efficient, but as they are *ipso facto* fewer they may be potential monopolists. This dilemma, however, is in the nature of things and not due to any particular government policy.

[19] The Conservative Government has recently abolished the Industrial Reorganization Corporation.

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Concentration in the United Kingdom*

By *Peter E. Hart*, Reading

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I. Introduction

The purpose of this paper is to summarize the investigations of business concentration in the United Kingdom, 1907—67. It is important to distinguish between concentration within a single industry and concentration within the whole sector of manufacturing and distribution. The study of concentration within individual industries is intimately related to questions of monopoly and imperfect competition.

In the 1930's when the theories of non-perfect competition were in their infancy, it was thought possible to classify industries according to their degree of monopoly by measuring the proportion of an industry's output produced by the largest firm, by the two largest firms, by the three largest firms, etc. By repeating these calculations at different points of time it was hoped to find out whether industries on the average were becoming more monopolistic or less monopolistic.

* Some of the data used in this paper was collected at the National Institute in a research project on mergers and concentration. This project is sponsored by the Department of Trade and Industry, but the author alone is responsible for the contents of the present paper, which certainly must not be regarded as expressing any official view whatsoever.

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On the other hand, typical questions asked in the second type of concentration study are, "How important are giant firms? Are they acquiring business at the expense of small firms?" The classification of firms into industries is ignored. After all, if we want to know whether large firms are growing more rapidly than small firms we cannot restrict our analysis to industries, because one important method of growth for the real-world multi-product firm is to add to the number of commodities produced, by utilizing by-products or by manufacturing component parts previously bought from other firms, so that it soon overlaps several industries.

Perhaps the most famous study in English of this type of business concentration is that of *Gardiner C. Means*[1], who measured the proportion of the assets of all non-financial companies quoted on the New York stock market controlled by the largest 200 companies. Clearly, business concentration in this sense is only indirectly related to questions of monopoly. But the rise of the giant-sized firm has created problems which are no less interesting than those created by monopolies and the like, as will be shown in section III of this paper.

II. Concentration within Industries

A. Monopoly and Business Concentration

The measurement of the proportion of each industry's output produced by its largest firms has generally been based on Census of Production data. But the Census authorities are not allowed to reveal information which might disclose the output of any one firm, so that the minimum number of firms at the top for which information is available is three; figures for the largest firm would obviously reveal confidential information, while figures for the largest two firms would enable each of the firms to calculate the other's output by subtracting its own output from the given sum for the top two firms. The proportion of an industry's output produced by the largest n firms (in this case $n = 3$) is termed an absolute concentration ratio, and it is tempting to conclude that when an industry has a high absolute concentration ratio, say over 70 %, the degree of monopoly is high, and that when concentration is low, say under 30 %, the industry is competitive. But this temptation must be resisted. First, because a low degree of concentration does not exclude monopoly through restrictive agreements by several more or less equal firms within an industry. Such agreements range from the cartel with its definitive price and output agreements to the loose understandings

[1] *G. C. Means*, The Large Corporation in American Economic Life, AER, Vol. 21 (1931), 10—42.

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achieved through interlocking directorates and exchange of shares. Secondly, because the Census definition of an industry is based on technological criteria—the principal products comprising an industry are similar in physical content or are capable of being produced by the same technique. Industries are in effect defined from the point of view of supply and it certainly does not follow that the products made by firms within the same Census industry are substitutes on the demand side of the market. Thirdly, the Census data are based on establishments which are not firms in the economic sense. What is the real world equivalent to the theoretical concept of a firm? The usual convention in the analysis of business concentration is to refer to business units, defined as a parent company plus all subsidiaries in which it has more than 50 % voting power. Such business units have many establishments and invariably overlap many Census industries, but for the purpose of compiling concentration ratios, the Census authorities group together all the establishments in a particular industry belonging to the same business unit. It sometimes happens that a giant firm overlapping many Census industries and having several establishments in each does not emerge as one of the largest three firms in a Census industry with high concentration. In such a case, the suggestion of monopoly because of high concentration is most misleading because the largest firm in the Census industry could not possibly act in a monopolistic manner in the face of the potential competition from the much larger giant business unit overlapping this and many other industries.

In particular, if often happens that a trade with high concentration contains among its smaller business units a subsidiary of a giant foreign parent company which could not possibly be dominated by the larger domestically-owned firms, because of the immense financial resources of its parent abroad. Furthermore, as soon as foreign firms are introduced into the analysis, some allowance has to be made for imports. If imports are large relatively to domestic output in any industry, and if they are beyond the control of the domestic firms, then a high concentration ratio in that industry does not mean much.

The seemingly simple theoretical concepts of firms and industries for which concentration ratios are prepared turn out to be exceedingly difficult to measure in practice. Still more so when it is remembered that the definition of a business unit is merely conventional. It is known that considerably less than 50 % of the voting power in subsidiaries is generally sufficient to guarantee control, because of the wide dispersion of shareholdings; some cases of control are based on less than 30 % of the voting power in the subsidiary company. In the extreme case, a giant firm can impose its will on another small firm without holding any of its shares at all by purchasing the bulk of the small firm's output or by

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supplying the major part of some essential input. On the other hand, other cases exist where the parent company does not significantly influence the policies of subsidiaries in which it has more than 50 % ownership.

It follows that it is exceedingly dangerous to draw conclusions about the degree of monopoly within any industry from information about its degree of concentration alone. It is still more dangerous to draw from concentration ratios conclusions about the change in monopoly over time or about the different degrees of monopoly in different countries at the same point of time. Such analyses are not only open to the objections discussed above, but they suffer from the changes in Census methods and definitions which invariably cannot be allowed for in full. For example, *Evely and Little*[2] found it generally impossible to compare their estimates of concentration in British industries in 1951 with the estimates for 1935 prepared by *Leak and Maizels*[3], even though both sets of data were derived from Census of Production returns—the effects of the change in Census classifications and definitions over the period 1935—51 simply could not be measured from published Census returns.

Estimating concentration ratios may be a valuable preliminary to an investigation of monopolistic practices, but it is only a preliminary. Detailed case studies of each industry have to be made before any conclusion on the degree of monopoly can be reached and even then it may be necessary to have the powers of the Monopolies Commission or the Restrictive Practices Court to obtain evidence sufficient to classify an industry as monopolistic.

These reservations are stressed at the outset to ensure that subsequent parts of this section are not misinterpreted. However, we must not jump to the other extreme and regard the measurement of concentration within industries as worthless. It is important to recognize the limitations of concentration ratios, but it is equally important to recognize that they do provide a prima facie case for the existence of monopoly which is all the information we have until these ratios are reinforced by detailed research into the structure of each industry.

B. Concentration in Census of Production Industries in the United Kingdom 1935—1963

The two pioneer studies of concentration within Census of Production industries in the U. K. relate to 1935 and to 1951. The first was published

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[2] *R. Evely* and *I. M. D. Little*, Concentration in British Industry, Cambridge 1960.

[3] *H. Leak* and *A. Maizels*. The Structure of British Industry, J. Roy. Stat. Soc., Series A, Vol. 108 (1945), 142—199.

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by *Leak and Maizels*[4] in 1945 and has been a standard reference work ever since. The second was prepared at the National Institute of Economic and Social Research by *Evely and Little*[5]. They had the full cooperation of the Board of Trade and were able to extract figures for the number of business units in each industry. In addition they provided detailed case studies of 41 industries, which gave substance to their concentration ratios.

Table 1

Frequency Distribution of Trades According to Employment Concentration, 1935 and 1951

Degree of Employment Concentration %	1935		1951	
	No. of Trades	Employment 000's	No. of Trades	Employment 000's
1	2	3	4	5
1— 10	20	2455	20	1522
11— 20	46	853	37	1083
21— 30	42	716	43	1586
31— 40	47	696	26	386
41— 50	25	506	23	831
51— 60	26	302	20	292
61— 70	11	144	13	208
71— 80	18	205	18	268
81— 90	10	268	17	177
91—100	4	22	3	17
Total	249	6167	220	6369

Source: 1935: *H. Leak* and *A. Maizels*, op. cit., 157. — 1951: *R. Evely* and *I. M. D. Little*, op. cit., 65.

Table 1 summarizes the employment concentration ratios available in these two studies, where employment concentration means the proportion of the industry's employment controlled by the largest three business units in that industry. An inspection of columns 1 and 3 shows that in 1935 only 8 % of the total employment in the 249 trades analysed occurred in industries with concentration ratios above 70 %. Indeed, the average concentration ratio, weighted by employment, was only 26 %. This suggests that while monopolies, duopolies and oligopolies were undoubtedly present in British manufacturing in 1935, they were not typical. But this does not mean that the typical industry was competitive; the collective regulation of trade was always possible.

[4] *H. Leak* and *A. Maizels*, op. cit.
[5] *R. Evely* and *I. M. D. Little*, op. cit.

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In 1951 some 7 % of the total employment in the 220 trades analysed was in trades with concentration ratios above 70 %. The weighted average concentration ratio was 29 %. Unfortunately, substantial changes in the classification of industries between 1935 and 1951 make it difficult to attach much importance to this observed increase of 3 percentage points. Indeed Evely and Little found it possible to compare changes in concentration between 1935 and 1951 for only 41 trades. Of these, 27 trades had increases in concentration and 14 had decreases in concentration, but the average increase was about 10 percentage points, as shown in Table 5. It proved impossible to compare changes in concentration for the other 179 trades, but if these 41 trades are regarded as a random sample, it is clear that concentration increased on the average between 1935 and 1951. *Shepherd*[6] compared concentration ratios for 139 trades in 1951 with those for 120 trades in 1958 and found that the share of total output in the highly concentrated trades increased, e.g. industries where the top 3 firms had more than 80 per cent of output, increased their share from 2.0 per cent in 1951 to 6.7 per cent in 1958. He matched 73 trades 1951—85 and found that 49 showed increases in concentration, 13 showed decreases, and 11 revealed no change.

Armstrong and *Silberston*[7] made a more cautious comparison of concentration ratios in 1951 and 1958. Because of changes in the classification of industries, they were able to compare only 35 industries. However, they were able to estimate the range of changes in concentration in 28 more industries. Briefly they found increases in concentration in 36 industries and decreases in 16 industries. The remaining 11 industries had zero or an indeterminate change.

The publication of the Summary Tables of the 1963 Census of Production[8] permits a comparison between the proportion of sales by the largest five enterprises for 214 products or product-groups in 1958 and 1963. This information is summarized in Table 2. In 1958, on average, the largest five enterprises were responsible for 55.7 per cent. In 1963 the corresponding figure was 59.6 per cent, an increase of some 4 percentage points over 5 years. If the same 214 products are compared in 1958 and 1963, the average degree of concentration increased by only 2.9 percentage points, from 55.7 to 58.6 per cent. If these means are weighted by sales, the levels rise by 10 percentage points, but the

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[6] *W. G. Shepherd,* Changes in British Industrial Concentration 1951—1958, OEP, Vol. 18 (1966), 126—132.

[7] *A. Armstrong* and *A. Silberston,* Size of plant, size of enterprise and concentration in British manufacturing industry 1935—58, J. Roy. Stat. Soc., Series A, Vol. 128 (1965), 395—420.

[8] *Board of Trade,* Report on the Census of Production 1963, Vol. 131 (1969), Summary Tables, Table 5, pp. 98—114, London: Her Majesty's Stationery Office.

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Table 2

Frequency Distribution of Products According to Sales Concentration (1958 and 1963)

Degree of Sales Concentration (share of Top 5)	1958			1963 figures for 1958 products				1963				
	N	%	Sales £'000	%	N	%	Sales £'000	%	N	%	Sales £'000	%
1— 10	1	0.47	5,451	0.10	—	—	—	—	—	—	—	—
11— 20	12	5.61	114,494	2.15	9	4.21	89,866	1.26	12	4.48	122,975	1.18
21— 30	36	16.82	412,216	7.74	25	11.68	365,058	5.13	29	10.82	394,860	3.80
31— 40	24	11.21	395,897	7.44	29	13.55	620,943	8.72	34	12,69	676,030	6.50
41— 50	20	9.35	266,050	5.00	23	10.75	359,642	5.05	30	11.19	888,286	8.54
51— 60	21	9.81	805,802	15.13	25	11.68	965,276	13.56	32	11.94	1,134,370	10.91
61— 70	30	14.02	625,557	11.75	26	12.15	1,046,656	14.70	31	11.57	1,199,360	11.54
71— 80	27	12.62	1,097,538	20.61	26	12.15	1,074,825	15.10	30	11.19	1,298,758	12.49
81— 90	23	10.75	991,994	18.63	23	10.75	930,493	13.07	27	10.07	1,065,518	10.25
91—100	20	9.35	609,541	11.45	28	13.08	1,666,586	23.41	43	16.04	3,615,305	34.78
	214	100	5,324,540	100	214	100	7,119,345	100	268	100	10,395,462	100
Mean	55.7				58.6				59.6			
Weighted Mean			65.8				69.0				72.4	

Notes: The concentration ratios given for 4 products 1958 and 1963 are excluded from this table because they relate to more than 5 business units in the numerator. Concentration ratios given to one decimal place in the Census of Production are rounded to nearest whole number.

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changes in these weighted means are still small—from 65.8 in 1958 to 72.4 in 1963, or to 69.0 in 1963 if the comparison is restricted to the same 214 products.

These measures suggest that the increase in average concentration was small, in spite of the intensive merger activity 1958—1963. Of course, it is known that the proportion of total capital outlays spent on acquiring subsidiaries increased after 1963, so perhaps the Census of Production for 1968 will reveal sharper increases in average concentration.

Another qualification is that while the mean of the distribution of products by degree of concentration increased only slightly, the proportion of total sales of the products in the upper tail of the distribution increased sharply. In 1958 products with degrees of concentration in the 91—100 per cent class accounted for 11.45 per cent of total sales. By 1963, some 23.41 per cent of total sales consisted of products in this 91—100 per cent class. But this increase in the proportion of

Table 3

Products With 90 per Cent Concentration, or More in 1963 in Which Concentration Increased 1958—1963

Code		Concentration 1958	Ratio (5) 1963
384	Locomotives	80.9	93.0
362	Winding wires, strips etc.	80.1	93.0
239	Cider, perry, British wines.	81.2	96.3
339	Machinery making paper and board	84.0	93.8
219	Dog and cat foods	86.1	94.3
383	Aircraft complete, and airframes	86.6	98.0
395	Tin cans, metal boxes (9)	86.9	90.4
229	Margarine	88.1	92.8
381	Cars	90.4	91.5
363	Telegraph and telephone instruments	90.4	94.0
336	Track-laying tractors	90.1	98.0
311	Steel plates, sheets, $<$ 3 mm.	91.1	94.2
215	Condensed milk	90.9	93.4
218	Potato Crisps (7)	91.4	91.6
218	Soups	91.1	92.5
483	Wallpapers	91.6	95.1
271	Synthetic Rubber	91.7	99.4
491	Tyres and tubes	93.2	94.5
215	Ice cream	94.2	94.6
363	Line apparatus	93.9	96.2
383	Aero-engines (8)	93.8	97.1
381	Tractors	95.4	97.6
229	Coffee	97.9	98.4
109	Salt (7)	98.2	100.0
	Mean (excluding products where concentration ratio is not based on top 5)	89.5	95.1

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total sales consisting in products in the upper tail for the concentration distribution is itself subject to a major qualification: the products in this very highly concentrated group were not the same over the period 1958—1963.

Table 3 lists all the products with concentration ratios of 90 per cent or over in 1963, which had lower concentration ratios in 1958. Of the 24 products in this category, 7 were in the lower size class 81—90 per cent in 1958. The average increase in concentration of the 20 products with concentration ratios based on the largest 5 enterprises, was 5.6 per cent. Table 4 lists 11 products which had concentration ratios of 90 per cent or over in 1958 and had lower concentration ratios in 1963. It can be seen that 3 products left the highest concentration class between 1958 and 1963. The average decrease in concentration was 3.4 per cent.

Table 4

Products With 90 per Cent Concentration, or More, in 1958 in Which Concentration Decreased 1958—1963

Code	Product	Concentration 1958	Ratio (5) 1963
275	Detergents	90.4	84.5
322	Tin and tin alloys	91.2	89.3
214	Frozen fish	93.2	91.7
349	Ball bearings	94.9	92.8
239	Blended whisky	96.1	94.2
271 (1)	Dyestuffs	97.1	93.7
469	Asbestos cement goods	98.3	94.2
463	Safety glass	97.7	96.6
218	Frozen Vegetables	98.6	93.3
364	Gramophone records	99.0	97.4
Mean		95.5	92.8

Similar tables could be prepared for each of the size classes in Table 2, but the simplest method of summarizing the increases and decreases in concentration is to regress a product's concentration ratio in 1963 on its corresponding value for 1958. If the slope of the regression, b, is unity, then on the average low concentration products and high concentration products increased their degrees of concentration at the same rate. If b is greater than unity, the high concentration products tended to increase their concentration ratios by more than did the low concentration products. If b is less than unity, on the average the low concentration products increased their degrees of concentration by more than did the high concentration trades.

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Table 5

Changes in Concentration Ratios of Comparable Trades in 1935—51, 1951—58, 1958—63, United Kingdom

	1935—51	1951—58	1958—63*
Number of trades	41	35	215
$\overline{Y}$ (end)	51.5	38.6	59.2
$\overline{X}$ (beginning)	42.0	36.7	56.5
S^2_Y	762.2	573.9	592.6
S^2_X	601.1	568.2	635.7
a	11.10	2.67	6.42
$S(a)$	4.55	1.77	1.05
b	0.963	0.978	0.933
$S(b)$	0.0935	0.0405	0.017
r^2	0.731	0.946	0.966

* *Note:* Including 4 products with concentration ratios not based on top 5, but excluding 3 extreme observations.

Table 5 presents the results of regressing Y on X, where Y is an industry's concentration ratio at the end of a period and X is its concentration ratio at the beginning. The regression for 1958—1963 excludes 3 extreme changes in concentration, namely bread (from 31.5 to 71.4), television sets (from 52.7 to 81.6) and tufted carpets (from 72.0 to 50.7). The mean concentration increased from 56.5 to 59.2 or 0.54 percentage points per annum. The variance decreased and on the average the low concentrated products increased their concentration ratios more quickly than the high concentrated products, because $b = 0.933$ (0.0169) and is significantly below unity.

A further guide to the importance of the observed changes in concentration 1958—63 may be obtained by comparing them with changes observed 1935—51, using a previous National Institute study by *Evely* and *Little*[9] and with changes 1951—58, as recorded by *Armstrong* and *Silberston*[10]. Changes in industrial classification restricted the number of comparable trades to 41 for 1935—51, and to 35 for 1951—58. These samples are large enough to show changes in average concentration, but the concentration ratios are measured in a slightly different way.

First, the concentration ratios relate to the largest 3 business units, so that they would tend to be below concentration ratios based on the largest 5 business units. Secondly, the measure of size is not sales, but gross output 1935—51 and employment 1951—58. Thirdly, the present classification of products in 1958—63 is finer than the classification of trades used in the earlier studies.

[9] *R. Evely* and *I. M. D. Little*, op. cit.
[10] *A. Armstrong* and *A. Silberston*, op. cit.

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Table 5 shows that for 1935—51 the average increase was 9.5 percentage points, or 0.59 points per annum, compared with 0.27 points per annum 1951—58, and 0.54 points per annum 1958—63. In each period average concentration increased, but while the rate of increase was larger 1958—63 than in 1951—58, it was slightly lower than the rate of increase in concentration 1935—51. It can also be seen that the variance increased 1935—51, and 1951—58, and that b was lower, but not significantly lower, than unity. However, the fact that the increase in concentration among the high concentration products was relatively slow 1958—63 may be attributable in part to the fact that there is a saturation level of 100 per cent and many high concentration products cannot in practice increase their concentration ratios. This would suggest that there should be some non-linearity in the upper part of the scatter diagram of Y and X. But such non-linearity is not observed when a scatter diagram is drawn for the 215 observations 1958—63.

The general conclusion is that although average concentration in British industries increased 1935—63, the rate of increase was slow. This conclusion may be changed when the 1968 concentration ratios are published in two years time, for it is known that merger activity has been accelerating in recent years. The increase in mergers has been studied by *Rose* and *Newbould*[11], by *Sutherland*[12], and by the *Board of Trade*[13]. Expenditure by companies on acquiring subsidiaries increased from 2.2 % of total capital expenditure of companies in 1951, to 10.2 % in 1958 and to 13.8 % in 1963. Expenditure on mergers increased even more sharply after 1966 from £447 million in 1966 to £1,779 million for 1968. Moreover, Rose and Newbould suggest that this intensive merger activity has led to increasing concentration within industries rather than to increasing diversification of companies across industry boundaries. But their conclusions are based on a broad industrial classification and we shall have to wait for the 1968 Census of Production concentration ratios to see whether the average increase in concentration accelerated between 1963 and 1968.

C. Business Concentration in Selected Industries

The Census of Production is not the only source of figures for concentration ratios. It is also possible to use the published accounts of companies which have been classified into industries by the Board of

[11] *H. B. Rose* and *G. D. Newbould*, The 1967 Take-over Boom, Moorgate and Wall Street, Autumn 1967, 5—24.

[12] *A. Sutherland*, The Management of Mergers Policy, Paper presented to Section F of the British Association for the Advancement of Science, Sept. 9, 1969.

[13] *Board of Trade*, Mergers—a guide to Board of Trade practice, 1969, London: Her Majesty's Stationery Office.

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Trade. Indeed, we also know the extent to which business units overlap various industries. It is difficult to obtain an industrial classification of companies which corresponds to the economists' concept of industry which contains a set of products with high cross-elasticities of supply or demand. A previous paper[14] argued that meaningful concentration curves could be compiled for at least 10 industries in terms of net tangible assets, as shown in Table 6.

Now published accounts have several advantages over Census of Production figures, stemming mainly from the fact that they are accessible to economists outside the Board of Trade. It is possible to identify the large firms in each industry; it is possible to prepare concentration ratios for any number of firms and not for just the top three firms; it is possible to get the results more quickly. These are very real advantages and it is comforting to know that estimates of concentration based on such data are consistent with the more authoritative figures derived from the Census of Production.

Table 6 shows cumulative concentration ratios for the top six business units for 10 industries in 1952 and 1957; the numerator being the net tangible assets of the largest business unit, the two largest, up to the six largest, and the denominator being the total net tangible assets of all business units in the industry quoted on the Stock Exchange. The industries are ranked in order of their concentration ratio for the top three in 1952. As might be expected for such a short period, there were no drastic changes: the high concentration industries, such as distilling, cement and tobacco, remained highly concentrated, and the medium and low concentration trades remained in the same category. However, some changes are worth comment, partly because of the light thrown on competition within these trades and partly because they illustrate the dangers of relying on Census of Production concentration ratios when changes in classification are not always known.

In distilling it appears at first sight that the largest firm, Distillers Ltd., decreased in importance from 90 % to 86 % between 1952 and 1957. But this first impression is seriously misleading; the firm of W. A. Gilbey, which was not classified to this industry in 1952, entered the second place with some 5 % of the quoted assets of the industry, and accounts for the fall in the relative size of Distillers Ltd. This sort of change can easily be recognized in the present data because we can inspect the original material, but a similar change in Census classifications is known only to the Census authorities and cannot be revealed to outsiders because it might disclose the output of the firm whose classification has been changed.

[14] *P. E. Hart,* Concentration in Selected Industries, Scottish J. Pol. Ec., Vol. 5 (1958), 185—201.

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Table 6

The Proportion of Quoted Assets Owned by Leading Quoted Business Units in Selected Industries 1952 and 1957

Industry		Cumulative Concentration Ratios for the Six Largest Business Units (Percentage)						Total No. of Business Units	
		1	2	3	4	5	6	Quoted	Unquoted
Distilling	1952	90	93	96	98	99	100	7	31
	1957	86	91	94	96	98	99	9	—
Cement	1952	60	83	90	97	99	100	6	6
	1957	68	85	93	98	99	100	5	—
Tobacco	1952	73	82	89	94	96	97	13	47
	1957	70	84	92	96	98	99	9	—
Cocoa, chocolate and Sugar Confectionery	1952	43	60	74	79	82	84	24	304
	1957	49	64	75	82	84	86	27	—
Newspapers & Periodicals	1952	18	33	41	49	56	61	32	428
	1957	19	30	40	49	58	63	30	—
Carpets	1952	13	25	37	49	58	67	15	63
	1957	23	36	48	58	66	72	15	—
Cotton	1952	14	26	30	34	38	41	119	920
	1957	15	28	33	37	41	45	98	—
Woollen and Worsted	1952	12	22	27	31	35	39	74	966
	1957	16	23	28	32	36	40	75	—
Hosiery	1952	9	18	26	33	38	42	37	828
	1957	10	19	27	34	38	42	43	—
Brewing	1952	6	11	15	18	21	24	167	116
	1957	6	12	16	20	24	27	137	—

Source: 1952: *P. E. Hart,* Concentration in Selected Industries, Scottish J. Pol. Ec., Vol. 5 (1958). — 1957: Board of Trade; see also Table I (Appendix).

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There was no change in classification in the cement industry, and the increase in concentration ratio for the top three from 90 % to 93 % masks a substantial increase in the relative size of the largest manufacturer, Associated Portland Cement, from 60 % to 68 % of the quoted assets. Again, this information would not be revealed in a Census concentration ratio based on the top 3 firms. In tobacco, there was a slight decrease in concentration primarily attributable to the relative decrease of the largest firm, Imperial Tobacco Co. An inspection of the original data shows that the firm ranked third in 1952, Gallaher, jumped into second place, increasing its share of the quoted assets from 7 % to 14 %. This rapid rise over the five years may be attributable in part to its acquisition of Associated Tobacco Manufacturers in 1954 and in part to the increase in sales of Senior Service cigarettes, manufactured by their subsidiary company J. A. Pattrieoux. This is yet another example of information not revealed by Census concentration ratios. It will be noted that concentration in the brewing industry did not significantly increase in spite of the mergers between Watney Coombe & Reid, and Mann, Crosman & Paulin on the one hand and between Courage and Barclay on the other. Indeed, the only effect noted in an inspection of the original data is that Courage and Barclay with rank 5 in 1957 displaced Walker Cain from the numerator of the concentration ratio.

Since 1957 there has been a significant increase in the annual rate of mergers. Indeed, so many important mergers have taken place across the boundaries of the cotton, woollen, and hosiery industries in Table 6, that it is no longer possible to regard them as separate industries. Consequently, Table 7 gives cumulative concentration curves in 1967 for only 7 of the 10 industries in Table 6. They differ from the 1952 and 1957 curves in two important respects: first, the Board of Trade excludes all companies with less than £500,000 assets from the 1967 figures, and second, some large unquoted companies (mainly subsidiaries of foreign companies) are included in the 1967 figures which were excluded previously. The names and absolute sizes of the six large companies in each of the 7 industries given in Table 7 may be compared with those in 1957 in Table I in the Appendix.

The intense merger activity between 1957 and 1967 affected the composition and rank order of the giant companies in each industry. For example, in cement Rugby Portland Cement Co. acquired Eastwoods and Chinnor Industries and consequently overtook Tunnel Portland Cement Co. In newspapers and periodicals, Fleetway Publications, Odhams Press and George Newnes, and the Daily Mirror Newspapers were combined in the International Publishing Corporation. In brewing there have been so many mergers that a former giant, Arthur Guinness, was denoted to rank 8 by 1963.

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Table 7

The Proportion of Quoted Assets Owned by Leading Quoted Business Units in Selected Industries 1967

Industry	Cumulative Concentration Rations for the Six Largest Business Units (Percentage)						Total No. of Business Units (Quoted)
	1	2	3	4	5	6	
Distilling	87	90	93	95	97	98	10
Cement	70	85	96	98	99	100	6
Tobacco	71	90	98	100	—	—	7
Cocoa, chocolate & Sugar Confectionery	63	84	92	96	97	98	10
Newspapers & Periodicals	42	61	70	78	82	85	22
Carpets	23	37	47	56	65	73	13
Brewing	18	31	43	53	63	70	47

Though the cumulative concentration curves for 1957 and 1967 are not strictly comparable, it is likely that comparable curves for 1967 would indicate increases in concentration as the result of this merger activity. Nevertheless, the changes in rank order and the ousting of former leading companies probably indicate *increases* in the intensity of competition, notwithstanding the increases in concentration.

D. Inequality and Concentration

The discussion so far has relied entirely upon absolute concentration ratios. Sometimes in studies of business concentration percentage concentration ratios are used, showing the proportion of an industry's output produced by the largest p per cent of firms. Indeed, percentage concentration ratios may be calculated for several points in the size distribution of firms in an industry and the resulting locus of points is termed a Lorenz curve. In effect percentage concentration ratios measure the inequality of the size distribution of firms, and there is no reason why one of the classic statistical measures of inequality, such as the variance, should not be used instead. In particular, *Gibrat*[15] used the standard deviation of the logarithms of firms' sizes to measure inequality.

Blair[16] has argued that it is misleading to use percentage concentration ratios or Lorenz curves to measure business concentration, because it

[15] *R. Gibrat*, Les inégalités économiques, Paris 1931.

[16] *J. M. Blair*, Statistical Measures of Concentration in Business, Bull. Oxford Univ. Inst. Stat., Vol. 18 (1956), 351—372.

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sometimes happens that one industry shows a higher percentage concentration than another industry even when they have identical absolute concentration, simply because the former has a greater number of firms.

To take an extreme example, the Lorenz curve for a duopoly with each firm producing 50 % of the output would show zero concentration, whereas economists would regard the industry as being highly concentrated. As more firms enter this industry the Lorenz measure may show an increase in concentration, whereas an economist would regard them as contributing to a decrease in concentration. Now it must be admitted that Lorenz curves can be misleading in this sense, but it does not necessarily mean that they are always misleading in practice. First, because an increase in the number of firms may lead to more inequality or to less inequality, depending on the size of the new entrants, and we cannot formulate any general principle that an increase in the number of firms will always increase percentage concentration. Secondly, it is by no means certain that changes in the number of firms in an industry have any significant effect in practice on the percentage concentration ratio or degree of inequality. In general we do not have sufficient information on births and deaths of firms in British industries to say whether they increase or decrease in inequality, but it is worth noting that the two existing studies of their effects on British industry showed that change in the inequality of firms over time was not significantly influenced by births and deaths of firms[17].

Those who wish to use a measure of inequality as a measure of concentration also have to assume that the change in inequality among a constant set of firms is similar to the change in the degree of concentration among those firms. This would be true if the Lorenz curve remained symmetrical over time so that the movement away from the diagonal of complete equality applied to every point on the curve. In theory there is a large family of statistical distributions, including the lognormal, which have symmetrical Lorenz curves[18], and in practice estimated Lorenz curves of firms tend to be symmetrical. So there is some justification for the belief that a change in the inequality of a constant set of firms is similar to the change in the absolute concentration among those firms. However, because of sampling fluctuations, a great deal depends on a number of large firms being measured in the absolute concentration ratio: the regularity of the size distribution can-

[17] See *P. E. Hart* and *S. J. Prais*, The Analysis of Business Concentration: a Statistical Approach, J. Roy. Stat. Soc., Series A, Vol. 119 (1956), 150—191, and *P. E. Hart*, On Measuring Business Concentration, Bull. Oxford Univ. Inst. Stat., Vol. 19 (1957), 225—248.

[18] See *P. E. Hart* and *S. J. Prais*, op. cit., p. 185 and *H. A. Simon* and *C. P. Bonini*, The Size Distribution of Business Firms, AER, Vol. 48 (1958), 607—617.

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not be relied upon to predict the direction of movement of a concentration ratio based on the top three firms in an industry[19].

But there is a greater justification, for relying on the regularity of the distribution to predict movement of the concentration ratio for the largest 200 or even the largest 50 firms in the whole sector of manufacturing. Thus the view adopted here is that when the whole of manufacturing is being considered, changes in the number of firms are of little importance and that measures of inequality also measure concentration, but that these conclusions do not apply when concentration within individual industries is being measured. This is not surprising. Lorenz curves, percentage concentration ratios or any other measure of inequality are useful when the number of firms is large, say over 60, when some statistical summary has to be made. But the case of the large number of firms in an industry is not very interesting to economists in the present context since it is unlikely to be oligopolistic. However, when studying the whole of manufacturing and distribution, statistical measures are both useful and interesting, as will be seen in section III.

III. Concentration within Manufacturing and Distribution

A. Reasons for Studying the Growth of Giant Firms

The growth of large firms relatively to small firms irrespective of industrial classification interests economists, sociologists and politicians alike. Some economists follow *Marx* and believe that there is an inevitable tendency for large firms to grow at the expense of small firms, as explained in his theories of the centralisation and concentration of capital. Other economists would explain this tendency by economies of scale, by waves of mergers, or even by government policy.

Sociologists are interested in the concentration of business in the hands of the giant firms because this tendency is associated with the divorce of ownership from control. This raises very large issues involving the whole rationale of the capitalist system. If modern managers do not regard themselves as controlled by shareholders, to whom are they responsible? In this context, a study of changes in business concentration provides a clue to the extent to which "entrepreneurial" behaviour has been replaced by "managerial" behaviour. Again, the increasing divorce of ownership from control and the associated tendency for management to become a profession may make it easier for the young, well educated, but propertyless man to take up a business

[19] *P. E. Hart,* On Measuring . . ., op. cit.

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career and rise through the hierarchy of a large firm. This also is very interesting to sociologists, and shows that an increase in business concentration in this sense is not necessarily undesirable.

The growth of giant firms at the expense of small firms interests politicians from many points of view. In a capitalist democracy they feel, and the voting power of the owners of small businesses encourages them to feel, that increasing business concentration makes it more difficult for would-be entrepreneurs to have a reasonable chance of success. In addition, giant firms, with their massive financial resources, can afford to indulge in expensive lobbying and may exercise undue political power. In modern times, governments frequently consult industries over matters such as taxes, tariffs, controls, and it is the giant firm which is most likely to be listened to and which is most likely to be able to afford the money to put up a good case.

Finally, the giant multi-product company exercises power which does not derive from monopoly. It can compete with other firms in any one industry by charging prices well below costs, it can compete by expensive litigation which other firms cannot afford, even though they may be in the legally correct position, to cite two of the many examples of the practices of giant firms given in *Edwards*[20]. For all these reasons it is desirable to know to what extent large firms have grown relatively to small firms in the whole of manufacturing and distribution in the present century.

B. Business Concentration in the United Kingdom 1907—1965

In business concentration within the whole sector of manufacturing and distribution the statistical approach comes into its own. There is a very large number of business units and it is meaningful to study their size distributions at different points of time and to use the classic statistical measures of mean, variance, skewness, and so on. In fact at least since *Gibrat*[21] it has been known that when the logarithms of firms' sizes are plotted, instead of their absolute sizes, the resulting distribution often approximates the normal curve of Gauss.

An appropriate measure of business concentration in this context is the variance of the size distribution of firms after logarithmic transformation. Indeed, it is known that in the lognormal distribution this parameter governs the Lorenz and Gini coefficients of concentration[22].

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[20] *C. D. Edwards*, Conglomerate Bigness as a Source of Power, in: Business Concentration and Price Policy, Princeton 1955.

[21] *R. Gibrat*, op. cit.

[22] *J. Aitchison* and *J. A. C. Brown*, The Lognormal Distribution, Cambridge 1957.

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Table 8

Variance of Logarithms of Sizes of Quoted Business Units in U. K. 1907—55

Units: $\log_2$

	1907	1924	1939	1950	1955
σ^2	3.79	5.61	6.01	4.11	5.07

Source: P. E. *Hart* and *S. J. Prais,* op. cit., 166.

Table 8 shows the variance, in logarithms to the base 2, of business units quoted on the Stock Exchange 1907—55. Size was measured by the market valuation of the shares of the business units[23]. It can be seen that according to this measure, concentration increased in each of the periods studied except in 1939—50, the period covering the Second World War. This exception is very interesting and the tentative explanation adopted so far is that the growth of small firms relatively to large firms was facilitated by government war-time planning which included quota schemes guaranteeing small firms a larger share in total output than they would have received in peace time. It is true that these conclusions relate only to those firms in manufacturing in distribution quoted on the Stock Exchange. But the same results followed when this analysis was extended to all companies in manufacturing and distribution[24].

The lognormal is but one of the Yule family of skew distributions, and other members of this family, such as the *Pareto* distribution, give better fits to some observed distributions of firms. The simple two-parameter lognormal is often an inadequate summary of a distribution which is truncated, such as the size distribution of companies quoted on the Stock Exchange, because a third parameter should be introduced to reflect the minimum size which a company must reach before it can receive a quotation. The fact that the simple two-parameter lognormal curve proved adequate in the context of Table 8 must be attributed to the use of market valuation as a measure of size which has a larger variance than, for example, net assets; companies with net assets large enough to be quoted on a Stock Exchange soon have low market valuation if they are unsuccessful even though the book value of their net assets does not fall. But the three-parameter lognormal, or the Pareto distribution, are probably better approximations to the typical truncated size distribution of firms than is the two-parameter lognormal.

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[23] *P. E. Hart* and *S. J. Prais,* op. cit.

[24] *P. E. Hart,* Business Concentration in the United Kingdom, J. Roy. Stat. Soc., Series A., Vol. 123 (1960), 50—58.

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Another disadvantage of the lognormal distribution, even when it provides a good fit to the data, is that it is generated by the law of proportionate effect which, in its simplest form, does not allow the birth or death of firms. When such births and deaths are important, it may be preferable to use another member of the Yule family of distributions in preference to the lognormal.

These limitations are well known but they are not always serious enough to outweigh the many advantages to be obtained from using lognormal theory and the variance of the logarithms to measure concentration. For example, the F-test can be applied to test the significance of the difference between two variances on the assumption that the samples are drawn from a lognormal population. Moreover, the well-known decomposition of σ^2 can be used to show that the increases in σ^2 recorded in Table 8 were primarily due to changes in the logarithmic variance of constant samples of companies: births and deaths had no significant effect on the change in σ^2.

In any case, the use of the two parameter lognormal to summarize a truncated size distribution of firms may not be a misleading guide to the shape of the size distribution of all companies. The only size distributions of *all* companies in the United Kingdom are those published by the Inland Revenue[25]. They relate to the sizes of companies by profit assessed for income tax 1949—64. The simple two-parameter lognormal gives a good fit to these size distributions for each year 1949—64. The fit is excellent for the early years in this period[26], though there appears to be a systematic divergence in the lower tail in later years.

However, there is no tendency for the goodness of fit of the first moment distribution, showing the distribution of the amount of profit among size classes of profit, to decrease over the period and this enables us to obtain good estimates of the variance of the logarithms of the size distribution from graphs of the cumulative first moment distribution. In fact, in natural logarithms, the variance increased from 5.3 in 1949 to 8.7 in 1964. This may be compared with the observed increase in the redundancy from 2.729 in 1949 to 3.576 in 1964 where the redundancy is defined as the difference between the entropy of the distribution and the logarithm of the number of firms[27], viz:

$$R = \log_e N - H(y) \tag{1}$$

[25] Board of Inland Revenue, Reports of Commissioners of H. M. Inland Revenue, (annual). The 1970 Report gives size distributions of companies assessed for *corporation tax* which show systematic deviations from the lognormal and from the Pareto curves.

[26] Cf. *P. E. Hart*, Studies in Profit, Business Saving and Investment in the U. K. 1920—62, Vol. 1, London 1965, 50.

[27] Cf. *H. Theil*, Economics and Information Theory, Amsterdam 1967.

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$H(y) = -\Sigma\ y_i \log_e y_i$ where y_i is the observed share of the ith company in the profit of all companies[28]. Both measures show a substantial increase in concentration 1949—1964.

This increase is confirmed by the variance of the logarithms of samples of companies quoted on the Stock Exchange, 1951—60, 1958—60, 1954—65, using net assets to measure size, as shown in Table 9. It is clear that business concentration increased in each period studied within 1951—65.

Table 9

Variance of Logarithms of Sizes of Quoted Business Units in U. K., 1951—1965

Source	Period	Variance of Logs t	Variance of Logs t+k	Base	N
1	1951—60	2.89	4.18	10	322
2	1958—60	3.3	3.7	2	2515
3	1954—65	2.90	3.98	2	2530

Sources:

1. *J. M. Samuels,* Size and the Growth of Firms, R. Ec. Stud., Vol. 32 (1965), 105—112.
2. *P. E. Hart,* Studies in Profit . . ., op. cit., pp. 178—9.
3. *M. A. Utton,* The Effects of Mergers on Concentration; U.K. Manufacturing Industry, 1954—65, Univ. of Reading: Dept. of Economics, Discussion Paper No. 25.

C. Dynamics of Concentration

Tables 8 and 9 summarize changes in business concentration among companies quoted on the Stock Exchange 1907—65 in the sense that they measure concentration at different points of time within that period. But they do not tell us how concentration changed over time: a comparative static analysis does not show the growth rates of large and small firms. The present section on the dynamic analysis of business concentration studies the growth of firms. This analysis is made possible by using a statistical approach based on the lognormal distribution and answers questions which cannot be tackled with the crude tools of concentration ratios.

As a starting point, let us postulate that firms are bombarded by a series of erratic shocks acting in a multiplicative manner, so that firms change their size upwards or downwards by random proportions independent of the absolute size of firms. This will not seem an unreasonable assumption to those businessmen who have been buffeted by changes in consumers' tastes, changes in government policy, technical progress and

[28] Cf. *P. E. Hart,* Entropy and Other Measures of Concentration, Univ. of Reading, Discussion Paper No. 23, 1970.

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all the other forces which influence their firms' outputs. This hypothesis is formulated in equation (2) were x is the logarithm of a firm's size, ε is the logarithm of a random variable normally distributed, with zero mean and variance $\sigma\varepsilon^2$, and is independent of x_t, and where t and $t + 1$ are time subscripts.

$$x_{t+1} = x_t + \varepsilon \tag{2}$$

If equation (2) governs the growth of firms in the real world, then the dispersion of firm's size at two dates is given by equation (3).

$$\text{Var}\,(x_{t+1}) = \text{Var}\,(x_t) + \sigma\varepsilon^2 \tag{3}$$

Since $\sigma\varepsilon^2$ is necessarily positive, it follows that concentration, as measured by the variance of firms' sizes, must increase over time. A literary explanation of equation (3) would be as follows:

A series of random, multiplicative forces, independent of the absolute size of firm, are disturbing firms' sizes. Now some of these random forces tend to increase a firm's size and others tend to decrease it. Moreover, some of the cases where the former forces outweigh the latter will apply to firms which are already at the top of the size distribution, so that their sizes will be increased. Conversely, some of the cases where the forces making for decline outweigh those making for growth, will apply to firms which are already very small and at the bottom of the size distribution. That is, the dispersion of the size distribution of firms will tend to increase over time.

However, lognormal distributions in practice do not always show increasing dispersion over time: for example, income distributions appear to be lognormal but do not show increasing variance, and, as shown by Table 8, the variance of the size distribution of firms declined in the period 1939—1950. This suggests that the model in equation (2) should be modified. The clue to the necessary modification is supplied by *Galton*[29] in his classic study of the characteristics of fathers and of sons. It will be remembered that although the distribution of men's heights is normal, so that height can be regarded as governed by a series of random additive shocks, the dispersion of men's heights does not increase over time. In fact, the average height of the sons of the tallest fathers is less than their fathers' heights and, conversely, the average height of the sons of the smallest fathers, is greater than their fathers' heights. In the language of Galton, heights of sons regress towards the mean height of the male population. In the size distribution of firms it is possible that there is a similar regression towards the mean size, which would happen, for example, if there were some optimum

[29] *F. Galton*, Hereditary Genius, London (1869) 1925 repr.

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size to which all firms were approaching even though this optimum size changes over time. Thus we may postulate that the change in a firm's size tends to vary systematically with its deviation from the mean size of all firms, as illustrated in equation (4).

$$x_{t+1} - x_{t+1} = \beta (x_t - x_t) + \varepsilon \tag{4}$$

In equation (4) x_{t+1} and x_t are the means of x_{t+1} and x_t, and β is a regression coefficient. The change in dispersion over time is now given by equation (5),

$$\text{Var}\,(x_{t+1}) = \beta^2\,\text{Var}\,(x_t) + \sigma\varepsilon^2. \tag{5}$$

It can be seen that if β is sufficiently below unity it is possible that the random component will be outweighed and that the variance at time $t + 1$ will be less than the variance at time t. In fact the calculation of regression coefficients for each of the periods studied between 1907 and 1955 showed that the regression coefficient was always near unity, with the exception of the period 1939—1950 when it was 0.77.

Table 10

Business Concentration in the Quoted Sector of Manufacturing and Distribution 1950—55

	Number	Mean	Variance	Regression Coefficient	Residual Variance
Total 1950	2061	1.49	4.11	—	—
Deaths 1950—55 ..	80	0.98	5.23	—	—
Survivors 1950 ..	1981	1.51	4.05	0.99 ± 0.02	1.54
Survivors 1955 ..	1981	1.92	5.51	—	—
Births 1950—55 ..	347	1.47	2.42	—	—
Total 1955	2328	1.85	5.07	—	—

This is illustrated in Table 10 which gives the concentration parameters for the period 1950—1955. Full details of the methods used in compiling Table 10 are given in[30]. Briefly, all units are in logarithms to the base 2: the means are given in terms of deviations from £177,000, so that a deviation of 1 would indicate a mean size of £354,000 since a positive unit deviation in terms of logarithms to the base 2 implies being twice the size of the assumed mean of £177,000.

It can be seen that the number of business units investigated increased from 2061 in 1950 to 2328 in 1955 and that their variance, in units of logarithms to the base 2, increased from 4.11 to 5.07. That is, according to

[30] *P. E. Hart* and *S. J. Prais*, op. cit.

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this measure, business concentration increased over this 5 year period, reversing the trend in the previous period 1939—50. This reversal of trend after 1950 was established by *Prais*[31]. The mean size of the logarithms of the market valuation of business units also increased, but this does not necessarily mean of course that their sizes would have increased if market valuation figures were deflated for changes in prices.

However, it should be stressed that, because it is a measure of relative dispersion, the variance would not be changed if the market valuation figures had been deflated by an index of prices: our measure of concentration is independent of price changes in this sense.

The increase in our measure of concentration from 4.11 to 5.07 is primarily attributable to the increase in the dispersion of a constant set of 1981 business units which were alive throughout the period. In turn this increase in dispersion of surviving firms from 4.05 to 5.51 was primarily attributable to the residual variance, $\sigma\varepsilon^2$, because the regression coefficient was virtually unity.

There is some justification, therefore, for regarding the variance of the logarithms of the firms' sizes as determined by a random variable. But in the absence of regression, in the Galtonian sense, this residual variance measures the dispersion of firms' growth, just as the variance at one point of time measures the dispersion of firms' sizes. When this residual variance is high it follows that a large proportion of firms had percentage rates of growth which differed widely from the average percentage rate of growth of all firms. When this residual variance is low, it follows that a large proportion of firms had near average percentage rates of growth. Now when the residual variance is high it follows that there are many changes in the ranks of firms; the firms at the top are demoted, the firms at the bottom are promoted, and there is a general reshuffling of firms' positions in the size distribution. The converse is true when the residual variance is low. But in the absence of regression, the extent to which concentration increases depends entirely on the residual variance, which means that a large increase in business concentration is accompanied by a considerable reshuffling of firms' ranks—by size mobility, to borrow a term from the sociologists who study social mobility in the context of people moving between social classes.

If business concentration in the United Kingdom has increased 1907—1955 primarily as a result of random forces, we should expect to find that the membership of the giant class of firms was continually chang-

[31] *S. J. Prais*, The Financial Experience of Giant Companies, Ec. J., Vol. 67 (1957), 249—264.

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ing, that the largest firms in 1907, then thought impregnable, were no longer among the largest in 1955, but had been overtaken by firms which were small or even non-existent in 1907. An inspection of the membership of the largest business units 1907—50 provides some justification for adopting this view[32].

The view that the increase in business concentration is determined by random forces conflicts with the Marxian belief that increase in concentration follows from systematic tendency for large firms to grow at the expense of small firms. This conflict is interesting in its own right, but before concluding that on the average large companies do not grow more quickly than small companies, it is necessary to survey the results of more recent research.

Let us define the correlation, ϱ, between the logarithm of a company's size at time t and $t + 1$ as

$$\varrho^2 = 1 - \sigma_\varepsilon^2/\text{Var}\ (x_{t+1}) \tag{6}$$

so that the ratio of the two variances at time t and $t + 1$ is

$$\text{Var}\ (x_{t+1})/\text{Var}\ (x_t) = \beta^2/\varrho^2 \tag{7}$$

and if $\beta > \varrho$ concentration increases. If $\beta > 1$, concentration necessarily increases since $\varrho \leq 1$, but if $\beta \leq 1$ concentration can increase, decrease or stay the same depending on the ratio in (7). The argument of section II. B may be repeated: if $\beta = 1$, large and small firms have the same average proportionate growth, whereas if $\beta > 1$ the average proportionate growth of large firms exceeds that of small firms. The least squares estimates of β and ϱ for the U. K. published since 1961 are given in Table 11 and may be compared with earlier estimates of β as approximately unity 1885—1939, 1950—55.

Table 11

Estimates of β and ϱ U. K. 1948—1965

Source	Period	b	S(b)	r	N
1	1951—60	1.07	0.022	0.92	322
2	1958—60	1.03	0.0052	0.97	2515
3	1948—54	1.025	0.016	0.95	464
	1954—60	1.033	0.015	0.95	438
	1948—60	1.043	0.025	0.90	363
4	1954—65	1.057	0.014	0.90	2530

Sources:

1. *J. M. Samuels*, op. cit.
2. *P. E. Hart*, Studies in Profit . . ., op. cit.
3. *A. Singh* and *G. Whittington*, Growth, Profitability and Valuation, Cambridge 1968, p. 84.
4. *M. A. Utton*, op. cit.

[32] *P. E. Hart*, (1960), op. cit.

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It can be seen that each estimate of β, denoted by b, is greater than unity. However, taking the usual 5 per cent level of significance, b is not significantly different from unity in the Singh and Whittington sample 1948—54 or in their sample 1948—60. Their result for 1954—60 is consistent with the findings of other research that after the middle 1950's, large companies in the United Kingdom grew more quickly than small companies, since $b > 1$. This marks a break in the pattern of the relative growth of large and small companies recorded since 1885. In addition, to the random forces reflected in $\sigma\varepsilon^2$ in (5) there is now the systematic faster growth of large companies reflected in $\beta > 1$ in (5) which is increasing business concentration in the U. K. *Samuels* and *Utton* suggest that this change in pattern in the middle 1950's should be attributed to the increasing tendency for large companies to take-over smaller companies. Over the period 1896—1950 mergers between companies quoted on the Stock Exchange had little effect on concentration[33], but Utton[34] shows that this is not true for 1954—65. His results are consistent with the sharp increase in merger activity in the United Kingdom in recent years, which is summarized in section II. B. The conclusion is that recent mergers have made a significant contribution to the increases in business concentration observed at the level of manufacturing and distribution as a whole in the United Kingdom 1954—65.

IV. Concentration of Income and Capital

It would be interesting to apply the techniques of section III to size distributions of income, capital and other economic variates in the United Kingdom. At the very least, it would be useful to obtain measures of the concentration of income etc. which would be compared with those for corresponding economic variates for other countries reported in this volume[35]. But the use of the lognormal distribution, if permissible, would also provide valuable insights into the dynamic changes in concentration over time in addition to providing comparative static measures of concentration.

As early as 1931 *Gibrat*[36] showed that the lognormal distribution appeared to fit the observed size distributions of towns by population, and the observed income distributions in Basle. He argued that this theoretical distribution had a very wide application in economics and it is certainly true that many observed size distributions appear to be

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[33] *Hart* and *Prais*, op. cit., 168—69.
[34] *Utton*, op. cit.
[35] *H. Arndt* (ed.), Die Konzentration in der Wirtschaft, Berlin (1960) 1971².
[36] *R. Gibrat*, op. cit.

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lognormal: for example trade unions in the United Kingdom, Germany, Sweden and Iceland appear to be distributed lognormally[37]. The list of lognormal distributions may be extended to include the distribution of industries by employment and the distribution of workers by their wage-earnings.

In 1945 *Kalecki*[38] noted that the lognormal distribution, or Gibrat distribution as he called it, could be applied to the distribution of income and he introduced modifications into the lognormal model which overcome the problems of the increasing variance of lognormal distributions through time, which he argued did not apply in the real world. In effect he was really traversing the same ground covered by Galton[39] in his work on the normal distribution.

In 1947 *J. L. Nicholson*[40] recommended the use of the lognormal and Pareto distributions fitted to $x - x_o$, where x_o is determined by the data and may correspond to minimum income required to sustain human life. The use of an additional parameter improved the goodness of fit.

Even so, there are small but systematic deviations between the fitted Pareto curve and the data on incomes above x_o, as noted in the 105th Report of H. M. Commissioners of Inland Revenue[41], when Pareto curves are fitted to income distributions for 1919/20, 1938/39, 1949/50, 1954/55, 1959/60. These distributions relate to income *before* taxation and the fitted curves have a clear trend over the period; they become steeper and indicate that the inequality or concentration of incomes decreased. The sharpest decrease occurred between 1938 and 1949, covering the Second World War. Though he rejected both the two-parameter lognormal and the *Pareto* distribution, *Lydall*[42] produced substantially the same results: the inequality of incomes was much the same in 1919/20 or 1913/14 as in 1801, and although there was a slight decrease in inequality between 1919/20 and 1937/38, the really sharp reduction in inequality of incomes occurred between 1937/38 and 1954/55.

This conclusion is not accepted by *Titmuss*[43] who claims that incomes data collected for tax purposes are seriously affected by tax avoidance

[37] *P. E. Hart* and *E. H. Phelps Brown*, The Sizes of Trade Unions: a Study in the Laws of Aggregation, Ec. J., Vol. 67 (1957), 1—15.

[38] *M. Kalecki*, On the Gibrat Distribution, Econometrica, Vol. 13 (1945), 161—170.

[39] *F. Galton*, op. cit.

[40] *J. L. Nicholson*, Distribution of Incomes in Studies in War Economics, (Essays from the Oxford University Institute of Statistics), Oxford 1947, 234—41.

[41] *Board of Inland Revenue*, 105th Report of H. M. Commissioners of Inland Revenue for year ending 31st March, London 1962, 89—90.

[42] *H. F. Lydall*, The Long Trend in the Size Distribution of Income, J. Roy. Stat. Soc., Series A., Vol. 122 (1959), 1—37.

[43] *R. M. Titmuss*, Income Distribution and Social Change, London 1962.

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and evasion and that these limitations make it dangerous to conclude that inequality of incomes was decreasing over this period. But *Nicholson*[44] shows that these limitations are unlikely to affect the changes in the inequality of incomes over time even if they affect the shape of the distribution at one point of time. However, he also shows that the trend towards greater equality of incomes stopped at about 1957, whether incomes are measured before or after taxation. Another major qualification to all these results is that the distributions relate to money incomes not real incomes. *Tipping*[45] argues that prices have risen more for people in the lower tail of the income distribution than for people in the upper tail. This result, together with constant inequality of money incomes since 1957, suggests that the inequality of real incomes has been increasing since 1957.

This conclusion is based on the comparison of real income distributions at two or more dates. But the constituent income-earners differ over time; it is not known how "births" and "deaths" affect the inequality of incomes, because the Inland Revenue does not publish bivariate size distributions of income at two dates corresponding to those available for firms, such as that in Table II (Appendix).

If we assume that real income inequality is increasing among a constant set of income earners, does the logarithmic variance increase because $\beta > 1$ in equation (5), or because $\beta \leq 1$ and inequality increased because of $\sigma\varepsilon^2$ in (5)? If $\beta > 1$, it follows that the rich are increasing their real incomes more quickly than the poor. If $\beta \leq 1$, it follows that the mobility of income earners between different income brackets over time is primarily responsible for the increase in inequality. Many economists will regard $\beta > 1$ as undesirable, but nevertheless welcome an increase in the mobility of incomes which produces a larger value of $\sigma\varepsilon^2$ and thus increases inequality. They will be unable to judge whether the increase in inequality is desirable unless they know the value of β.

The Inland Revenue authorities could prepare the required bivariate distributions of income, without revealing the incomes of individuals, but they seem to be overwhelmed by urgent problems of implementing the taxation legislation and are unable to spare resources for research. Private surveys of incomes are confronted by the well-known poor response rates to questions about income, but the Oxford Savings Survey for 1953/54 must be mentioned at this stage, particularly because the

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[44] *R. J. Nicholson,* The Distribution of Personal Income, Lloyds Bank Review, January 1967.

[45] *D. G. Tipping,* Price Changes and Income Distribution, Applied Statistics, J. Roy. Stat., Soc., Series C., Vol. 19 (1970), 1—17.

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data on sample distributions of wages and salaries were used by *Hill*[46] to explain inequality of incomes. He used an analysis of variance, with interactions, to explain the inequality of incomes in terms of occupation, age, region, town size, industry. These systematic forces explained one half of the inequality of incomes and suggest that they should be included in any statistical analysis of the changes in inequality over time. In addition, when the analysis of variance of the logarithms of salaries was conducted, the residuals were approximately lognormal, though this was not the case for the residuals in the analysis of variance of wages. Even though Hill was unable to study the changes in the incomes of his sample over time, his statistical analysis of the variation of incomes between individuals at one point of time is important and could be applied to changes in incomes, if the data were available.

Fortunately, some of the necessary data will become available for the first time in the United Kingdom as the result of a survey of wages and salaries currently being conducted by the Department of Employment and Productivity. The results of this ministry's survey for 1966 were reported by *Thatcher*[47], who also compared these results with income distributions derived from other sources.

He found that the simple two-parameter lognormal and the more complicated distributions proposed by *Champernowne*[48], provided good fits to the data. In addition, he found that the relative dispersions of the distribution of earnings of male manual workers in 1886, 1906, 1938, 1960 and 1966 were very similar, in spite of the 16 fold increase in the level of earnings over the period. This survey is being extended and it should be possible to perform an analysis of variance to estimate the importance of the systematic forces influencing the dispersion of earnings. It should also be possible to use equation (5) to explain the stability of the variance over time by $\beta < 1$, which would imply that lower paid workers increase their earnings proportionately more than do higher paid workers.

Information on the distribution of capital in this country is even scantier than that on the distribution of incomes. *Revell*[49] has published estimates of the concentration of personal wealth in England and Wales

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[46] *T. P. Hill*, An Analysis of the Distribution of Wages and Salaries in Great Britain, Econometrica, Vol. 27 (1959), 355—381.

[47] *A. R. Thatcher*, The Distribution of Earnings of Employees in Great Britain, J. Roy. Stat. Soc., Series A., Vol. 131 (1968), 133—180.

[48] *D. G. Champernowne*, The Graduation of Income Distributions, Econometrica, Vol. 20 (1952), 591—615.

[49] *J. Revell*, Changes in the Social Distribution of Property in Britain during the Twentieth Century, Actes du Troisième Congres International d'Histoire Economique, 1965, Vol. 1, 367—84. (Reprint Series No. 295 of Department of Applied Economics, University of Cambridge).

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in 1911/13, 1924/30, 1936/38, 1954 and 1960. The estimates for the years before 1954 are based on the work of *Langley*[50, 51] and the basic source is the Inland Revenue data on value of estates assessed for estate duty Since there is a threshold value of an estate which must be reached before the duty is levied, it follows that all the size distributions of capital are truncated. It is not surprising, therefore, that the simple two parameter lognormal and the Pareto curves do not graduate the data very well. The lognormal provides better fits than does the Pareto curve, indeed the first moment distributions of capital for 1936, 1950 and 1951 approximate the simple two parameter lognormal in spite of the truncation.

The distribution of capital is highly concentrated: in 1960 some 83 % of all capital was concentrated in the hands of the richest 10 % of the adult population. This degree of concentration is much greater than that for the distribution of incomes.

However, there is a downward trend, at least from 1911 to 1954, in the degree of concentration of capital. But it is interesting to note that this downward trend appears to have been reversed after 1954; the share of capital owned by the richest 10 % decreased from 92 % in 1911/13 to 79 % in 1954 before increasing to 83 % in 1960. Revell suggests some reasons for these changes but in the absence of information about the shape of the distribution below the point of truncation, about births and deaths, about systematic factors such as age, occupation, and about the coefficient β in (5), it is impossible to reach firm conclusions on the changes in the concentration of capital.

V. Conclusion

Within the population of manufacturing and commercial companies quoted on the Stock Exchange in the United Kingdom, the degree of concentration, as measured by the variance of the logarithms of companies' sizes, increased continuously over the period 1885—1965, with the exception of the period 1939—1950 when there was a decrease in concentration. Until the middle 1950's there was no tendency for the average proportionate growth of large companies to exceed that of small companies and concentration increased because of size mobility. In recent years, however, large companies have had faster growth rates. Moreover, the recent wave of mergers has also increased concentration.

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[50] *K. M. Langley*, The Distribution of Capital in Private Hands in 1936—38 und 1946—47, Bull. Oxford Univ. Inst. Stat., Vol. 13 (1951), 33—54.

[51] *K. M. Langley*, The Distribution of Private Capital, 1950—51, Bull. Oxford Univ. Inst. Stat., Vol. 16 (1954), 1—13.

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Concentration has also been increasing at the level of individual manufacturing industries, 1935—1951, 1951—1958, and 1958—1963. The rate of increase of concentration until 1963 was slow, but the merger boom since then has probably accelerated this increase. The confidentiality rules of the Census of Production, together with the absence of current data (concentration ratios for 1963 were published in 1970), severely restrict the scope for explaining changes in concentration at the industry level. Consequently, most attention has been paid to business concentration at the highly aggregated level of the whole of manufacturing, where data are published on each company and where the number of firms is large enough to use statistical distribution theory to explain changes in concentration.

A simple lognormal model based on *Gibrat's* law of proportionate effect was used to explain changes in business concentration in the United Kingdom. The difficulty arises that although the lognormal curve often (but not always) graduates the data well, its generation process excludes births and deaths of firms, which is unrealistic.

For this reason many economists prefer to use an alternative theoretical distribution such as the Yule distribution, advocated by *Simon*[52], or the Pareto distribution advocated by *Steindl*[53], which can incorporate births of companies. But since the increases in business concentration may be attributed primarily to increases in the variance of the logarithms of the sizes of surviving companies, it is not misleading to use a model which excludes births and deaths. Indeed, until the middle 1950's, not even mergers between companies had a significant effect on the increase in the logarithmic variance of surviving companies, and it was sufficient to study constant samples of companies to measure changes in business concentration. In particular, the use of *Galton's* regression model facilitated the decomposition of the increase in business concentration into, first, the effect of different average growth rates of large and small companies, and secondly, the effects of the size mobility of companies.

Less information is available on the distribution of incomes and of capital, but in principle the analysis summarized above can be applied to these variates. In fact, the analysis of income distribution by *Hill*[54], who isolates systematic from stochastic forces influencing income inequality, suggests observed distributions are not purely stochastic; systematic forces explain half of the variation in income, leaving the other half to random influences. But until more data on incomes and

[52] *H. A. Simon*, On a Class of Skew Distributions, Biometrika, Vol. 42 (1955), 425—40.
[53] *J. Steindl*, Random Processes and the Growth of Firms, London 1965.
[54] *T. P. Hill*, op. cit.

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capital are available, we shall have to rely on the univariate distributions derived from Inland Revenue data. These distributions suggest that the degree of concentration of the ownership of capital is greater than that for incomes. In money terms, the degree of concentration of both income and capital probably decreased between the early 1900's and the middle 1950's, but subsequently the concentration of capital increased, as did the concentration of incomes measured in real terms.

VI. Appendix

Table I

The Six Largest Business Units in Certain Industrial Groups 1957 and 1967

Industry	Firm	Net Tangible Assets. £'000	Cumulative Concentration Ratios %
	1957		
Distilling			
	Distillers Co.,	100,198	86
	Gilbeys	6,102	91
	Teacher (Destillers)	3,421	94
	MacDonald Martin Distilleries	2,130	96
	Arthur Bell & Sons	1,922	98
	Highland Distilleries	1,769	99
	Total for Industry	116,523	100
Cement			
	Associated Portland Cement Manufacturers	55,090	68
	Tunnel Portland Cement Co.	13,732	85
	Rugby Portland Cement Co.	6,242	93
	Eastwoods	4,070	98
	Aberthaw & Bristol Channel Portland Cement Co.	1,067	99
	Chinnor Industries	486	100
	Total for Industry	80,687	100
Tobacco			
	Imperial Tobacco Co.	130,078	70
	Gallaher	26,250	84
	Carreras	14,939	92
	Godfrey Philipps	7,050	96
	J. Wix	3,216	98
	Rothmans	1,470	99
	Total for Industry	184,529	100

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Industry	Firm	Net Tangible Assets. £'000	Cumulative Concentration Ratios %
Cocoa, etc.,			
	British Cocoa & Chocolate Co.	45,449	49
	Rowntree & Co.	14,055	64
	Nestle & Co.	10,335	75
	John Mackintosh & Son	6,345	82
	Joseph Terry & Sons	2,054	84
	Bassett & Co.	2,009	86
	Total for Industry	93,358	100
Newspapers, etc.,			
	Fleetway Publications	21,763	19
	Kemsley Newspapers	13,131	30
	Associated Newspapers	11,628	40
	Daily Mirror Newspapers	10,946	49
	Odhams Press	10,324	58
	George Newnes	6,182	63
	Total for Industry	117,678	100
Carpets			
	John Crossley	6,540	23
	Homfroy & Co.	3,767	36
	T. J. Firth & Sons	3,399	48
	Blackwood Morton & Sons	2,848	58
	James Templeton	2,470	66
	A. F. Stoddard & Co..	1,760	72
	Total for Industry	28,722	100
Cotton			
	Lancashire Cotton Corporation	22,691	15
	Fine Spinners & Doublers	20,491	28
	Amalgamated Cotton Mills Trust	7,702	33
	Joshua Hoyle & Sons	6,649	37
	Smith & Nephew Associated Companies	6,629	41
	Combined English Mill (Spinners)	6,461	45
	Total for Industry	156,834	100
Wool, etc.,			
	Patons & Baldwins	18,167	16
	Salts (Saltaire)	7,208	23
	West Riding Worsted & Woollen Mills	5,631	28
	Porritts & Spencer	4,581	37
	Illingworth Morris & Co.	4,533	36
	Woolcombers	4,531	40
	Total for Industry	110,512	100
Hosiery			
	Kayser Bondor	4,796	10
	N. Corah (St. Margaret)	4,099	19
	Wolsey	3,841	27
	I. & R. Morley	3,510	34
	Foister Clay & Ward	2,014	38
	Aristoc	2,013	42
	Total for Industry	47,812	100

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Industry	Firm	Net Tangible Assets. £'000	Cumulative Concentration Ratios %
Brewing			
	Ind Coope.	26,133	6
	Arthur Guinness, Son & Co.	25,897	12
	Watney-Mann	17,221	16
	Bass Ratcliff & Gretton	15,973	20
	Courage & Barclay	15,155	24
	Mitchells & Butlers	14,180	27
	Total for Industry	422,584	100
	1967		
Distilling			
	Distillers Co.	308,627	87
	Seager Evans & Co.	12,086	90
	Teachers Distillers	10,059	93
	Bell (Arthur) & Sons	8,959	95
	Highland Distilleries Co.	5,605	97
	MacDonald Martin Distilleries	4,467	98
	Total for Industry	355,341	100
Cement			
	Associated Portland Cement	155,864	70
	Rugby Portland Cement Co.	32,762	85
	Tunnel Portland Cement Co.	25,045	96
	Lafarge Organisation	3,914	98
	Aberthaw & Bristol Channel	2,915	99
	Hartley Baird	1,369	100
	Total for Industry	221,869	100
Tobacco			
	Imperial Tobacco Company	436,990	71
	Gallaher	113,652	90
	Carreras	46,383	98
	Phillips (Godfrey)	10,882	100
	London & Midland Industries	2,453	—
	Siemssen Hunter	927	—
	Total for Industry	612,175	100
Cocoa, etc.,			
	Cadbury Group	102,325	63
	Rowntree Mackintosh	33,432	84
	Mackintosh (John) & Sons	12,284	92
	Bassett (Geo) Holdings	6,891	96
	Maynards	2,466	97
	Waller & Hartley	1,552	98
	Total for Industry	162,770	100
Newspapers, etc.,			
	International Publishing Corporation	118,582	42
	Thompson Organisation	54,579	61
	Associated Newspapers	24,455	70
	'News of the World' Organisation	21,416	78
	Beaverbrook Newspapers	11,927	82
	Birmingham Post & Mail	8,475	85
	Total for Industry	283,561	100

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Industry	Firm	Net Tangible Assets. £'000	Cumulative Concentration Ratios %
Carpets			
	Carpets International		
	Manufacturers	12,322	23
	Homfray & Co.	7,363	37
	Worth (Thomas Bond) & Son	5,599	47
	Templeton (James) & Co.	4,890	56
	Blackwood Morton & Sons	4,814	65
	Carpet Manufacturing Co.	4,513	73
	Total for Industry	53,862	100
Brewing			
	Allied Breweries	246,022	18
	Whitbread & Co.	181,335	31
	Watney Mann	163,162	43
	Bass, Mitchell & Butlers	141,511	53
	Charrington United Breweries	134,863	63
	Courage, Barclay & Simonds	101,529	70
	Total for Industry	1,379,620	100

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Table II

Changes in the Sizes of Business Units, 1950—55

Classes	A	B	C	D	E	F	G	H	K	L	M	N	O	P	Q	R	S	T	Total	Births 1950—55	Total 1955
£ 1,000 Upper Limit																					
3 A				3															3		3
7 B																					
15 C				6		3	6	3											18		18
31 D				3	6	6	9												24	1	25
62 E		3		6	12	24	12												57	7	64
125 F				12	24	60	84	15											195	28	223
250 G			3	3	9	51	117	75	21										279	57	336
500 H					3	24	54	144	48	4	3								280	79	359
1 000 K						15	36	117	156	15									339	91	430
2 000 L							12	54	93	117	25	1							302	53	355
4 000 M						3	3	21	45	60	53	21							206	21	227
8 000 N								3	15	42	70	33	2						165	8	173
16 000 O										3	22	10	17	2					54	2	56
32 000 P											1	6	15	7					29		29
64 000 Q													5	8	2				15		15
128 000 R													3	4	1				8		8
256 000 S															2	2	1		5		5
512 000 T																	2		2		2
Total		3	3	33	54	186	333	432	378	241	174	71	42	21	5	2	3		1981	347	2328
Deaths 1950—5				2	10	12	11	15	16	3	5	3	2	1					80		
Total 1950		3	3	35	64	198	344	447	394	244	179	74	44	22	5	2	3		2061		

The upper limit of each class is double the lower limit. In logs to the base 2, each class is unity.

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Policy Towards Industrial Concentration in the United States*

By *Donald Dewey*, New York, and *Henry A. Einhorn*, Washington, D.C.

I. Introduction
II. The Common-Law Background of Monopoly Policy
III. Origins of Antitrust Policy in the United States
IV. Antitrust Applications to Monopoly Situations
V. Antitrust Opposition to Mergers; Potential Competition
VI. Impact of Policy on Concentration in the United States
VII. The Economic Effects of Antitrust Policy

I. Introduction

In recent years, European statesmen and scholars concerned with cartel policy and programs designed to promote more rapid economic growth have shown increasing interest in the antitrust program of the United States. The American program is the oldest continuous effort to preserve and foster competitive conditions in the economy by restricting the contractual freedom of businessmen. The principal enforcement role has been assigned to the Antitrust Division of the Department of Justice with, in recent years, an important secondary role going to the Federal Trade Commission. American antitrust policy is only one facet, though probably the most important single one, of the national effort to restrict the creation and exercise of private economic power. Historically, the regulation of industry has been closely associated with the antitrust effort as a second-best solution to the problem of contending with unacceptable monopoly or oligopoly. Regulatory commissions with price, entry, and program responsibilities have been established in those industries where the public interest is believed to require monopolistic structure. Competition is the preferred norm, but, where necessary, industrial monopoly is tolerated under some form of regulation that presumably will prevent the monopolist from realizing the benefits of his position.

When the European scholar turns to study the control of industry in the United States, he is likely to be appalled at the materials awaiting

* The authors are grateful to *William Paul Smith*, Office of the Comptroller of the Currency, for his comments on earlier versions of this paper.

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him—literally hundreds of books and articles, thousands of government reports on trade practices, and an incalculable amount of relevant material locked in the minute print of published court records. In the face of this mass of information, the European scholar may ruefully conclude that, when the answer to a particular question about American policy eludes him, it is only because he has not read far enough in his sources. He should have the consolation of knowing that this disturbing possibility also plagues American economists in the study of their own economy.

The vast American literature on industrial concentration is, of course, a by-product of antitrust policy. The aims of antitrust policy have occasionally been confused; they have changed over the years; and many authorities have questioned whether the small amount of money spent on the enforcement of the antitrust laws has influenced the development of the American economy. But since the *Sherman Act* of 1890, antitrust policy has commanded sufficient political support that no administration has dared to abandon it; and the alleged virtues of antitrust policy have long since become a part of the folk lore of American politics.

II. The Common-Law Background of Monopoly Policy

In Britain and the United States, public policy toward industrial concentration has developed out of the same root—the English common law. The American Revolution had no immediate impact on the law of commerce in the new nation—and, indeed, until far into the nineteenth century the law of commerce in the United States diverged very little from that of the mother country. This curious development can probably be traced to two factors—the willingness of both countries to rely mainly on judge-made law in business matters, and the respect accorded British decisions in nineteenth century American courts. This respect persisted partly because the regulation of business in the nineteenth century was left to state courts. Receiving no guidance from the federal judiciary, these courts attached particular importance to the relevant decisions of famous English judges.

The willingness of Britain and the United States to entrust the making of law to judges who hold their positions for life has often amazed European observers raised in the Roman law tradition. The virtues and vices of judge-made law need not concern us here; for our purposes it will suffice to note the predominant role of judges in Britain and the United States in the evolution of modern business law.

The attitude of common-law judges to the conduct of business in the nineteenth century may be briefly summarized as follows. A merchant

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might lawfully do anything to attract custom to himself provided that he respected two restraints. He must not commit acts that were well defined criminal or civil offenses, i.e. employ arson or slander to dispose of a business rival. And his object in injuring a rival must be his own gain and not an "irrational" desire to see the rival suffer. In the language of older lawyers, the merchant who seeks to benefit himself at the expense of a rival must be actuated by "disinterested malevolence" rather than "malice"; indeed, the "laissez-faire" of the nineteenth century economists was only a new name for the much older common-law doctrine of disinterested malevolence.[1]

Likewise, the common law recognized the right of merchants to enter into agreements to divide markets, act jointly against rivals, and generally restrain trade. Such contracts were always lawful in the sense that the parties were not vulnerable to a criminal prosecution for conspiring to restrain trade. Restrictive agreements, however, were not always upheld in court since common-law judges reserved the right to refuse the enforcement of contracts deemed to be against public policy. In general, British and American courts have only been willing to enforce the weaker type of cartel arrangements. Elaborate agreements that regulate in detail the conduct of participating firms have been viewed as "unreasonable" and hence as against public policy.

III. Origins of Antitrust Policy in the United States

In retrospect it is apparent that the common-law indifference to the problems of industrial concentration reflected the conviction that the public welfare was effectively protected by freedom of contract. In the United States the inadequate character of this freedom as a public safeguard first became clear in the railroad age. For in sparsely settled areas, the capital requirements of railroad construction precluded any close approximation to traditional conceptions of "competition". Consequently, so long as railroad rates and service were largely free of governmental supervision, the industry was characterized by blatant discrimination among shippers and localities, cartel agreements, occasional rate wars, and the consolidation of competing lines.

If the limitations of the common-law faith in freedom of contract were first made plain by the advent of the railroads, they were forcefully underlined by the success of the Standard Oil Company and the proliferation of the "trusts" in the 1880's. The rapid rise of the Standard Oil Company undoubtedly served to dramatize an important structural

[1] For a classic statement of the common-law doctrine of disinterested malevolence by the highest English court, see *Mogul Steamship Co.* v. *McGregor, Gow & Co.* (1892), A. C. 25 (H. L.).

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change in the American economy. Its astounding success, however, has probably served to distract attention from the complexity of the merger movement of the late nineteenth century. The Standard Oil Company was essentially a business partnership on an enormous scale; for in 1880 *John D. Rockefeller* and four associates held an equitable interest of at least 50 per cent in the organization.[2] In this respect the Standard Oil Company differed materially from other combinations of that era which received the label of "trust". Most so-called trusts were merely temporary cartels, though a few were attempts to achieve monopoly by promotional merger, e.g., the National Cordage Company organized in 1887.[3] Other industrial combinations that appeared in the 1880's defy classification as cartels or close combinations and more closely resemble the *Interessengemeinschaften* than any form of business organization which survives in the United States.

During the nineteenth century the common-law courts increasingly encountered the "unincorporated association"—an institution not covered by the ancient precedents. The position of the unincorporated association was always unsatisfactory at common law; in fact such a body had no legal existence and could transact business only through its individual members. The corporation, as a fictitious "person," had rights and duties which were rather clearly defined at common law; but a corporation could be created only be the legislature. Until the middle of the nineteenth century, every incorporation required a special act of Parliament in Britain or similar legislation by a state assembly in the United States. (The federal Congress has the power to charter business corporations but seldom exercises it.)

The virtual "inevitability" of the corporation with its unlimited life and limited liability for shareholders has often been stressed. Suffice it to say that the progress of industry in nineteenth-century Britain and America was not perceptibly retarded by the legal obstacles to forming a corporation. In both countries the legislature responded to the growing demand for corporate privileges by passing statutes of general incorporation which made the corporate form available to virtually all merchants who wished to make use of it. (A few quaint exceptions survive—brokerage and law firms have never been allowed to attain limited liability for their debts by incorporating.)

We may say, then, that in the late nineteenth century, there were no serious legal obstacles to the growth of large corporations in Britain and

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[2] *A. Nevins,* John D. Rockefeller, New York 1940, Vol. I, pp. 611—12.

[3] The spectacular rise and fall of the National Cordage Company—the first great industrial combination attempted in the United States—is recorded in *A. S. Dewing,* Corporate Promotions and Reorganizations, Cambridge 1914, pp. 112—64.

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the United States. Indeed, the common-law by declining to enforce elaborate cartel arrangements, while placing no barriers in the way of industrial mergers, positively encouraged the growth of large corporations. The divergence between British and American policies toward industrial concentration dates roughly from 1890—the year which brought the *Sherman Act* in the United States and the first efforts at an antitrust policy.

During the 1880's the federal Congress and the state legislatures were increasingly placed under strong pressures to subject the railroads, the Standard Oil Company, and trusts in general to closer governmental supervision. In 1890 the federal Congress responded with the well-known *Sherman Act.*

By Section 1:

> Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

By Section 2:

> Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, etc.

Given the vagueness of the above provisions, generations of judges, lawyers, and economists have puzzled over what the Sherman Act was "really" meant to accomplish. One cynical school maintains that the Congress of 1890 was merely passing a general resolution against sin; that it did not intend that litigation should ever arise under the Sherman Act. According to this school, the Republican majority while seeking to increase tariff duties in 1890 became embarrassed by the charge that the tariff was "the mother of trusts" and sought to reassure the electorate by supporting an eloquent, if ambiguous, antitrust measure. By another school of thought, the federal Congress in 1890, rightly or wrongly, was seeking to stem the trend to industrial concentration. No doubt the truth lies somewhere between these extreme interpretations of Congressional motives. Many legislators feared and resented the near monopoly positions gained by a few of the trusts—notably the Standard Oil Com-

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pany. But there is nothing in the debates on the Sherman Act to suggest that Congress anticipated its vigorous enforcement.

What the Congress of 1890 meant to achieve by the Sherman Act must remain a matter of conjecture. In the hands of federal prosecutors and judges, however, the statute was soon employed to fashion national policies toward cartels, business ethics, and industrial concentration. In retrospect one could wish that each of these three policies had merited its own special legislation and enforcement machinery; it is largely a matter of historical accident that the law of cartels, business ethics, and industrial concentration has come to be made under the same vague statute. The accident occurred because the spectacular chicanery associated with the rise of several famous firms encouraged the popular myth that "unfair competition" provided the only road by which monopoly power could be secured and defended;[4] and because a few industrial mergers around 1900 were arranged to circumvent the ban on cartels imposed by the courts.

IV. Antitrust Applications to Monopoly Situations

The Sherman Act provided that the Attorney General—the chief federal prosecutor—should bring actions in the regular courts against cartels or corporations suspected of employing unlawful trade practices. The law allowed him a choice of remedies. He could seek to have the offending parties fined, a court order directing that the unlawful trade practices discontinued, or some form of "trust busting."

While the Sherman Act is the "basic" antitrust law, additional legislation in 1914 created a second enforcement agency—the *Federal Trade Commission*. Congress probably hoped by this action to speed up litigation (antitrust cases not infrequently remain in the regular courts for ten years or more) and to improve administration by creating a body of experts to enforce the antitrust laws. But the powers and duties of the new agency were not clearly specified; and a jealous judiciary has so far successfully asserted its rights to review the decisions of the Commission in detail. Consequently, the regular courts have remained the ultimate authority for antitrust policy.

In general, the more important cases—especially those that incorporate a government demand for trust busting, are maintained by the

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[4] The view that monopoly is the product of "unfair competition" was maintained, for example, in *J.B. Clark*, The Control of Trusts: An Argument in Favor of Curbing the Power of Monopoly by a Natural Method, New York 1901. Clark's natural method was simply competition purged of unethical business practices.

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Attorney General in the regular courts. The Commission concerns itself mainly with allegedly unfair trade practices, though under recent legislation it has some power to block mergers.

While there is scarcely anything that, in legal theory, a federal court cannot do to a corporation in the interest "preserving or restoring competitive conditions," the two main varieties of trust busting are dissolution and divestiture. When dissolution is employed, a corporation is compelled to transform itself into a number of smaller firms. Divestiture merely requires that a corporation sell certain assets in order to comply with the court decree. Divestiture thus does not affect the size of a corporation—only the nature of its business.

One may emphasize that corporations which are directed to submit to dissolution or divestiture are in virtually no position to evade court orders by the use of legal technicalities. An attempt at evasion would place the officers of the corporation in "contempt of court"—an offense which, in English-speaking countries, is scarcely less heinous than insubordination in the military forces.

But although federal judges have been accorded by the tacit consent of the legislature exceedingly wide powers to rearrange the business structure of the economy, these powers are used with the utmost caution. Indeed dissolution and divestiture are regarded by judges as "extraordinary" remedies to be employed only under the greatest provocation. In general, only those firms which have obtained substantial monopoly power by means which are viewed as morally suspect, or through mergers that entail no plausible gains in efficiency, have been broken up or required to dispose of some portion of their productive capacity.

Since most of the spectacular industrial consolidations and duels to the death occurred between 1890 and 1910, the most interesting examples of trust busting date from this era. In these years, the du Pont gunpowder combine formed by merging 60 odd smaller firms was divided into three independent units by court order. The Standard Oil Company was broken up into over thirty units; and the American Tobacco Company, which under the energetic leadership of *James B. Duke* had virtually cornered the output of cigarettes and smoking tobacco, was split into five main parts. In each of these cases, the firms had achieved a near monopoly of their respective industries by the purchase of competitors or marketing tactics which were viewed as unethical, e.g., pressure on banks not to extend credit to smaller rivals.

Any hopes that the court would employ trust busting to undo the work of the great wave of industrial mergers that swept the American economy between 1890 and 1910, however, were removed by the de-

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cision in 1920 which preserved intact the United States Steel Corporation. This firm—then the largest industrial company in the country—had been formed in 1901 by combining over one hundred smaller producers; but it differed from the more unpopular combinations in two important respects. It had applied no unseemly pressures to force rivals to sell out; and by 1920 it had only about 50 per cent of the country's steel making capacity. By the reasoning of the Supreme Court:

> The Corporation is undoubtedly of impressive size and it takes an effort of resolution not to be affected by it or to exaggerate its influence. But we must adhere to the law and the law does not make mere size an offense or the existence of unexerted power an offense. It, we repeat, requires overt acts and trusts to its prohibition of them and its power to repress or punish them. It does not compel competition nor require all that is possible.[5]

For twenty years following the *Steel* decision, the trust-busting powers of the courts were held in abeyance. There were no more spectacularly "bad" trusts left to prosecute; the political climate of the nineteen twenties was not favorable to experiments in dissolution and divestiture; and, in the early years of the Great Depression, the American faith in the virtues of competition reached an all-time low. After 1938, however, antitrust policy experienced a remarkable revival with the antitrust agencies receiving unprecedented staff and funds. Before 1936, one could say, in truth, that trust busting "had never been tried" since the antitrust agencies had never possessed the manpower and money needed to bring a large number of cases. This increased litigation, small by absolute standards (44 "major" cases instituted between 1936 and 1954), represented substantial progress in relative terms. In fact, the litigation of this period would have altered radically the corporate structure of the American economy—had it been successful.

This revival appears to have had two main sources. First, the opinions of professional economists whose faith in competition and hostility to large corporations possessing appreciable market power had never wavered began to carry more weight as their numbers increased in the civil service. (Many, if not most, of the country's influential younger economists served under President *Roosevelt* at one time or another in the nineteen thirties.) Second, and perhaps more important, the contracted market of the Depression years intensified struggles between small and large firms in many industries and caused small business groups to support government measures which promised to hobble their larger rivals.

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[5] *United States* v. *United States Steel Corp.*, 251 U.S. 417, 451 (1920).

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However, this ambitions trust-busting program was largely a failure. Taken together the major cases fought by the Antitrust Division since 1936 reveal a pattern of "legal victory—economic defeat." For although the courts have often found the defendant corporations "guilty" of unlawfully restraining competition, they generally have been content to direct that certain objectionable trade practices be discontinued and so denied dissolution or divestiture.

The 1945 *Alcoa* decision[6] illustrates the obstacles to trust busting faced by the antitrust agencies in the last thirty-five years. In part, the significance of the Alcoa decision lay in the definitions of "the line of commerce" and "relevant market" that it implied. However, the Alcoa decision was even more important as a legal precedent, for it held that monopoly *per se* can signify intent to monopolize since, "no monopolist monopolizes unconscious of what he is doing." Yet, the lower court's remedy on remand proved economically disappointing: injunctions against continuance of an alleged price squeeze and against participation in international cartels. Alcoa was held to have expanded capacity consistently in advance of need and in anticipation of future demand growth; the remedy merely directed that a close watch should be kept on the disposition of the government-built aluminum plants that were to become surplus after the war. The post-war disposal program was finally arranged to insure the continuation of two new firms which had begun production with government aid during World War II, i.e., by "artificial insemination." The only trust busting decreed by the court directed that Alcoa be separated from its Canadian affiliate, Alcan.[7]

The unwillingness of judges to break up major corporations found guilty of violating the antitrust laws is often cited as another example of judicial bias in favor of established property rights. That this bias is present is certainly true; indeed, the predictability in law that a judicial preference for the status quo provides is an indispensable feature of any legal system worthy of the name. In antitrust cases, the normal conservatism of the courts is further re-enforced by the fact that the trust-busting prosecutions are conducted upon a premise that judges and laymen do not really accept. They are not convinced that the exercise of monopoly power which has been gained by "legitimate" means violates the law to an extent justifying its elimination if trust busting promises to impose a financial loss on workers and stockholders. This attitude does not regard established interests in monopoly power as legal property rights merely because they exist. But it does assume, though judges

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[6] *U.S.* v. *Aluminium Co. of Americas, et al.*, 148 F 2d 416 (1945).

[7] For a discussion of divestiture and the difficulties of framing adequate remedies see? *K. G. Elzinga,* The Antitrust Law: Pyrrhic Victories? Journal of Law and Economics, Vol. 12 (1969), p. 43.

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seldom make the assumption clear, that possible public gains must always be weighed against private losses; and the more uncertain the public benefits, the more likely a court is to leave private rights undisturbed.

One might emphasize that even when a court consents to order the breakup of a firm or the sale of certain property, it is not necessarily disturbing monopoly. In fact, the courts have sometimes allowed trust busting precisely because it did not touch monopoly and hence could not adversely affect the interests of workers stockholders. (One such case occurred some years ago when the Hilton and Statler Hotel chains agreed to dispose of certain property to satisfy the federal government; the notion that anyone has a "monopoly" of hotel accomodation in any sizeable American city is quite uncovincing.)[8]

This is not to imply that the government's efforts at trust busting over the last 60 years have come to nothing. A number of government victories before 1920 did materially intensify competition in the industries concerned. Nor have the trust busting actions brought since 1935 been wholly without result; they have, for example, in some measure, intensified competition in aluminum, glass making, railroad equipment, the distribution of motion picture films, and the importation of tropical fruit. But most American lawyers and economists would agree that judicial conservatism and Congressional apathy—which is a tacit acceptance of judicial conservatism—have always insured that trust busting will not be employed to radically alter the structure of the economy. As one judge has written:

> In the anti-trust field the courts have been accorded by common consent an authority they have in no other branch of enacted law... They would not have been given, or allowed to keep, such authority in the anti-trust field, and they would not so freely have altered from time to time the interpretation of its substantive provisions, if courts were in the habit of proceeding with the surgical ruthlessness that might commend itself to those seeking absolute assurance that there will be workable competition, and to those aiming at immediate realization of the social, political, and economic advantages of dispersal of power.[9]

V. Antitrust Opposition to Mergers; Potential Competition

In recent years a monopoly control more promising than trust busting has been afforded by government supervision of industrial mergers. The

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[8] *United States* v. *Hilton Hotels Corp.*, 1956 Trade Cases Par. 68, 253.

[9] Opinion of Judge *Wyzanski* in *United States* v. *United Shoe Machinery Corp.*, 110 F. Supp. 295 (1953).

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authority of the antitrust agencies to block mergers rests upon two legal foundations: (1) the power of the Attorney General to enforce the *Sherman Act* of 1890 by "proceedings in equity" and (2) the *Clayton Act* Section 7 as amended by the *Cellar Act* of 1950 which forbids industrial mergers, "where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly."

The impact of antitrust policy on industrial mergers over the last 60 years is difficult to assess. Virtually no suits were brought to block mergers in the era of the great industrial consolidations around 1900. And, in the history of antitrust, government defeats in merger cases have been more notable than successes. The cases which came to trial, however, mainly involved small acquisitions or firms in financial difficulties. Following a series of Court opinions between 1923 and 1934, it was believed that Section 7 applied only to mergers in which one company acquired the securities of another. This apparent limitation of Section 7, of course, permitted a ridiculously easy evasion of the anti-merger law by asset acquisitions. Asset acquisitions specifically were included within Section 7's scope only with the 1950 *Cellar-Kefauver* Amendment to Section 7. The amendment proved somewhat superfluous when the Court's subsequent *duPont (GM)*[10] opinion held that asset acquisitions were included under the original Section 7's scope.

The evidence is persuasive that a number of contemplated mergers involving large firms were never attempted because the promoters feared prosecution. Thus, it is probable that the growth of the United States Steel Corporation—in its origins the greatest combination ever executed—has been impeded by its unwillingness to risk costly litigation by absorbing important rivals. Likewise, the many oil companies created by the dissolution of the original Standard Oil Company in 1911 would have left themselves open to prosecution if they had attempted to re-knit.

The major developments of the past 20 years have been: (1) an increasingly hard line by the Supreme Court in the language of its antitrust opinions, (2) an extension in the areas of antitrust enforcement, and (3) an apparent willingness to impose more severe minor penalties, i.e., those that stop short of dissolution and divestiture.

Increasingly in the 1960's, antitrust was applied to industries regulated by one or more Federal regulatory commissions, particularly in commercial banking.[11] Even in those industries in which regulatory

[10] *United States* v. *E. I. duPont de Nemours & Company, et al.*, 353 U.S. 586 (1957).

[11] See *United States* v. *Phillipsburg National Bank & Trust Company, et al.*, 399 U.S. 350 (1970), and the decisions cited therein.

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commissions have responsibility for evaluating the competitive impact of mergers, e.g., holding company acquisitions, the Antitrust Division has not hesitated to attack their decisions.[12] Repeatedly, the judiciary has noted that "immunity from antitrust is not lightly granted." The trend seems likely to continue, perhaps resulting in some limited cooperative efforts to secure capital intensive scale economies (e.g.—electric power generation and transmission) while (perhaps schizophrenically) preserving independent action on other activities that do not lend themselves to scale economies (e.g., distribution of electric power).

Reciprocity ("if you want a piece of my business, you must give me a piece of yours") and joint ventures were especially popular targets of the antitrust agencies in the 1960's.[13] Unlike the largely ineffective direct attack on market structure in the *Alcoa* case, these efforts may produce economically meaningful results. Direct attacks on existing monopolies and oligopolies will fail until divestiture, and the loss it inflicts upon stockholders and workers, is a socially acceptable remedy—or until the State is prepared to compensate private parties for the economic loss suffered when they are deprived of monopoly power by trust busting. Attacks on corporate behavior which is thought to be "anticompetitive" may well be more palatable to the courts because their immediate economic impact is much less.

Corporate diversification increased during the 1950's and 1960's, generally unimpeded by antitrust enforcement. This was accompanied by an increase (both absolute and relative) in the number of conglomerate mergers (in contrast to horizontal or vertical). Conglomerate acquisitions may be classified as purely conglomerate, market related and product related. The latter two are most important, particularly insofar as they permit the elimination of potential competition, e.g., via anticompetitive practices such as reciprocity or the removal of threats of entry.

In recent years, both the Antitrust Division and the FTC have adopted "guidelines" for determining suitable responses to particular mergers. These guidelines—which focus on industry concentration, size of acquiring company, and size of acquired company—are expressed in general terms for application to a wide range of industries. The Federal Trade Commission has developed a number of similar guidelines for

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[12] See *United States* v. *El Paso Natural Gas Co.*, 376 U.S. 651 (1964); *Northern Natural Gas Company* v. *Federal Power Commission, et. al.*, 399 F 2d 971 (1968); *Securities and Exchange Commission* v. *New England Electric System, et al.*, 384 U.S. 176 (1966) and 390 U.S. 208 (1968); *Federal Maritime Commission, et al.*, v. *Aktiebolaget Svenska Amerika Linien, et al.*, 390 U.S. 238 (1968).

[13] *United States* v. *Penn Olin Chemical Company*, 378 U.S. 158 (1964).

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particular industries. Neither set of guidelines has been tested in court, but both are used by the respective agency's staff in precomplaint merger evaluations.

Inevitably, the trend towards conglomerates has been viewed as a threat to competition. As yet, however, the conglomerate merger phenomenon has not been carefully analyzed. If antitrust policy is to be anything more than the policing of cartels, its future will turn mainly on the economic consequences of banning growth by mergers in large firms. This ban should throw considerable light on the merits of rival assumptions about economic "reality." If technological progress is an influence that works against industrial concentration, the decline of mergers will eventually produce lower concentration ratios in important sectors of the American economy. If economists who trace increasing corporate size and concentration to the "internal growth" of large firms are correct, then a decline in merger activity will make little difference. Thus the next twenty years in the United States should provide a test for the cardinal tenet of the American trust busting philosophy that monopoly power in the single firm usually can be obtained and preserved only by the absorption of rivals, suppliers, and market outlets—that it is hardly ever the product of "natural" growth.

Some American authorities have expressed fears that the restrictions on mergers will ultimately impair the efficiency of the economy by preventing firms from attaining the size needed for the best use of modern technology. So long as large firms are free to expand by constructing their own facilities, it is difficult to believe that a ban on mergers can do much harm.

VI. Impact of Policy on Concentration in the United States

What effects if any, has antitrust policy had on the structure and performance of the American economy? Many writers have properly stressed that a change in structure does not necessarily imply a change in performance and vice versa. They have warned that considerable care must be exercised in inferring a trend to or away from "competition" from a change in an industry's concentration ratio. *Ceteris paribus,* a rise in some concentration ratio—say the percentage of an industry's output accounted for by its top four firms—is a "trend to monopoly." No doubt concentration ratios do register a change in degree of monopoly to the extent that other things remain the same. In practice, this means that a change in the ownership structure of an industry which occurred fifteen months ago is more likely to have left a discernible imprint on competition than a change which occurred fifteen years ago.

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Nevertheless, studies that seek to reveal long-term trends in market performance do have considerable value. If spurious exactness is not insisted upon, such studies can show the direction of the trend in market performance over time. For example, if one accepts that market areas have increased and the elasticity of demand for major products is greater than formerly—both assumptions are eminently plausible—then the failure of an industry's concentration ratio to rise over a period of years is good evidence that competition has increased in the industry. Likewise a small increase in the concentration ratio would indicate that competition has not "significantly" declined over the years.

For convenience, we may examine the evidence relating to concentration separately for the years before and after World War I. (This division can also be defended on the ground that mergers before World War I, especially in the period 1890—1910, "set" the present pattern of big business in the United States.) We shall also confine attention to changes in the ownership structure of manufacturing industries because one does not really need to speculate about the fate of competition in other sectors of the economy. In public utilities and railroad transportation, public policy in the United States, as in other countries, has long favored regulation of rates and service—the negation of competition. Banking and insurance are so vulnerable to concentration that dispersion of ownership and control can only be preserved by the most solicitous legislation. As yet the monopoly problems in retailing, wholesaling, and the service trades are almost wholly those posed by cartels and gentlemen's agreements. The concern expressed by some American writers at the rise of the chain store in these fields is mostly special pleading for high-cost small firms that are losing ground.

The great mass of evidence on industrial concentration in the United States does not tell us everything we wish to know about the progress of combination. But it suffices to establish two points beyond doubt. In the twenty years between 1890 and 1910, the share of total manufactured output accounted for by the top one, two, or three hundred firms greatly increased. The main reason for this increase was merger activity—not bankruptcy, voluntary liquidation in small firms, or the internal growth of large firms.

No precise estimate should be attempted of the rise in industrial concentration during these years since we have only a rough idea of what the ownership structure of manufacturing was like at the beginning and end of the period. Two authorities have reckoned that by 1904, no more than 318 corporations had come into possession of at least 40 per cent of all manufacturing assets.[14] We do know that industrial mergers

[14] *H. R. Seager* and *C. A. Gulick,* Trust and Corporation Problems, New York and London 1929, pp. 60—61.

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between 1887 and 1904 involved at least 15 per cent of the manufacturing plants reported by the Census of Manufactures in 1900.[15] Since the mergers of that era dealt in relatively large plants, the percentage of manufacturing assets involved was undoubtedly greater.

The magnitude of the early merger movement is perhaps better suggested by absolute figures. By a generally accepted estimate, prior to February 1904, 318 industrial mergers produced security issues of over $7 billion and involved about 5,000 plants.[16] (Most of these mergers occurred between 1897 and 1904.) Merger activity produced new companies with authorized capitalizations totalling $1.89 billion in 1899 and $1.63 billion in 1901.[17] Not until the decade of the 1960's did the American economy again witness merger activity on this scale.[18]

The "fact" of the Corporate Revolution between 1890 and 1910 can scarcely be doubted. However, its causes—and more particularly its timing—have been the subject of considerable controversy in American economics. The main division is between writers who view the Corporate Revolution as a "natural" phenomenon and those who view it as an effort to circumvent the outlawing of cartel agreements by the federal courts in 1898. Most American economists still incline toward this latter view, though thanks to the influence of *John Galbraith* and the late *Joseph Schumpeter,* it is no longer held with as much confidence as formerly.

Like most historical events, the Corporate Revolution was the end-product of many forces and defies a single cause explanation. It was certainly encouraged by the growth in the size of efficient manufacturing plant and the greater market areas made possible by improved transport in the late nineteenth century. But the case studies compiled by early investigators reveal that the promoters of many mergers had an excellent intuitive grasp of the theory of monopoly. And the incentive to combine would have been less if federal law after 1898 had not made cartel agreements both unenforceable and a form of criminal conspiracy.

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[15] *J. W. Markham,* Survey of the Evidence and Findings on Mergers, in: Business Concentration and Price Policy, Princeton 1955, p. 157.

[16] *J. Moody,* The Truth About the Trusts, New York and Chicago 1904, p. 486.

[17] *M. W. Watkins,* Industrial Combination and Public Policy, New York 1927, pp. 321—22.

[18] Three great merger movements have been identified in America's industrial history: (1) from 1897 through a peak in 1899 and a new low in 1904, (2) from 1922 through a peak in 1929 and a low in 1932, (3) the current movement, which generally is dated from 1950. Economic Report on Corporate Merger, Staff Report to the Federal Trade Commission, Washington 1970, pp. 29—30. See: *D. Martin,* Mergers and the Clayton Act, Berkeley and Los Angeles 1959, and the *U.S. Senate Subcommittee on Antitrust and Monopoly,* Hearings on Economic Concentration especially parts 2 and 8A.

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Another circumstance encouraging concentration around 1900 should also be noted. A Corporate Revolution was scarcely conceivable without a highly organized capital market. It is hardly fortuitous that both materialized at the same time in the United States. As late as March 1894 only sixteen mining and manufacturing firms had their stocks actively traded on the New York Stock Exchange. By 1910 over a hundred active mining and industrial stocks had appeared, most of which were the securities of new companies created by merger.[19] (For example, the United States Steel Corporation was formed in 1901 by combining over one hundred smaller concerns.)

This is not to maintain that mergers were usually—or even frequently—undertaken for the purpose of getting a security listed on the New York Exchanges. This is to say, however, that the rise of industrial securities on the stock market and industrial mergers were the means by which the liquidity of claims against capital was both achieved and put to profitable use.

In any event, the improvement of the capital market in the late nineteenth century made possible the large-scale merger which often served simultaneously to give the firm access to economies of scale in manufacturing, marketing, and finance, and to confer monopoly power. The precise weighting of the importance of these two forces—scale economies and prospect of monopoly—poses exceedingly difficult problems of economic theory and historical investigation. It will not be attempted in this brief essay. For our purposes, it will suffice that given the rise of the capital market, expanding market areas, the unwillingness of courts to enforce cartel agreements, and the absence of any federal agency to contest mergers, the Corporate Revolution was very nearly a matter of "manifest destiny" in the United States.

One may also say that the great wave of mergers in this period established a pattern of big business that has persisted, with minor modifications, to the present. Consider the 35 largest industrial firms in 1957. Of these, 20 had stood among the 100 largest as early as 1909; and 30 were in this class by 1919. Further, with very few exceptions, firms which rose rapidly between 1919 and 1957 did so by merger or with the aid of bountiful government loans, orders, and gifts in wartime. The only firms which fell precipitously in the ranking were those which clung to coal mining and steam railroad long after the advent of cheap petroleum and engines which could use it, e.g., the American Locomotive Company which stood thirty-second in 1909 and was not among the hundred largest in 1957.[20]

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[19] The above estimates of security listings are based upon stock market reports carried in the Commercial and Financial Chronicle in March 1894 and January 1910.

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After 1910 the popularity of industrial mergers abruptly declined. While the reasons for this change are not wholly clear, it was encouraged by (a) the appearance of an antitrust policy, (b) the poor earning records of many firms created by merger, (c) the rise of the management-dominated company whose officers have a stake in preserving its independence, and (d) the fact that by 1910 many of the best opportunities for profitable combination had already been preempted.

Merger activity may have declined sharply after 1910 in the United States. Nevertheless it has persisted in sufficient volume to inspire frequent warnings that the remaining area of „workable" competition in the economy is being eroded away. Fortunately, a number of studies have recently appeared which enable us better to assess the role of mergers in promoting industrial concentration than was possible in an age of poorer statistics. In general, these studies have attempted the difficult task of measuring changes in concentration by using as an index the share of output, assets, or employment accounted for by the 100 or 200 largest firms. While the methodology of these studies should be examined with care, they seem to agree that such "aggregate" concentration has not much increased since 1910. More specifically, (a) industrial concentration may have increased between 1910 and 1925, (b) the wave of mergers preceding the 1929 stock market debacle and the high mortality of small firms in the early years of the depression produced some increase in industrial concentration between 1925 and 1935, (c) industrial concentration changed hardly at all between 1935 and 1950,[21] and (d) industrial concentration by this overall test has increased substantially since 1950.

A different approach to registering changes in industrial concentration was employed by *G. W. Nutter* in an invaluable monograph.[22] Nutter divided the American economy into competitive and monopolistic industries. An industry was classified as monopolistic if the four largest firms in the "industry" as defined by the Census Bureau produced 50 per cent or more of the industry's output. The available data were then examined for 1899 and 1937—39. Nutter found that 32 per cent of manufactured output originated in monopolistic industries in 1899. The comparable figure in 1937 was 28 per cent.[23]

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[20] Information on the relative standing of American industrial firms at various dates is given in *A. D. H. Kaplan,* Big Enterprise in a Competitive System, rev. Ed., Washington 1964.

[21] *U.S. Federal Trade Commission,* Report on Changes in Concentration in Manufacturing 1935 to 1947 and 1950, Washington 1954, p. 17.

[22] *G. W. Nutter,* The Extent of Enterprise Monopoly in the United States, 1899—1939, Chicago 1951.

[23] Ibid., p. 40.

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Nutter also applied a broader definition of monopoly to the 1937 data—one which could not be used for the poorer 1899 statistics.[24] By Nutter's second test, 38.3 per cent of manufactured output had originated in monopolistic industries in 1937. Hence, he did not exclude the possibility that monopoly as measured by concentration may have increased in the manufacturing sector of the economy from 1899 to 1937. Examination of the 1939—1967 period, using comparable menthodology, suggests that monopolistic manufacturing forces declined through the mid-1950's when they accounted for 38.2 per cent of national income originating in the manufacturing sector—or 11.5 per cent of all national income originations. Monopolistic industries provided 40 per cent of national income originating in manufacturing during the late 1950's, but, by the late 1960's their contribution again appeared consistent with the longer-term trend of declining importance.[25] Taken together, the recent American studies on concentration would seem conclusively to refute the contention of both Marxists and uncritical defenders of large corporations that the progress of concentration in a capitalistic system is unceasing and irrevocable.

What part have mergers played in the growth of large firms since 1910? The most relevant study examined the expansion of 74 large manufacturing firms—most of them among the country's 200 largest—from the early 1900's through 1948.[26] The results of this study have been made to support different generalizations. To the writers, it conveyed that when one allows for changes in the price level, mergers accounted for at least one-half, and probably more, of the "real" asset growth of the 74 firms surveyed.

The volume and nature of corporate acquisitions have changed markedly in recent years.[27] The total assets of large acquired firms in

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[24] By *Nutter's* second—and broader—test, an industry was considered monopolistic if (a) the four largest firms in the "industry" as defined by the Census Bureau produced 50 per cent or more of the Industry's output, (b) the four largest producers of a "census product of major value" accounted for 75 per cent or more of this product, or (c) the industry had been termed monopolistic in a 1940 study undertaken by the Temporary National Economic Committee.

[25] The data for the 1950's reflect the same standards (a) and (b), but an independent evaluation of some industries was substituted for (c); see *G. W. Nutter* and *H. Einhorn*, Enterprise Monopoly in the United States: 1899—1958, New York and London 1969. This work combines both Nutter's and Einhorn's separate studies. Estimates for the 1960's followed similar procedures but in a less refined manner. A direct comparison of the 1960's with earlier years is frustrated by significant changes in the Standard Industrial Classification and in the compilation of national income estimates.

[26] *J. F. Weston*, The Role of Mergers in the Growth of Large Firms, Berkeley 1953; see also Professor Weston's testimony on mergers given in A Study of the Antitrust Laws: Hearings before the Senate Subcommittee on Antitrust and Monopoly, 84th Congress, 1st Session, Part I, pp. 406—410.

[27] Economic Report on Corporate Mergers, op. cit.

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manufacturing and mining rose from less than $1 billion annually in the early 1950's to almost $3 billion in 1963 and 1964, then rising sharply to almost $13 billion in 1968. While the annual total fell to under $11 billion in 1969, following a peak in the annual rate of $20 billion in the first quarter, it is still too early to say whether this latest merger movement is subsiding.

The principal concern with these mergers lies in their contribution to the growth of conglomerate companies, themselves largely formed by acquisitions (as contrasted to internal growth) financed by debt securities. As a result, concentration of aggregate manufacturing company assets has increased markedly. One recent Federal Trade Commission study suggests that the 100 largest companies controlled a larger share of manufacturing company assets in 1968 than did the 200 largest in 1950 when the *Cellar-Kefauver* antimerger act amendment was passed. Also, the 200 largest had the same share of assets—60 per cent—as did the 1,000 largest companies in 1941 when the TNEC report was issued.[28]

The FTC estimates that at least 20.6 per cent of the top 200 companies' asset growth between 1948 and 1968 was due to mergers. The broad scope of this merger trend has been impressive. As indicated earlier, the great bulk of mergers occurred in the manufacturing sector followed by mining; only after 1967 did such activity in other industries increase in importance.

VII. The Economic Effects of Antitrust Policy

We have seen that, so far as industrial concentration is concerned, antitrust policy has attempted two tasks. It has sought to check the further progress of concentration by blocking mergers that threaten a reduction of competition and to correct the mistakes of history by breaking up large firms that allegedly possess more market power than is needed for efficient production. The success of the antitrust agencies in achieving these ends has certainly not been spectacular; but is has not been negligible. Thus, of the one hundred largest industrial corporations in 1966 twenty have had their fortunes affected by trust busting. Nine of these firms (excluding the present American Tobacco Company and Standard Oil Company of New Jersey—"Esso") were created by antitrust cases, notably the firms severed from the oil and tobacco trusts in 1911. Moreover, in such oft-litigated industries as steel, meat-packing, automobiles, and tobacco, mergers were probably discouraged by the prospect of an antitrust suit. It seems a reasonable inference, therefore, that the decline of corporate consolidations after 1910 was due, in some

[28] Ibid.

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measure, to the activities of the antitrust agencies. Whether this success was good or bad depends upon the validity of the assumptions about economic "reality" that underline antitrust policy. A critical appraisal of these assumptions is, alas, a task beyond the scope of this essay.

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Concentration in Banking in the United States

By *Bernard Shull*, New York

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I. Introduction

The commercial banking system in the United States is composed of over 13,600 institutions, with over 30,000 offices, which have been established under Federal or state charter. There are a relatively few large banks and large numbers of small banks. In size and diversity, it is unique in the world. In contrast, for example, there are nine chartered banks (with about 6,000 offices) in Canada, a country of comparable geographic area but of much smaller population.

Commercial banks in the United States are permitted to accept checking (demand) deposits, make loans to businesses and consumers, invest in many types of securities, and generally engage in a wide variety of borrowing, investing and lending transactions. They are, however, constrained under Federal and state law; and, among other things, typically may not invest in corporate stock for their own account, nor in real estate, nor underwrite corporate bond offerings. They are

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further limited in the interest they can pay on time and savings deposits and are prohibited from paying interest on demand deposits. In addition, they are supervised by Federal and/or state banking agencies whose periodic examinations further circumscribe their activities. The scope and limits of their operations sharply distinguish them from the many other types of financial institutions in the United States, including savings banks (mutual savings banks and savings and loan associations) whose principal liabilities are savings deposits, and whose earning assets are limited, for the most part, to mortgages.[1]

The activities of commercial banks and other financial institutions overlap in a number of areas; e.g., there has been intense competition between commercial and savings banks for savings deposits in recent years. However, commercial banks are unique or close to unique in several respects—in providing checking deposits, in making short-term commercial loans, and in the relatively wide variety of financial transactions in which they engage. For purposes of evaluating concentration and competition, it is appropriate to separate them from other types of financial institutions.

Nevertheless, the population of commercial banks in the United States is, itself, of a highly diverse character. As noted, there are a relatively few large banking organizations. These organizations are located in the major population centers; in New York, Chicago, Los Angeles and San Francisco. They are the principal banking connections for well-known national firms in the United States. Though confined to office locations within limited geographic areas (within states or smaller areas) they seek corporate business, deposits and non-deposit funds throughout the country and in international markets, as well as in the vicinities of their offices. In addition to their substantial volume of deposits, they manage trust departments with large additional volumes of funds,[2] underwrite offerings in the municipal bond market,[3] and compete for business internationally through Edge Act corporations and foreign branches. The

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[1] General discussions of the scope and limits of commercial bank operations and the operations of other types of financial institutions in the United States may be found in: *Commission on Money and Credit,* Money and Credit, Englewood Cliffs/N. J. 1961, Ch. 6; and *Committee on Banking and Currency,* Comparative Regulations of Financial Institutions, House of Representatives, 88th Congress, September 20, 1963.

[2] For a recent survey of bank trust departments in the United States and a critical analysis of their effects on concentration in the economy, see *Committee on Banking and Currency,* Commercial Banks and Their Trust Activities, Staff Report, U.S. House of Representatives, 90th Congress, 2d Session, July 8, 1968, Vol. I and II.

[3] For a review of the scope and limits on underwriting activities by commercial banks, see *Richard R. West,* Should Commercial Banks be Allowed to Underwrite Municipal Revenue Bonds?, The National Banking Review, September 1965, pp. 35—44.

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remaining large numbers of smaller banks are confined by economic considerations to regional areas at best, and to the large numbers of cities, towns and villages in which they have offices. It is still possible, however, for the larger of these banks to grow into organizations that compete effectively in national and international markets through branching, bank holding company affiliations and/or as the result of income and population movements.

While large banks compete with small banks for business in local areas, differences in size restrict the extent of competition. The services provided by large banks are typically more extensive. So, for example, the size of the loan a bank can make to any one borrower is closely related to the overall size of the bank, being limited to a proportion of the bank's capital and surplus (10 percent under Federal law). While several banks may share a loan (termed a "participation"), this procedure is not normally considered a perfect substitute for obtaining a loan from a single institution.

Commercial banks in the United States are sometimes affiliated horizontally through holding company (or other less formal) affiliations.[4] They are almost invariably affiliated vertically through correspondent banking arrangements. Small commercial banks in rural areas will typically be associated with larger banks in nearby cities and major population centers, with whom they maintain a deposit and from whom they obtain credit and other banking services from time-to-time. These larger banks will also be associated with still larger banks in major metropolitan areas throughout the country. The "interbank" deposits serve as clearing accounts and typically pay for the service received.[5]

Because of the heterogeneous character of commercial banking in the United States any evaluation of concentration requires careful definition. Concentration will be defined here in terms of the proportion accounted for by the largest organizations of those close-to-unique "products" provided by commercial banks, i.e., checking deposits and commercial loans; and other financial institutions will, for the most part, be ignored. "Total deposits" will generally be accepted as a reasonable proxy for these commercial banking "products".[6] Commercial banks,

[4] Recent but partial data on financial relationships among banks may be found in *Committee on Banking and Currency,* Bank Stock Ownership and Control, U.S. House of Representatives, 89th Congress, 2d Session, December 29, 1966; and *Committee on Banking and Currency,* Control of Commercial Banks and Interlocks Among Financial Institutions, U.S. House of Representatives, 90th Congress, 1st Session, July 31, 1967. Studies of so-called "chain banking" relationships are discussed below.

[5] For a discussion of the correspondent banking system in the United States see *Committee on Banking and Currency,* A Report on the Correspondent Banking System, U.S. House of Representatives, 88th Congress, 2d Session, 1964.

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when affiliated with the same holding company, will be consolidated into "banking organizations" for the purpose of constructing measures of concentration. However, other types of horizontal affiliations will, by and large, be disregarded for lack of adequate data. Correspondent relationships will also be disregarded as not clearly affecting economically meaningful measures of concentration. In computing concentration ratios, appropriate geographic areas will be stressed, since important commercial banking markets are local, as well as national in extent. It is believed that concentration thus computed represents a legitimate economic measure of market structure which determines, in part, the competitive behavior and performance of commercial banking organizations.

When defined in this way, concentration in banking at the national level in the United States is low. This condition is in accord with public policies that can be traced to the early days of banking in this country. Nevertheless, important commercial banking services (and, in fact, the only ones offered by the vast majority of commercial banks) are not sold in national, nor even in regional markets, but exclusively in local areas. In such local areas, the number of banks are typically few and concentration is typically high. This condition is also in accord with public policies that became firmly established after the banking disaster of 1933.

In recent years, public policy has been stirred by high concentration in local areas. Under new laws and new interpretations of old laws, the Federal Government has vigorously attacked banking acquisitions that would further increase concentration at the local level, and also some of the anticompetitive practices that had developed. Banks that might otherwise have been merged, have remained independent.

At the same time, technological and institutional developments in banking have tended to augment the position of the larger banks. Small banks have been placed under pressure by higher costs and new competition.

The current levels of concentration in banking in the United States, and prospects for change, will be considered within this context. It is useful first to discuss the institutional conditions underlying banking concentration at the national level and then to present data on the degree of concentration. The role of state law in determining levels of concentration will then be discussed, and then banking market struc-

[6] It should be noted, however, that large banks in the U.S. have in recent years, substantially augmented their assets, including commercial loans, through the growth of non-deposit sources of funds such as Federal funds and Euro-dollars. Concentration based on total deposits will, therefore, tend to understate the degree of concentration whenever computed for groups that include large banks; e.g., at the national level.

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tures, including concentration, in local areas. It will then be possible to review some recent developments which seem likely to affect banking concentration in the future.

II. Institutional Determinants of Numbers and Concentration

The unique characteristics of American banking structure, i.e., the large numbers of banking organizations and their diversity of size, can be traced to at least three factors: (1) a long period of years during which entry into commercial banking was relatively free; (2) the early establishment of a prohibition on interstate branching by nationally chartered banks; (3) severe restrictions on intrastate branching in a substantial number of states. Other events, including the failure of close to half the banks in the country between 1921 and 1933, and a substantial merger movement in recent years, have tended to reduce numbers and increase concentration. But with respect to the unique characteristics of banking structure in the United States, the first mentioned factors have been decisive.

A. Entry into Banking

In recent years, new entry into banking via new charters has been highly restricted.[7] However, during a good portion of the 19th century and through the first three decades of the 20th century, entry into banking was reasonably easy.

The early banks in the United States were organized under special acts of incorporation by Congress and by the state legislatures. After 1838, however, they were mostly established by charters issued by administrative officers under authority of general banking laws.[8] The changes in procedure began in Michigan and New York by the passage of so-called free banking laws.

"A feeling arose that banking should not be a privilege granted to a few favored persons but a business like any other, open to anyone able to engage in it. 'Free banking,' as the Comptroller of New York explained in 1849, took its name from the fact that anyone was 'freely permitted to embark in it,' upon compliance with certain conditions."[9]

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[7] For the most part, there have been fewer than 125 new charters per year in the post World War II period. The number of charters has generally been less than the number of acquisitions each year. The 1962—65 period represents an exception. During these years, the numbers of new charters increased considerably and exceeded the numbers of acquisitions. This increase is traceable to the policies of *James J. Saxon,* Comptroller of the Currency 1960—65. See *U.S. Comptroller of the Currency,* The Banking Structure in Evolution, 102nd Annual Report, 1964, pp. 1—9.

[8] *Bray Hammond,* Banking before the Civil War, Banking and Monetary Studies, ed. by *D. Carson,* Homewood/Illinois, pp. 7 ff.

[9] Ibid., pp. 7, 8.

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When the National Banking Acts of 1863 and 1864 established a national system of banks, the principle of "free banking" was incorporated. Nevertheless, the Comptroller of the Currency, whose office was established under the law to administer the system, was given some discretionary authority to deny applications for national bank charters.[10] Moreover, in the years between 1863 and 1932, all of the states granted similar authority to their officials responsible for supervising state chartered banks.[11] However, the authority granted was not used effectively to restrict entry into banking. The dual existence of both a national and a state system resulted in a rivalry in chartering that made the exercise of restraint difficult if not impossible.[12]

The number of banks in the United States increased rapidly in the late part of the 19th century and even more rapidly in the first two decades of the 20th century. In 1861 there were less than 2,000 banks in the United States. In 1921 there were close to 30,000.

It is possible that had the spirit of "free banking" been retained after the depression of the 1930's, the number of banks in the United States would have been substantially greater today than it now is.[13] However, a principal cause of the banking failures of the 1921—33 period was found in what was termed "overbanking"; i.e., too many banks and excessive competition. An effective "needs" test was established both as a matter of principle and through the operations of Federal deposit insurance. Henceforth new banks would be chartered only if it appeared to the bank regulatory agencies, including the Federal Deposit Insurance Corporation (FDIC), that they were needed. In practice, this meant that a new bank would not be chartered if it were likely to divert deposits and customers from existing institutions in the area. Since almost all banks found deposit insurance to be essential to their operations, in effect the Federal Government was able to establish effective control over entry through new charters.

The trauma of massive banking failures, however, was probably sufficient in and of itself to alter the century old tradition of free banking. Years later in a different financial environment (in the early 1960's), the Comptroller of the Currency decided to increase substan-

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[10] *Gerald F. Fischer,* American Banking Structure, Columbia University Press, New York, London 1968, pp. 181—182.

[11] Ibid.

[12] *Sam Peltzman,* Bank Entry Regulation: Its Impact and Purposes, The National Banking Review, December, 1965, pp. 163—177.

[13] *S. Peltzman,* op. cit., pp. 169—171, 174. On the basis of a careful investigation Peltzman estimates that the entry rate in banking in the absence of regulations would have been 50 % to 100 % greater than the rate actually observed since 1935.

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tially the numbers of new national bank charters and intense rivalry between national and state chartering authorities was, for several years, revived.

B. Prohibition of Interstate Branching

Had a true national banking system with interstate branching taken root in the United States, "free banking" would probably not have resulted in an atomistic banking structure at the national level. Nationwide branching, either *de novo* or through merger, would have satisfied the banking needs of the numerous local areas requiring such services. There would have been fewer and larger banks.

However, state sovereignty with respect to branching law has been clearly established, and only banks chartered by the state or chartered by the Comptroller of the Currency in the state may have offices therein.[14] The First and Second Banks of the United States, which were chartered in 1791 and 1816 respectively, did have branches in a number of states. But neither bank survived the need for recharter. A bill establishing a Third Bank of the United States was passed by Congress in 1841; but it was vetoed by President *Tyler* who indicated that he would oppose any bank created by Congress having the power to establish branches in the states without their consent.[15]

The issue of interstate branching did not arise when the National Banking System was established. (Nor apparently did the issue of intrastate branching.)[16] Nevertheless the National Banking Act was quickly interpreted as precluding national banks from branching at all. This literal interpretation of the law probably did not reflect the intent of Congress.[17] But the issue is of little relevance today, since the interpretation was later supported by Supreme Court decisions and accepted by Congress. Far from nationally chartered banks being able to branch across state lines, it was not until 1933 that they obtained the right to branch within states to the same geographic extent as state chartered banks.

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[14] Nationwide banking systems could also have developed through the affiliation of independent banks with multiple bank holding companies. As in the case of branching, such affiliations could occur *de novo*, through the establishment of a new bank by charter, or by acquisition of an existing bank. Currently, under the Bank Holding Company Act multiple bank holding companies may not acquire banks in states other than the one in which they are headquartered without the express legislative consent of the state.

[15] *G. F. Fischer,* op. cit., pp. 14, 15. *Fischer* argues persuasively, however, that this was not the crucial factor in *Tyler*'s veto.

[16] *Ross M. Robertson,* The Comptroller and Bank Supervision, U.S. Comptroller of the Currency, 1968, pp. 81—82.

[17] See *G. F. Fischer,* op. cit., pp. 22—56; *R. M. Robertson,* op. cit., pp. 82—83.

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C. Restrictions on Intrastate Branching

Branching within state boundaries was not an important political issue in the United States until the latter part of the 19th century.[18] For the most part, technology made branching in distant areas, even within states, an unprofitable undertaking. Around the turn of the century, however, the growth of small rural towns led to increased demands for banking facilities. Branch banking was clearly one method of satisfying this demand. However, another way was found. Capital requirements for national bank charters in towns with small populations (3,000 people or less) was substantially reduced in 1900; this change rapidly increased the number of small unit banks in the United States. Not only did it weaken a strong argument for branching, but at the same time it created a powerful anti-branching lobby.[19]

Between 1910 and 1930, many states passed legislation prohibiting branching entirely. Current branch banking restrictions in about three-fifths of the states had their origins in this period.

III. Concentration at the National Level

Commercial banks in the United States are typically classified as: (1) unit or single-office institutions; (2) branch banking or multiple office institutions; and (3) registered bank holding companies which are multiple-bank (branch or unit) institutions. As indicated above, in considering banking structure it is useful to view the *banking organization,* consisting of unit and branch banks consolidated for holding company affiliation as the fundamental decision-making unit; it is their number and size dispersion that are presumed to influence conduct and market performance.[20] Where data is available, references below will be to banking organizations.[21]

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[18] See *G. F. Fischer,* op. cit., pp. 20—23.

[19] See *G. F. Fischer,* op. cit., pp. 27, 28.

[20] In addition, banks in the United States are sometimes affiliated through common stock ownership by individuals or groups of individuals. It is difficult, however, to determine the degree of control exercised by common ownership and therefore it is difficult to estimate the extent to which such so-called "chain banking" relationships further reduce the number of independent decision-making units. For recent data, see references in Note 4, and *House Committee on Banking and Currency,* Chain Banking: Stockholder and Loan Links of 200 Largest Member Banks, 88th Congress, 1st Session, Washington D.C. 1963, and *House Committee on Banking and Currency,* Twenty Largest Stockholders of Record in Member Banks of the Federal Reserve System, 88th Congress, 2d Session, Washington, D.C. 1964. This data was analyzed by *J. C. Darnell,* Chain Banking, The National Banking Review, March 1966, pp. 307—331, and Chain Bank Ownership and Operation, The National Banking Review, December 1966, pp. 193—198. Darnell, on the basis of a broad definition of chain banking, found 431 chain systems with over

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The "one-bank holding company" represents an additional grouping which has substantially increased in importance in the last few years. Single banks held by holding companies may be either branch or single office (unit) institutions. Their recent growth raises distinct issues with respect to concentration that will be discussed below.

Table 1

Changes in Number of Commercial Banks in the United States for Selected Years Dec., 31, 1961—1968

	1961	1963	1965	1967	1969
Number of banks, beginning of period	13,471	13,426	13,761	13,769	13,679
New banks organized	+ 112	+ 300	+ 198	+ 102	+ 134
Reopenings	+ 1	—	+ 1	—	—
Mergers, consolidations and absorptions					
Banks converted into branches	— 126	— 139	— 130	— 114	— 128
Other	— 13	— 12	— 19	— 19	— 18
Suspensions	— 9	— 2	— 7	— 4	— 4
Voluntary liquidations	— 5	— 2	—	— 11	— 1
Other changes	—	— 1	—	— 3	—
Number of banks, end of period	13,431	13,570	13,804	13,720	13,662
Net increase or decrease	— 40	+ 144	+ 43	— 49	— 17

Source: Bernard Shull and *William Wiles,* Recent Changes in Banking Structure in the United States, Senate Select Committee on Small Business, Washington, D.C. 1970 (hereafter referred to as *Senate Select Committee,* Recent Changes); and *Board of Governors, Federal Reserve System,* Annual Report 1970, p. 351.

A. Number of Banks, Banking Organizations and Size Distribution

As noted, there are over 13,600 commercial banks in the United States. (See Table 1.) Consolidating for bank holding company affiliations, there still remain over 13,000 banking organizations in the United States. (See Table 2.)

1000 Federal Reserve member banks. Since Federal Reserve member banks account for less than half the total number of commercial banks in the United States, a substantial reduction in number of independent banking organizations might be considered appropriate. However, on the basis of a questionnaire to bankers and bank owners, Darnell concluded that "... many with ownership ties appear to operate independently. Of those with centralized control, the degree of control varies." (Chain Bank Ownership and Operation, op. cit., p. 198.)

[21] When consolidated bank holding company data is not available, the terms bank or commercial bank will be used in place of the term banking organization.

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Table 2

Number of Commercial Banks and Banking Organizations in the United States*

	1956	1961	1968	1969
A. Number of Commercial Banks	13,668	13,431	13,678	13,662
B. Number of Multiple Bank Holding Companies	49	41	71	97
C. Number of Affiliated Commercial Banks	428	427	629	723
D. Number of Commercial Banking Organizations	13,289	13,045	13,120	13,036

Source: Senate Select Committee, Recent Changes, p. 6 (See Erratum); Federal Reserve Bulletin, August 1970, p. A 95.

* The number of commercial banking organizations (D) is equal to (A + B — C).

The number of banks in the United States declined drastically during the 1920's and in the early 1930's. There had been about 30,000 banks in the United States in 1921,[22] but principally as the result of bank failures the number dropped steadily during the 1920's and precipitously between 1929 and 1933. In 1934 there remained only about 15,000. By comparison, there has been relatively little change in number since.

Table 3

Size Distribution of Banking Organizations June 1961 and 1968

Size class (in millions of dollars)	1961		1968	
	Number	Percentage distribution	Number	Percentage distribution
More than 500	56	.4	106	.8
100—500	221	1.7	348	2.7
50—100	209	1.6	380	2.9
20—50	681	5.3	1,283	9.8
10—20	1,236	9.7	2,107	16.2
5—10	2,245	17.6	3,256	25.0
2—5	4,268	33.4	3,733	28.7
1—2	2,540	19.9	1,437	11.0
1 or less	1,325	10.4	382	2.9
All size classes	12,781	100.0	13,032	100.0

Source: Recent Changes in the Structure of Commercial Banking, Federal Reserve Bulletin, March, 1970, p. 199. (Hereafter referred to as Changes in Structure, Federal Reserve.)

[22] *Board of Governors, Federal Reserve System,* Banking Studies, Baltimore, Maryland 1941, p. 418.

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In mid-1968, the median-sized banking organization in the United States held only a little over $6 million in deposits.[23] Small as this is it represents an almost doubling in size since 1961. (See Table 3.) There are, nevertheless, a fairly sizeable group of large banking organizations. About 100 held more than 500 million dollars in deposits in 1968 (as compared to about 50 in 1961); this represented less than 1 percent of the total number of banks. At the other end of the distribution, there were over 300 banking organizations with less than 1 million dollars in deposits, and over 5,500 with 5 million dollars or less.

B. Deposit Concentration

The largest 100 commercial banking organizations have held close to one-half of total banking deposits in the United States over the last decade. (See Table 4.) These organizations all have deposits presently in

Table 4

Proportion of Deposits Held by Largest Banking Organizations in the United States June 1961, 1968, 1969

	1961	1968		1969
Proportion Held By	Total Deposits	.0066 Total Deposits	Demand Deposits, IPC in Accounts over $ 100,000[a]	Total Deposits
Largest	4.55	4.03	3.37	3.97
5 Largest	14.33	14.25	21.98	13.87
100 Largest	49.44	48.99	71.36	48.42
300 Largest	62.95	62.80	85.22	62.15
Herfindahl Index[b]		.0064	.0157	

a Demand deposits IPC are those owned by individuals, partnerships and corporations.

b The *Herfindahl* index is defined as the sum of squares of the market shares for all firms in an industry, and approaches zero at low concentrations and one at high concentrations.

Scource: Senate Select Committee, Recent Changes, pp. 8, 21.

excess of one-half billion dollars. While they are a minute proportion of the total number banking organizations, they are, in absolute terms, a reasonably large number, and deposits among them are not highly concentrated.

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[23] Recent Changes in the Structure of Commercial Banking, The Federal Reserve Bulletin, March, 1970, p. 199. (Hereafter referred to as Changes in Structure, Federal Reserve.)

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The *Herfindahl* index shown in Table 4 reflects the low degree of concentration at the national level. When private demand deposits in accounts of $100,000 and over (presumably the large accounts held by large businesses) are considered separately, the Herfindahl index is approximately tripled, but still little changed from its closeness to zero.

IV. State Banking Laws and Concentration

Banking concentration at the national level is significantly affected by the branch banking laws of the 50 states. State branching law also affects concentration at the state level and, as discussed in Section IV below, in local areas within states as well.

With respect to branch banking, states may be classified into three general groups: (1) states that permit geographically unrestricted branching ("statewide branching"); (2) states that permit branching within limited geographic areas—usually the county in which the bank is headquartered, or that county and all contiguous counties ("limited branching"); and (3) states that prohibit branching completely ("unit banking"). The states in each classification, with the proportion of banks and deposits within each group, are indicated in Table 5.[24]

On average, there are more banks (and banking organizations) in states that permit limited branching than in states that permit statewide branching; and there are still more in states that prohibit branch banking.[25] In recent years, moreover, the percentage decline in numbers of banks has been greater in statewide branching states than in limited branching states. In unit banking states, numbers have increased over the past 17 years.[26]

The largest banking organizations generally account for a larger proportion of total deposits in statewide branching states than in limited branching states; and they generally account for a larger proportion of

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[24] In addition, a number of states also restrict or prohibit multiple bank acquisitions by holding companies. Nine states require formal approval of such acquisitions, or limit acquisitions in some specific way; e.g., by specifying the maximum percentage of a bank's stock the holding company can acquire, or the maximum percentage of total bank deposits in the state that the holding company can control. Twelve states prohibit multiple bank holding companies entirely. Thirty states do not have specific legislation regulating such companies. For a summary of state laws on acquisition by multiple bank holding companies, see *Bernard Shull* and *William Wiles*, Recent Changes in Banking Structure in: U.S. Senate Select Committee on Small Business, *Senate Select Committee*, Washington, D.C. 1970, p. 13. (Hereafter referred to as Recent Changes).

[25] *Bernard Shull* and *Paul M. Horvitz*, Branch Banking and the Structure of Competition, The National Banking Review, March 1964, p. 324.

[26] See Ibid., p. 315, for data for the years 1953—62; and Changes in Structure, Federal Reserve, p. 210 for data for the years 1961—69.

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Table 5

State Laws Affecting the Operation of Branches and Proportion of Commercial Banks and Total Bank Deposits in each Group of States, 1968

Statewide Branching			Limited Branching			Unit Banking		
States	Proportion of (%)		States	Proportion of (%)		States	Proportion of (%)	
	Banks	Deposits		Banks	Deposits		Banks	Deposits
Alaska, Arizona, California, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Maine, Maryland, Neveda, North Carolina, Orego, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington	12.9	20.8	Alabama, Georgia, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Tennessee, Wisconsin	34.1	50.9	Arkansas, Colorado, Florida, Illinois, Iowa, Kansas, Minnesoto, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Texas, West Virginia, Wyoming	53	28.3

Sources: Senate Select Committee, Recent Changes, p. 11, and *FDIC,* Summary of Deposits, 1968.

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deposits in limited branching states than in unit banking states.[27] For example, there are five states in which the proportion of commercial bank deposits held by the five largest banking organizations in the state exceeds 90 percent: Rhode Island, Arizona, Nevada, Delaware and Hawaii. Each permits statewide branching. There are three states in which the proportion held by the top five is less than 20 percent: Kansas, Iowa, and West Virginia. Each is a unit banking state.[28]

In the period 1961—69, increases in concentration occurred in 14 states and decreases in 30 states. Most of the increases were in statewide branching states and most of the decreases were in unit banking states. The largest increase occurred in Virginia where the five largest banking organizations held 27.1 percent of deposits in 1961 and increased this proportion to 47.6 percent in 1969. Virginia adopted statewide branching in 1962.[29]

Figures such as these have frequently been cited in support of unit banking. So, for example, it has been argued that: "... unrestrained branch operations would enable a few wealthy urban banks to extend their operations to a point where the independence and prosperity for the poorer banks ... would be seriously jeopardized."[30] And the effect on concentration has been generalized to an effect on competition: "The multibank system, no matter their form, bank branching systems, or chain banking, tend to have the same effects on competition ... Other things being equal ... the growth of bank holding companies, multibank and chain banking systems tend to diminish competition and make it more difficult for a given business man to secure loans."[31]

Nevertheless, concentration at the state level *per se* is, at most, of marginal significance from an economic point of view. State political boundaries cannot be accepted as reasonable approximations of economic markets for any of the "products" banks sell. As discussed, the larger banks compete in the sale of some "products" in geographically larger areas (the nation as a whole and/or economic regions composed of a number of states or parts of states); and all banks compete in the sale of services in smaller "local" markets (approximated by standard metropolitan statistical areas, cities, towns, etc.).[32]

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[27] *B. Shull* and *P. M. Horvitz*, op. cit., p. 313; Changes in Structure, Federal Reserve, p. 210.

[28] Changes in Structure, Federal Reserve, pp. 205, 210.

[29] Ibid., p. 205.

[30] Judge *Washington's* dissent in *Old Kent Bank and Trust Co.*, vs. *William McC. Martin*, 281 F. 2d 61, 64 (1960).

[31] Statement by Dr. *Robert F. Lanzillotti* on behalf of the Independent Bankers Association before the Banking and Currency Committee of the House of Representative, April 30, 1963.

[32] See *David A. Alhadeff*, Monopoly and Competition in Banking, Uni-

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Since banking markets that are national or regional in scope would normally contain reasonably large numbers of competitors, principal concern with respect to competition in banking is in local market areas. The issue of significance is not the effect of branch banking on numbers and concentration at the state level, but in local markets within the state.

V. Concentration at the Local Level

The significance of local market areas in banking stems from the fact that most bank depositors find direct access to an office of their bank of considerable value; in addition banks will not generally lend to small and intermediate-sized business customers who do not live in the "area" in which the bank is located. Business loans are typically made to borrowers with whom the bank is familar, and with whom a long term relationship has been established.[33] Since demand deposits and business loans are the relatively unique services provided by commercial banks, the local area is of economic significance. Recent empirical studies have found a relationship between concentration and "prices" of banking "products" in local areas.[34]

A. Numbers and Concentration

Local areas may be defined as including both large cities and their surrounding areas, and also identifiable communities outside such areas. Precise definitions of local banking markets normally requires careful study of each.[35] Given both the conceptual problems inherent in delineating local geographic markets in the United States, and the large

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versity of California Press, Berkeley and Los Angeles 1954, pp. 20—37. Standard Metropolitan statistical areas (SMSA's) in the U.S. include major cities and surrounding suburban areas. They are periodically defined by the Federal Government. See *Bureau of the Budget,* Standard Metropolitan Statistical Areas, 1967.

[33] See *Donald Hodgman,* Commercial Bank Loan and Investment Policy, Bureau of Economic and Business Research, University of Illinois, Champaign/Illinois 1963, Ch. 10, 11.

[34] See *Franklin R. Edwards,* Concentration and Competition in Commercial Banking: A Statistical Study, Research Report No. 26, Federal Reserve Bank of Boston, 1964; *Almarin Phillips,* Evidence on Concentration in Banking Markets and Interest Rates, Federal Reserve Bulletin, June 1967, pp. 916—26; and *Frederick W. Bell* and *Neil B. Murphy,* The Impact of Market Structure on the Price of a Commercial Banking Service, R.Ec.Stat., May 1969, pp. 210—213.

[35] This is sometimes done in the evaluation of merger and holding company proposals by the bank regulatory agencies. See *B. Shull,* Economic Evaluation of Merger and Holding Campany Cases in Banking, Proceedings of Conference on Bank Structure and Competition, Federal Reserve Bank of Chicago, May 1968.

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numbers of markets involved, this is not practicable for general analytical purposes; Standard Metropolitan Statistical Areas (SMSA's) and "places" outside such areas[36] as defined by agencies of the Federal Government have generally been accepted as rough approximations of local banking markets.

(1) *Numbers and concentration in non-metropolitan areas.* There is a large number of small towns and villages outside the metropolitan areas of the United States. In typical small rural communities, there are very few banks and very high levels of banking cocentration.

Information on the average numbers of banks in these areas in 1960 is shown in Table 6. As can be seen, the average numbers of different banks represented increases with size. In the largest of these communities, there are, on average, just a little over 3 banks per community. But there are obviously many such places where there are only one or two banks, and some, no doubt, where there are no banks at all.

Table 6

Average Number of Different Banks Represented by One or More Offices in Non-Metropolitan Area Communities, 1960, by Type of Banking Law

Population of Community	Statewide branching States	Limited branching States	Unit-banking States	United States
Less than 500	.123	.339	.308	.290
1,000— 1,999	.688	.807	.921	.827
2,000— 2,999	.879	1.048	1.148	1.048
3,000— 4,999	1.093	1.249	1.353	1.253
5,000— 7,499	1.565	1.652	1.842	1.692
7,500— 9,999	1.845	1.911	2.019	1.938
10,000—14,999	2.262	2.115	2.105	2.140
15,000—24.999	2.644	2.408	2.377	2.444
25,000 and over	3.286	2.861	3.085	3.023
Average	.691	.853	.725	.766

Source: Polk's Bank Directory, March, 1961; and Census of Population, 1960.

There appears to be little difference in the numbers of banks per community in branch and unit banking states. In all areas concentration is very high.

(2) *Numbers and concentration in metropolitan areas.* The average number of separate banking organizations in metropolitan areas for a more recent year, again cross classified for branching law and size, is

[36] For references see *B. Shull* and *P. M. Horvitz,* op. cit., *pp. 320—25.*

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shown in Table 7. As can be seen, there are relatively few organizations, on average, in the smaller metropolitan areas; but the numbers rise to fairly high levels in the largest—particularly in unit banking states.

Table 7

Average Number of Banking Organizations in Metropolitan Areas
June 29, 1968

Population of standard metropolitan statistical area	Statewide branching States	Limited branching States	Unit-banking States
	Banking organizations		
50,000— 100,000	6	5	7
100,000— 500,000	8	11	18
500,000—1,000,000	15	18	38
1,000,000 and over	35	46	120
All SMSA's	13	16	29

Source: Changes in Structure, Federal Reserve, p. 206.

Comparable data on average concentration in these areas is shown in Table 8. In all areas, the largest organization holds, on average over 30 percent of commercial bank deposits; the two largest hold over 50 percent. As in the case of numbers, there is little difference between concentration in branching and non-branching states in the smaller metropolitan area. Larger differences, however, develop in the larger metropolitan areas; it is clear that concentration is higher in those states where statewide branching is permitted than it is where branching is prohibited. Further comparisons of concentration in Chicago and Los Angeles, both having about the same population, and similiarly in Pittsburgh and St. Louis, is indicative. (See Table 9.)

This finding, however, should not necessarily be taken at face value. There is reason to believe that large metropolitan areas tend to exaggerate the geographic dimensions of local banking markets in unit banking states, which they do not do (or, if so, only to a lesser degree) in branch banking states. Where state law permits branching into surrounding areas, central city banks themselves can provide direct service and access to their institutions throughout all the suburbs of a large SMSA. In any one suburban section, served by one or more center city banks, there are economic pressures that tend to make rates and terms on banking services identical to those existing in all other sections

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Table 8

Percentage of Total Deposits Held by Largest Banking Organizations in Metropolitan Areas
June 29, 1968

Population of standard metropolitan statistical area	Largest organization			Two largest organizations		
	Statewide branching States	Limited branching States	Unit-banking States	Statewide branching States	Limited branching States	Unit-banking States
	Percentage of total deposits					
50,000— 100,000	43.8	38.9	39.8	69.5	65.4	68.5
100,000— 500,000	42.7	39.0	31.1	68.5	64.4	53.5
500,000—1,000,000	40.8	34.9	25.9	69.1	57.7	47.8
1,000,000 and over	32.7	31.1	23.9	55.0	51.5	42.7
All SMSA's	41.1	37.3	31.5	66.9	61.7	54.6

Source: Changes in Structure, Federal Reserve, p. 207.

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Table 9

Concentration of Commercial Bank Deposits in Largest Metropolitan Areas
June 29, 1968

Standard Metropolitan Statistical Area	Population (Thousands)	Branching Classification[a]	Banking Organizations	Proportion of Deposits Held By Banking Organization	
				Largest	Two Largest
New York City	11,581	L	78	19.4	37.4
Los Angeles	7,070	SW	64	33.2	56.3
Chicago	6,840	U	293	19.5	38.9
Philadelphia	4,770	L	76	19.1	35.1
Detroit	4,090	L	47	30.7	47.5
San Francisco	3,137	SW	40	42.2	64.7
Washington, D.C.	2,720	L[b]	61	16.7	29.5
Boston	2,645	L	57	36.4	51.0
Pittsburgh	2,352	L	44	48.4	69.9
St. Louis	2,313	U	135	17.2	32.3
Cleveland	2,013	L	24	34.3	54.0

Source: Board of Governors, Federal Reserve System, Population figures are Rand-McNally estimates for January 1, 1968.

a The branching classification for each metropolitan area is based on the branching law in that state in which the metropolitan area is *principally* located: statewide branching (SW), limited branching (L) and unit banking (U). (See Table 5 for state classifications.) It should be noted that a number of metropolitan areas overlap state lines, and therefore branching restrictions in different sub-areas may differ. In addition, in states permitting branching on a geographically restricted basis, banks headquartered in any one section of the metropolitan area may not be able to branch into one or more other sections.

b The Washington, D.C. metropolitan area includes three sub-areas: the District of Columbia proper, which is under Federal jurisdiction, and portions of the states of Maryland and of Virginia. Branching is permitted within each of these sub-areas, but not from one to another

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of the city. Some rates; e.g., rates on time and savings deposits and on consumer loans, are typically advertised, and geographic discrimination is impractical. Moreover, the threat of entry, *via* branching, would tend to keep rates from rising to levels consistent with supply and demand conditions in the suburban section alone.

In large unit banking metropolitan areas, however, there are people who live and work in the suburbs, and who do not have direct access to banks based in the center city. Moreover, people who live in one suburb will not necessarily have direct access to banks in other suburbs, even if they work in the center city.[37]

If this is the case, the greater numbers of banks and lower levels of concentration found in large unit banking metropolitan areas should be discounted. Such areas would be composed of several local markets, each with fewer numbers and higher concentration than the area as a whole.

In any event, in an economic sense concentration is very high in all metropolitan areas—even those that have *relatively* low concentration. By standard classifications, all the "markets" characterized by the averages would be considered at least oligopolistic.[38]

Regardless of the effect of branching on concentration, there is another effect on banking structure which merits consideration. The prohibition of inter-city branching within a state raises a barrier to entry in each local area which is insurmountable for banks outside the area.[39]

B. Concentration and Public Policy

As noted above, high concentration in local areas has been augmented by public policies established in the early 1930's. The epidemic of bank failures in the United States between 1921—33 caused much hardship and created considerable pressure for "reform".

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[37] Ibid. For tests of this hypothesis, see *Franklin Edwards,* The Banking Competition Controversy, The National Banking Review, September 1965, pp. 8—11; and *Paul M. Horvitz,* The Appalachian Financial Review, Spring 1969, pp. 213—219.

[38] For classifications of market structure see *Joe S. Bain,* Industrial Organization, 2d ed., John Wiley, 1968, pp. 137—144; and *Carl Kaysen* and *Donald F. Turner,* Antitrust Policy, Harvard University Press, Cambridge/Mass. 1959, pp. 72, 133.

[39] The combination of high concentration and high barriers to entry in banking is particularly unfortunate. For recent evidence with respect to the effects of this combination of structural characteristics in other industries see *H. Michael Mann,* Seller Concentration, Barriers to Entry and Rates of Return in Thirty Industries, 1950—60, R.Ec.Stat., August 1966, pp. 296—307; and *K. D. George,* Concentration, Barriers to Entry and Rates of Return, R.Ec.Stat., May 1968, pp. 273—275.

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Among the reforms that were instituted, Federal insurance of bank deposits has been called "... the most important structural change in the banking system to result from the 1933 panic."[40] *Friedman* and *Schwartz* concluded that it "... has succeeded in achieving what had been a major objective of banking reform for at least a century, namely, the prevention of banking panics. Such panics arose out of or were greatly intensified by a loss of confidence in the ability of banks to convert deposits into currency ... The resulting runs on banks could be met in a fractional reserve system only if confidence were restored at an early stage."[41]

Nevertheless, a number of banking reforms of the 1930's were directly related to other alleged causes of bank failure: unwise portfolio selection, speculation, and excessive competition. These reforms can, in the main, be grouped into two types: (1) activity prohibitions—investment and operating restrictions—which were aimed at reducing the risk of bank illiquidity and insolvency resulting from slow debts and bad assets. The intent of these restrictions was, in part, to separate "commercial banking" from other kinds of financial activities and, in particular, investment banking. Increased capital requirements, instituted as a cushion against loss, is the mirror image of activity restrictions designed to protect depositors from the unwise, unethical and/or unlawful policies of bankers: and (2) restrictions on competition designed to preserve markets for existing banks and also to reduce pressure on bank income and, thereby, forestall unwise investment and operating decisions stemming from excessive rivalry.

Activity restrictions, such as limitations on investment in real estate, have been a commonplace in banking in the United States at least since the National Banking Act. The Banking Acts of 1933 and 1935 introduced a prohibition on bank investment in corporate stock, restrictions on underwriting of securities, limitations on acquisitions of investment obligations, on aggregate indebtedness, on operations through subsidiaries and on affiliate relationships.

The competitive restrictions, as noted, included an effective "needs" test for the chartering of new banks and new branches. Competition was further restricted by prohibiting interest payments on demand deposits and establishing provisions for maximum interest rates on time and savings deposits. These policies were consistent with the spirit of the

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[40] *Milton Friedman* and *Anna Jacobson Schwartz*, A Monetary History of the United States, 1867—1960, Princeton University Press, Princeton 1963, p. 434.

[41] Ibid., pp. 440—41.

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times which discouraged bank competition and encouraged "cooperation" and mutual assistance.[42]

VI. Recent Developments

The banking crisis of 1933 left a heritage of oligopolistic local markets and anticompetitive practices. To a large degree the bank structure data presented above reflects this. However, Government financial policies during World War II, Federal deposit insurance, and the establishment of a stable and growing economy after the War placed commercial banks in a far stronger position than ever before. Bank failures, which had averaged almost 600 per year in the 1921—29 period and about 2200 per year in the 1930—33 period, averaged less than 5 per year in the 1951—63 period.[43] Banks again became highly profitable institutions; and bank charters again became valuable. In this new environment it is not surprising that public interest turned from the problems of bank stability to problems of bank concentration and competition.

In 1956, and again in 1960 and 1966, Congressional concern over growing concentration resulted in the passage of laws regulating bank acquisitions through holding companies and mergers. There were, however, other important "outside" pressures impinging on banks at the same time. These included new and intense competition for deposits from non-bank financial institutions, the revival of periodic monetary restraints accompanied by a secular rise in interest rates to unprecedented levels, and a technological revolution involving the application of large scale computers to both bank operations and policy. Large banks in particular reacted by finding new ways (partly through the development of new financial instruments) to compete effectively with non-bank financial institutions, by finding new profitable outlets for higher cost funds and by becoming major users of data processing equipment.

These developments created serious problems for bank regulation. They threatened the Government supported balance between large and small institutions, the separation of commercial banking from other financial activities, the acceptable degree of risk-taking in banking, and possibly the effectiveness of monetary restraint. Old laws were reinterpreted, new and more complex regulations were devised. In sum

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[42] See *Lester V. Chandler*, Monopolistic Elements in Commercial Banking, J.Pol.Ec., February 1938, pp. 1—22; and *Almarin Phillips*, Competition, Confusion and Commercial Banking, The Journal of Finance, March 1964, pp. 32—45.

[43] *Federal Deposit Insurance Corporation*, Annual Report, 1960, pp. 32—33 and *Comptroller of the Currency*, Annual Report, 1964, p. 28.

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the agencies attempted both to shore up current policy and to give aggressive banks the scope needed to grow and adjust to change.[44]

The continued convergence and interaction of "outside" pressures, bank response and regulatory adjustment over the past decade-and-a-half have changed and continue to change the banking system in the United States. The full scope of the change taking place in banking, and its likely effect on economically relevant measures of concentration is, as yet, unclear. It is clear, however, that the regulatory design established in the 1930's is passing away quickly and that important changes in banking concentration and competition are likely to develop in the foreseeable future.

It is not possible to develop here in detail the complex economic, institutional and technological forces that interact to substantially change the banking system. Only a few of the major developments directly affecting bank concentration and competition will be discussed below. These include: (1) the regulation of bank acquisitions; (2) geographic market extension through multiple office banking; and (3) geographic and product market extension through the "one-bank holding company".

A. Regulation of Bank Acquisitions

During the 1950's, the number of banks in the United States declined by about 5 percent. The principal cause of the reduction was bank acquisitions, including acquisitions of a number of relatively large banks by other large banks.

Remedial congressional legislation, aimed at reducing the number of anticompetitive bank acquisitions, was passed. The Bank Holding Company Act of 1956 required the Board of Governors of the Federal Reserve System to evaluate the competitive effects, among other factors, of multiple bank holding company formations and acquisitions. The Bank Merger Act of 1960 further required the Federal Reserve, the Comptroller of the Currency and the Federal Deposit Insurance Corporation to evaluate the competitive effects, among other factors, of bank mergers.

[44] For a recent review of some of the broader developments in banking and bank regulation over the past two decades, the best initial references would be the Annual Reports of the Federal bank regulatory agencies; i.e., the Federal Reserve, the Comptroller of the Currency and the FDIC. In particular, see *Annual Report of FDIC*, 1960; *Annual Report of Comptroller of the Currency*, 1963 and 1964, and *Annual Report of Federal Reserve*, 1966 through 1969. Changes in commercial bank regulation and disputes among the bank regulatory agencies are reviewed in *Howard H. Hackley*, Our Baffling Banking System, Parts I and II, Virginia Law Review, May, June, 1966, pp. 565—632 and 771—830; and in *Richard S. Beatty*, What are the Legal Limits to the Expansion of National Bank Services, The Banking Law Journal, January 1969, pp. 3—34.

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In addition, in 1963 the Supreme Court held that bank acquisitions were subject to Section 7 of the Clayton Antitrust Act.[45] In 1966, Congress amended both the Bank Holding Company and Bank Merger Acts to clarify the relationship between these acts and the antitrust laws. Among other things, the 1966 ammendments established identical competitive standards to be applied by the three Federal bank regulatory agencies and the Justice Department in evaluating bank merger and holding company cases.

Under current legislation, all bank acquisitions must receive prior approval from the appropriate Federal regulatory agency.[46] The agencies may not approve, under any circumstances, acquisitions that would violate Section 2 of the Sherman Act (the antimonopoly provision). They may not approve acquisitions that violate Section 1 of the Sherman Act (that "would be in restraint of trade") or Section 7 of the Clayton Act (that "may be substantially to lessen competition or to tend to create a monopoly") unless "the anticompetitive effects ... are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served."[47] Even if an acquisition is approved by the responsible bank regulatory agency, the Justice Department may bring suit under the Clayton and/or Sherman Acts.[48]

There have been relatively few denials of proposed acquisitions by the bank regulatory agencies under the new legislation.[49] While the

[45] *United States* vs. *Philadelphia National Bank,* 374 U.S. 321 (1963).

[46] The Comptroller of the Currency is responsible for mergers where the surviving bank is a national bank, the Federal Reserve Board where the surviving bank is a state member bank, and the FDIC where the surviving bank is an insured non-member bank. All bank holding company formations and acquisitions must receive approval from the Federal Reserve Board.

[47] This "justification" has been interpreted by the Supreme Court in a restrictive fashion in *United States* vs. *Third National Bank of Nashville,* 390 U.S. 171 (1968). The Court held, in effect, that the banks must show that there is no less anticompetitive alternative that would yield the same benefits to the community. The Court stated: "This test does not demand the impossible or unreasonable. It merely insists that before a merger injurious to the public interest is approved, a showing be made that the gain expected from this merger cannot reasonably be expected through other means."

[48] If the Department does not act within 30 days, it is thereafter barred from entering suit except under Section 2 of the Sherman Act. If the Department does sue within 30 days, the banks may not consumate the merger until the suit is disposed of by the court.

[49] See *Andrew F. Brimmer,* Market Structure, Public Convenience, and the Regulation of Bank Mergers, The Banking Law Journal, September 1969, pp. 773—93. Brimmer noted that between the beginning of 1966 through July of 1968, over 460 merger and holding company applications were received by the bank regulatory agencies, and 427 decisions were rendered. There were 409 approvals and 18 denials. The FDIC and the Comptroller each denied 3, less than 3 percent and 2 percent respectively of their respective numbers of decisions. The Federal Reserve Board issued 12 denials—a rate of close to 11 per cent.

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Justice Department has been successful in a good proportion of the cases which is has brought trial, it has not brought very many and has directly prevented relatively few acquisitions from being consummated.[50] These statistics have been taken by some to suggest that the banking agencies and the Justice Department have failed in preventing substantial declines in competition.[51]

However, an alternative interpretation is that there have been considerably fewer serious anticompetitive acquisitions proposed. In fact, large horizontal bank acquisitions appear to have been effectively eliminated under the *Philadelphia National Bank* decision. Nevertheless, a full evaluation of the effectiveness of the law over the past decade has yet to be undertaken.[52]

B. Branch Banking and Multiple Bank Holding Companies

Despite restrictive legislation, branch banking has grown rapidly in the United States since the turn of the century in those states in which it has been permitted.

In 1900 branch banks accounted for only 1 percent of the number of banks in the United States. By 1950 they had risen to 10 percent, and in 1969, close to 25 percent.[53] In addition, multiple bank holding companies have also grown rapidly, particularly in the last few years. In 1965 there were 48 multiple bank holding companies in the United States with 468 affiliated banks. These represented a little over 3 percent of the total number of banks in the United States and held about 8 percent of total bank deposits.[54] By the end of 1969, the number of holding

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[50] The Justice Department entered 31 suits under the Bank Merger Act between February 1961 and April 1969. There were about 1,500 mergers consumated over this period. However, the indirect effects of decisions rendered should be noted. Key decisions by the Supreme Court in Justice Department suits have no doubt kept anticompetitive mergers from being proposed.

[51] For example, see *Kalman J. Cohen* and *Samuel R. Reid,* Effects of Regulation, Branching and Mergers on Banking Structures and Performance, South.Ec.J., October 1967, pp. 231—248.

[52] In addition, the Justice Department brought several price fixing cases against banks in the early 1960's. For years, banks had cooperated in setting rates and service charges through clearing house agreements. At times these agreements had been sanctioned and supported by bank regulatory agencies. See *G. F. Fischer,* op. cit., pp. 246—256. In 1961, the Justice Department brought its first case against such agreements under Section 1 of the Sherman Act. *United States* vs. *Hunterdon County Trust Co., First National Bank of Clinton* and *Clinton National Bank,* 1962 *Trade Cases* 70, 263. Additional cases in Minnesota and Texas followed. *G. F. Fischer,* op. cit., pp. 257 ff. It has now been clearly established that price fixing, which has long been a *per se* violation of Section 1 of the Sherman Act, fully applies to banking.

[53] For data from 1900—1939, see *Banking Studies,* op. cit., pp. 418, 428. For more recent years, see *Federal Reserve Bulletins.*

[54] *Recent Changes,* op. cit., p. 6.

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companies had doubled. There were 97 multiple bank holding companies with 723 commercial banks (see Table 2). These represented over 5 percent of the total number of banks in the United States and held over 14 percent of total bank deposits.[55]

The increasing importance of multiple office banking has partly been due to the economic advantages of this form of organization and to relaxation in some states of legal restrictions. Geographic extension through new offices permits growth to an efficient scale of operation, permits diversification of assets tending to reduce risks, raises the proportion of funds that can be invested in earning assets, and also allows an intra-bank mobility of funds that permit units of the organization to quickly take advantages of opportunities for profitable investment.

Since World War II, a number of states have relaxed their restrictions on multiple office banking, partly to permit the growth of banking facilities in the rapidly growing suburban areas of large cities. In the 1960's, however, there have been only four states that significantly changed their laws, (New Hampshire, Virginia, New York and New Jersey). All four liberalized their branching laws, and three of the same four also relaxed their restrictions on holding company activity.

In New Hampshire, branch banking, which was formerly prohibited, was permitted after 1963 within limited geographic areas.[56] In Virginia the law was amended to permit statewide branching through merger in 1962.[57] In New York, branching by banks headquartered in the New York City area was liberalized in 1960.[58] In New Jersey, the law was liberalized in 1969 to permit branching within three designated state banking districts into which the state had been divided.[59]

In New York, branching is limited and statewide banking organizations can be developed only through holding company affiliations. In the mid-1960's a number of large banks began to take advantage of the holding company organizational form to expand throughout the state. Virginia also encouraged the growth of statewide holding company organizations through its change in law in 1962.[60] Similarly in New

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[55] Federal Reserve Bulletin, August, 1970, p. A 95.

[56] N.H. Rev. Stat. Ann. Section 384-B : 2. An interesting provision of the law is that branching *de novo* or through merger is prohibited to any bank holding more than 20 per cent of the dollar volume of all bank deposits in the state.

[57] Virginia Code Ann. Section 6.1-39 (1966). *De novo* branching continued to be restricted to a limited area around the head office.

[58] New York Bank Law, Art. 3, Sec. 105 (Supp. McKinney's 1969—70).

[59] New Jersey Stat. Ann. Sec. 17 : 9 A-19 (Supp. Sec. 1969—70).

[60] Under the new law, a bank can enter any distant area of the state through merger. After the merger, however, no *de novo* branches can be opened in the acquired bank's area since the branching law restricts *de novo*

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Jersey, the change in law in 1969 also permitted holding companies to be established and to acquire banks throughout the state.

Moreover, holding company activity has expanded rapidly in several other states in which law has not been changed significantly in recent years.[61] In these, which for the most part prohibit branch banking, large banking organizations have recently made many acquisitions in extending themselves into the growing population centers of the states.[62]

On a statewide basis, there have, of course, been increases in concentration where multiple office banking has grown in importance. But, as noted above, it would be an error to interpret this change as necessarily indicating a reduction in competition. There is, in fact, some evidence that in New York the changes in the law in 1960 increased competition in some local markets.[63]

C. One-Bank Holding Companies

The Bank Holding Company Act of 1956, required certain bank holding companies to register with the Board of Governors and imposed a number of constraints on their activities; it also contained a number of exemptions, including an exemption for corporations holding 25 percent or more of stock in only one bank. In 1955, there were 117 known one-bank holding companies, which held banks with $11.6 billion in total deposits[64]—about 6 percent of the total bank deposits in the nation. By the end of 1965, there were 550 such companies, with $15.1 billion in deposits.[65] Nevertheless, their percentage of total deposits had decreased to 4.5 percent. One-bank holding companies were typically, through not invariably, small concerns holding small banks among other properties.

In recent years, however, there has been considerable growth in the importance of the one-bank holding company. During the second half

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branching to a limited geographic area surrounding a bank's head office. A holding company acquisition, on the other hand, does not destroy the identity of an acquired bank; thus a holding company affiliate would be permitted to branch *de novo* around its head office.

[61] In particular in Colorado, Florida, Missouri and Wisconsin.

[62] See *Senate Select Committee,* Recent Changes, p. 6 and Table 2.

[63] See *David C. Motter* and *Deane Carson,* Bank Entry and the Public Interest: A Case Study, The National Banking Review, June 1964 for an analysis of the effects of entry by New York City banks into Nassau and Westchester Counties. For a more recent analysis which also concludes that the changes effected in 1960 were procompetitive, see the statement of New York State Superintendent of Banks, *Frank Wille,* The Search for a Competitive Banking Structure, Part II, November 8, 1969.

[64] See *House of Representatives,* The Growth of Unregistered Bank Holding Companies—Problems and Prospects, Staff Report, 91st Congress, First Session, Washington, D.C., 1969, p. 5.

[65] Ibid.

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of 1968 and in 1969, many of the largest banks in the nation formed one-bank holding companies; and by April 1970 there were over 1,100 such companies holding banks with close to $150 billion in deposits—about 35 percent of total deposits of all insured commercial banks in the United States.[66]

The motivation underlying the acceleration and change in nature of the one-bank holding company movement has included the desire of large banks to enter product and geographic markets from which they are barred or discouraged from entering by current law or regulation.[67] Because of their unregulated status, one-bank holding companies have been free to enter almost any industry, including nonfinancial businesses. Through affiliates they could also enter towns and cities outside the state in which the bank is located.

The one-bank holding company movement is a response by commercial banks to competitive pressures and to customer demands for a wide variety of services. It also represents a sharp break with regulation established in the 1930's to restrict commercial banks to a limited field of financial activity.

A principal concern is the potential for increases in concentration of economic power. Thus, in introducing the current Administration's bill to control one-bank holding, Congress member *Widnall* reiterated the principal motivation for controlling these companies.

> "Within a few years, unless this trend is halted, we could witness a fundamental restructuring of our economy, from one in which economic and financial power is widely dispersed, into a structure dominated by some 50 or 75 huge centers of economic and financial power. Each would consist of a corporate conglomerate controlling a multibillion-dollar bank or a multibillion bank controlling a large nonfinancial company."

Differences in view, however, are extreme.[68] This is largely because the one-bank holding company has a number of potential effects, some of which are competitively desireable and others of which are undesirable. So, for example, the one-bank holding company movement may increase competition in "non-bank" financial activities by permitting bank

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[66] *Hearings before Committee on Banking and Currency,* One Bank Holding Company Legislation of 1970, U.S. Senate, 2d Session, Part II, 1970, pp. 1033—1094.

[67] In recent years, commercial banks have also entered a large number of new fields of activity directly and through subsidiaries, and have also engaged in off-premise operations through loan production offices. See Federal Reserve Bulletin, August 1968, p. 681.

[68] See *Hearings before Committee on Banking and Currency,* Bank Holding Company Act Amendments, House of Representatives, 91st Congress, 1st Session, Parts I, II, III, 1969; and *Hearings before the Committee on Banking and Currency,* One Bank Holding Company Legislation of 1970, U.S. Senate, 91st Congress, 2d Session, Parts I, II, 1970.

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entry, and may also increase bank competition in local areas by permitting distant banking organizations to acquire non-bank financial institutions even across state lines.

An ammendment to the Bank Holding Company Act of 1956 was adopted in December 1970, bringing one-bank holding companies under Federal Reserve Board regulation. There is still much uncertainty, at this writing, as to what kind of regulations and policies will be implemented; but this matter should be clarified in the near future.

VII. Conclusions

In accordance with early policies and the protection of "states rights", there are large numbers of banks and low levels of concentration in banking in the United States as a whole; and a reasonably large number of banking organizations compete in the national market. However, periodic concern with bank solvency and the stability of the banking system, culminating in the banking crisis of 1933, lead to constraints on competion which have supported high levels of concentration in most local banking markets.

High concentration in local markets is objectionable *per se*; there is evidence to suggest it is associated with higher "prices" on banking "products". When coupled with low concentration in regional and national markets there are further potential effects that deserve consideration. Since only large businesses can take advantage of the numerous banking alternatives available over wide geographic areas, small businesses would incur a competitive disadvantage whenever they must compete with large and better known firms. This disadvantage would be reflected in both the prices paid for banking services and, presumably, in the availability of credit in periods of monetary stringency. Moreover, this structure of banking markets, which confronts more or less all potential entrants into all types of industry, would augment barriers to entry associated with the costs of bank credit to new enterprise, and increase the entry size necessary to achieve credit costs comparable to existing firms.

The banking system in the United States is, however, in process of rapid change. Large banks, in particular, have responded to a number of pressures, including controls exerted over acquisistions, rising costs of funds, new competition from non-bank financial institutions, and new opportunities in foreign markets. New financial instruments and instrumentalities have been devised. These have permitted growth both through geographic and product extension.

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The ultimate effect of these changes on concentration and competition in banking is, nevertheless, unclear. For example, the one-bank holding company, which has been viewed by many as a mechanism that may increase concentration (not only in banking but throughout the economy), also has the potential for substantially reducing economically meaningful measures of concentration; e.g., in local banking markets. It provides a way for large banks to circumvent the absolute prohibition of interstate branching. It may, in fact, be the *only* feasible way to reduce concentration and increase competition in local areas in those states where a few large banks clearly dominate.

The one-bank holding company mechanism, like branch banking and multiple bank holding companies, are ways of doing business that reflect economic change in the United States that has continued for over 150 years—from a loosely-tied multitude of local-rural areas to a closely knit group of industrial-urban megalopolitan complexes. They need not be independent determinants of concentration and competition. Even with the largest banks in the country rapidly expanding their national and international operations, the potential for higher *or* lower concentration, and more *or* less competition, remain.

In this respect, the legislative and regulatory response is critical. Large numbers of well managed and eminently sound banking organizations in the United States make it arithmetically and economically feasible to improve banking market structure. Appropriate legislation and regulatory policies could substantially reduce concentration and increase competition in many local banking markets, hold open opportunities for growth and, thereby, augment the numbers competing in national markets, and still maintain a diversity in size, which may be of value in and of itself. In the current transformation of banking in the United States, the opportunity clearly exists; but there is an urgent need to plan and organize the legislative-regulatory framework within which banking and other financial institutions diversify and expand.[69]

[69] A Presidential Commission on Financial Structure and Regulation was recently established to study this and related issues and is expected to present its report in 1971.

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Die landwirtschaftliche Konzentration in den Vereinigten Staaten

Von *Ulrich Koester*, Göttingen

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I. Einleitung

A. Systematik der Konzentrationsformen in der Landwirtschaft

An den Anfang der Darstellung von Stand und Prozeß der Konzentration in der Landwirtschaft soll eine Systematik der Konzentrationsformen gestellt werden. Diese spezielle Systematik empfiehlt sich wegen der Branchenbesonderheiten und der Verbreitung der verschiedenen Konzentrationsformen.

Wenn Konzentration allgemein als „Ballung ökonomischer Größen“[1] definiert wird, liegt es nahe, die Konzentrationsformen nach der Inten-

[1] *H. Arndt* und *G. Ollenburg*, Begriff und Arten der Konzentration, im 1. Bd. dieses Werkes.

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sität der Ballung der ökonomischen Variablen zu systematisieren. Dieser Ansatzpunkt könnte dem Systematisierungsversuch von *H.-U. Thimm* zugrunde gelegen haben. Thimm untergliedert die Konzentrationsformen in der Landwirtschaft in Integration (= überbetrieblicher Zusammenschluß) und Koordination (= überbetriebliche Zusammenarbeit)[2]. Unter diese Oberbegriffe sollen „sämtliche Konzentrationsformen in der Landwirtschaft systematisch subsumiert werden"[3]. Da aber sowohl die räumliche Konzentration als auch die Konzentration durch Spezialisierung und Wachstum nicht unter die Begriffe Integration und Koordination subsumierbar sind, kann im folgenden nicht von Thimms Systematik ausgegangen werden. Als Grundlage der Darstellung der Konzentration in der Landwirtschaft soll folgende Systematik gewählt werden.

Während die horizontale Konzentration die „Ballung der ökonomischen Größen" von Gütern der gleichen Ordnung (*C. Menger*) erfaßt, ist unter vertikaler Konzentration die Ballung zwischen Gütern verschiedener Ordnung zu verstehen. Problematisch ist bei dieser Systematik die genaue Abgrenzung der Ordnung eines Gutes. Wenn z. B. das Ferkel als ein Gut einer bestimmten Ordnung definiert wird, dann sind die meisten Schweinefleisch- und Zuchtsauenproduzenten vertikal konzentriert, da sie in der Regel sowohl das Zwischenprodukt Ferkel als auch das Endprodukt Mastschwein oder Zuchtsau erzeugen. Diese vertikale Konzentration innerhalb der Landwirtschaft soll aber im folgenden nicht betrachtet werden. Die Ordnungszahl eines Gutes wird daher weiter gefaßt. Allgemein soll gelten: Die Ordnungszahl eines Gutes ändert sich, wenn das betreffende Gut von landwirtschaftlichen Produzenten gekauft oder verkauft wird.

Sowohl die horizontale als auch die vertikale Konzentration werden in Übersicht 1 in die „Zahl und Verteilung der ökonomischen Variablen" und die „Kooperation zwischen ökonomischen Variablen" untergliedert. Der erste Aspekt umfaßt neben der Integration (= überbetrieblicher Zusammenschluß) auch die Konzentration durch Spezialisierung und Betriebsvereinfachung sowie die räumliche Konzentration. Kooperation wird in Anlehnung an *J. Vasthoff*[4] als „das Eingehen vertraglicher Bindungen zwischen selbständigen Unternehmen, durch die der zukünftige Entscheidungsspielraum eingeengt wird," definiert. „Die vertragliche Zusammenarbeit muß sich auf periodische Lieferungen und Leistungen

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[2] *H.-U. Thimm*, Koordination für den landwirtschaftlichen Absatz, Agrarpolitik und Marktwesen, H. 7, Hamburg und Berlin 1966, S. 28.

[3] *Ebenda*, a. a. O., S. 29.

[4] *J. Vasthoff*, Kooperation im Produktionsbereich der Landwirtschaft. Formen, theoretische Grundlagen und Bereiche, Agrarwirtschaft, SH 20, Hannover 1966, S. 2.

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Übersicht 1

Systematik der Konzentrationsformen in der Landwirtschaft

Konzentration												
horizontal						vertikal					
Zahl der Verteilung der ökonomischen Variablen			Kooperation zwischen ökonomischen Variablen			Zahl und Verteilung der ökonomischen Variablen			Kooperation zwischen ökonomischen Variablen		
global	partiell	regional	global	partiell	regional	global	partiell	regional	global	partiell	regional

beziehen, die ohne zusätzliche und langfristige Absprachen immer wieder von neuem Verträge notwendig machen würden. Sie verfolgt also den Zweck, die bei periodischen Leistungen erforderliche Vielzahl von Verträgen durch einen einzigen langfristigen Vertrag zu umgehen."[5] Nur wenn der zukünftige Entscheidungsspielraum eingeengt wird, können die vertraglichen Regelungen zu einer „Ballung ökonomischer Größen" führen. Der hier gewählte Begriffsinhalt der Kooperation ist also enger als der Begriffsinhalt der Koordination bei H.-U. Thimm, der Koordination definiert als „überbetriebliche Zusammenarbeit von Unternehmen unter Wahrung der selbständigen Entscheidungsbefugnis"[6]. Hier wird die Meinung vertreten, daß jede Konzentration in Form vertraglicher Regelungen stets die zukünftige Entscheidungsbefugnis einschränkt.

Die einzelnen Konzentrationsformen „Kooperation zwischen ökonomischen Variablen" und „Zahl und Verteilung der ökonomischen Variablen" lassen sich je nach der Betonung globaler, partieller und regionaler Größen weiter untergliedern. Während unter der Konzentration globaler Größen Zahl und Größe der Betriebe, deren Fläche und Verkaufserlöse zu verstehen ist, wäre unter der Konzentration partieller Größen die Konzentration einzelner Strukturgrößen, wie z. B. Produktion und Verkaufserlöse einzelner Produkte, abzuhandeln. Unter dem regionalen Aspekt der einzelnen Gliederungspunkte wäre die räumliche Konzentration der ökonomischen Variablen zu untersuchen.

B. Abgrenzung

Die aufgezeigte Systematik der Konzentrationsformen dient zwar als Grundlage der folgenden Darstellung, doch ist es nicht möglich, auf dem

[5] *J. Vasthoff*, a. a. O., S. 3.
[6] Vgl. *H.-U. Thimm*, a. a. O., S. 30.

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begrenzten Raum eine ausreichende Behandlung aller Gesichtspunkte des Themas „Landwirtschaft und Konzentration" vorzunehmen.

Es wird daher unter der horizontalen Konzentration lediglich die Konzentration der Betriebe der landwirtschaftlichen Nutzfläche und der Verkaufserlöse untersucht. Fragen der „Kooperation zwischen ökonomischen Variablen" werden somit auf der horizontalen Ebene nicht behandelt. Diese Abgrenzung ist besonders bei der Analyse der amerikanischen Verhältnisse gerechtfertigt. Die Kooperation auf horizontaler Ebene spielt in der US-Landwirtschaft eine wesentlich geringere Bedeutung als in Westeuropa.

Von größerer Bedeutung als die horizontale Konzentration ist die vertikale Konzentration in der Landwirtschaft. Der Darstellung der vertikalen Konzentration wird daher ein größerer Raum gewidmet. Es wird gezeigt, daß auf dieser Ebene die „Kooperation zwischen ökonomischen Variablen" eine größere Rolle spielt als die „Zahl und Verteilung der ökonomischen Variablen". Aus dieser Tatsache ergibt sich die unterschiedliche Gewichtung bei der Darstellung.

II. Landwirtschaft und horizontale Konzentration: Konzentration der Betriebe und der landwirtschaftlichen Nutzfläche

A. Ursachen der horizontalen Konzentration

Die Produktionskapazität des landwirtschaftlichen Betriebes ist weitgehend an die vorhandene Bodenfläche gebunden. Somit geht eine Erweiterung der Produktionskapazität einzelner Betriebe mit einem Schrumpfen oder einer Liquidation anderer Betriebe und daher mit einer zunehmenden Konzentration einher. Dieser Prozeß wird in einer wachsenden Wirtschaft sowohl durch die Besonderheiten auf der Nachfrage- als auch auf der Angebotsseite stimuliert.

Infolge geringer Einkommenselastizitäten der Mengennachfrage nach Agrarprodukten steigt die Nachfrage relativ weniger als das Pro-Kopf-Einkommen in der Volkswirtschaft. Nur bei weitgehend unelastischem Agrarangebot und bei numerisch gleichen Werten der Einkommens- und direkten Preiselastizitäten könnte das Agrarpreisniveau bei der gegebenen Nachfragekonstellation so stark steigen, daß die in der Landwirtschaft beschäftigten Faktoren ein paritätisches oder überparitätisches Einkommen erzielen[7]. Da infolge des technischen Fortschrittes

[7] Wird die Einkommenselastizität der Mengennachfrage mit η und die direkte Preiselastizität der Mengennachfrage mit ε bezeichnet und ist die Kreuzpreiselastizität gegen o, so gilt bei konstanten Elastizitäten folgende Nachfragegleichung: $\log q = \log a + \eta \log E + \varepsilon \log P$
Dabei bedeuten: q = Menge, E = Einkommen
a = Konstante, P = Agrarpreisniveau

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das Agrarangebot stärker steigt als die Nachfrage, ist eine Einkommenserhöhung in der Landwirtschaft über eine Verbesserung der terms of trade nicht möglich. Einkommenssteigerungen müssen vornehmlich über eine Ausweitung der Produktionskapazität erzielt werden. Immer dann, wenn der technische Fortschritt die Produktions- und Einkommenskapazität relativ weniger erhöht, als die Wachstumsrate der Einkommen in der Volkswirtschaft beträgt, werden die landwirtschaftlichen Betriebe zur Aufstockung durch Vergrößerung der landwirtschaftlichen Nutzfläche angeregt[8].

Zur gleichen Entwicklung trägt auch die Änderung der Faktorpreisrelationen in der Volkswirtschaft bei. Wenn die Löhne im Wachstum stärker steigen als die Faktorpreise von Kapital und Boden, so muß sich die optimale Betriebsgröße zugunsten einer höheren Kapital- und Bodenintensität verschieben. Durch die Änderung der Faktorintensität in der Landwirtschaft wird versucht, die Wertgrenzproduktivität der Arbeit etwa im gleichen Maße zu erhöhen, wie im gewerblichen Bereich.

In historisch gewachsenen Eigentumsverhältnissen wird die landwirtschaftliche Produktion der westlichen Welt vornehmlich in bäuerlichen Familienbetrieben durchgeführt. Da für diese Betriebe der Arbeitseinsatz eine weitgehend gegebene Größe ist, kann die Änderung der Faktorintensität nur durch vermehrten Einsatz von Kapital und Boden erfolgen. Das Wachstum der Arbeitseinkommen ist daher zwangsläufig mit einer Abnahme der Zahl der landwirtschaftlichen Betriebe und einer Konzentration der landwirtschaftlich genutzten Fläche verbunden.

Aus diesen Ausführungen kann gefolgert werden: Der Prozeß der Konzentration der landwirtschaftlichen Betriebe wird sich um so mehr beschleunigen:

Durch totale Differentiation und eine einfache Umformung erhält man bei völlig unelastischem Agrarangebot:

$$\frac{dP}{P} = \frac{\eta}{\varepsilon} \cdot \frac{dE}{E} .$$

Bei Gleichgewicht von η und ε ist somit die relative Änderung des Verbrauchereinkommens gleich der relativen Änderung des Agrarpreisniveaus. Eine disparitäre Entwicklung der Agrareinkommen ist daher bei völlig starrem Agrarangebot nicht möglich. Somit ist gezeigt, daß die disparitäre Einkommensentwicklung in der Landwirtschaft nicht allein auf das *Engel*'sche Gesetz zurückzuführen ist. Diese Meinung wird u. a. vertreten von *J. Werner*, Wettbewerb und Landwirtschaft, in: *E. Gerhardt* und *P. Kuhlmann* (Hrsg.), Agrarwirtschaft und Agrarpolitik, Neue Wissenschaftliche Bibliothek, 30, Köln und Berlin 1969, S. 101.

[8] Die Veränderung der „land-man ratio" (= Aufstockung der Betriebe) wird mehr von der Rate als von der Form des technischen Fortschritts bestimmt. Selbst wenn der technische Fortschritt extrem bodensparend wäre, sich also die Grenzproduktivitäten der Arbeit und des Kapitals mehr erhöhen würden als die Grenzproduktivität des Bodens, würde die Boden-Arbeit-Relation wegen sinkender Terms of Trade und der intersektoralen Wanderung der Arbeitskräfte steigen.

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a) je größer die Rate des technischen Fortschritts im Agrarsektor ist und je mehr damit das Angebot bei konstanter Faktorausstattung steigt;
b) je größer die Wachstumsrate der Einkommen in der Volkswirtschaft ist; Arbeit wird dann verstärkt durch Boden und Kapital in der Landwirtschaft substituiert;
c) je geringer die Einkommenselastizität der Mengennachfrage nach Agrarprodukten ist und
d) je größer der Anteil der Agrarproduktion ist, der in Familienwirtschaften erstellt wird.

Diese Ursachen machen deutlich, daß der Prozeß der Konzentration der landwirtschaftlichen Betriebe und Nutzflächen erst eine Erscheinung der letzten Jahrzehnte in den hochentwickelten Volkswirtschaften ist. So konnte *E. David* noch 1922 schreiben[9], „daß die Lehre von der fortschreitenden Konzentration der Betriebe für die Landwirtschaft nicht zutrifft". Selbst noch 1960 stellte *H.-J. Seraphim* bei einer Analyse der Betriebsgrößenstruktur in der Landwirtschaft der BRD fest, daß es im Wesen der landwirtschaftlichen Produktion liegt, daß der Großbetrieb gegenüber dem Klein- und Mittelbetrieb nicht überlegen ist[10]. Während diese Aussage für die Entwicklung der Betriebe in der BRD seit den 60er Jahren nicht mehr zutrifft, reicht der Beginn des Konzentrationsprozesses in der Landwirtschaft der USA weiter zurück. Über den dortigen Stand und den Prozeß der Konzentration der Betriebe soll folgender Abschnitt unterrichten.

B. Ausprägung der horizontalen Konzentration in der Landwirtschaft der USA

Bedingt durch die Faktorpreisrelationen und den geringen technischen Fortschritt in der Landwirtschaft nahm die Zahl der Erwerbstätigen im Agrarsektor von 1910 bis 1935 nur geringfügig ab, während die Zahl der Betriebe um 6 vH im gleichen Zeitraum stieg[11]. Tabelle 1 zeigt die Entwicklung der Zahl der Betriebe und deren Fläche ab 1925. Während die Abnahmerate der Betriebe im Jahrfünft von 1945—1950 nur 5,3 vH betrug, stieg sie in den folgenden Jahren auf etwa 4 vH p.a. Von 1955 bis 1965 verringerte sich die Zahl der Betriebe um etwa 3 vH p.a. und seit Mitte der 60er Jahre nur noch um knapp 3 vH p.a.

Die annähernd konstanten Änderungsraten sind durch die überwiegend in Familienbetrieben erstellte Agrarproduktion und die Altersstruktur der Arbeitskräfte zu erklären. Da die bäuerlichen Familien-

[9] *E. David*, Sozialismus und Landwirtschaft, Leipzig 1922, S. XI.
[10] Vgl. *H.-J. Seraphim*, Landwirtschaft und Konzentration, in der 1. Aufl. dieses Werkes, S. 255.
[11] Vgl. *E. O. Heady* und *L. G. Tweeten*, Resource Demand and Structure of the Agriculture Industry, Ames/Iowa 1963, S. 195 und 420. — Die Zahl der landwirtschaftlichen Betriebe und die Zahl der Erwerbstätigen waren erstmals vor der Weltwirtschaftskrise von 1920 bis 1930 rückläufig, erreichten dann aber 1935 ihren absoluten Höhepunkt.

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Tabelle 1

Zahl der Betriebe und Fläche je Betrieb
USA[a])

	Zahl der Betriebe		Fläche je Betrieb	
	in 1000	Änderungsrate in vH	in acre	Änderungsrate in vH
1925	6 471		143	
1930	6 546	1,2	151	5,6
1935	6 814	4,1	155	2,6
1940	6 356	— 6,8	167	7,7
1945	5 967	— 6,0	191	14,4
1950	5 648	— 5,3	213	11,5
1955	4 654	— 17,6	258	21,1
1960	3 962	— 14,9	297	15,1
1965	3 340	— 15,7	342	15,2
1966	3 239	— 3,0	351	2,6
1967	3 146	— 2,9	360	2,6
1968	3 054	— 2,9	369	2,5
1969[b])	2 976	— 2,6	377	2,2

[a]) Vor 1959 ohne Alaska und Hawaii. — [b]) Vorläufig.

Quelle: Statistical Abstract of the United States 1969, S. 590.

wirtschaften bei der Nutzenmaximierung neben Einkommenshöhe auch subjektive Faktoren in ihr Kalkül aufnehmen, geben die Betriebsinhaber nicht unbedingt die landwirtschaftliche Tätigkeit auf, wenn die Alternativeinkommen außerhalb der Landwirtschaft höher sind als die Arbeitseinkommen in der Landwirtschaft. Häufig bewirkt erst der Generationswechsel eine Aufgabe der Betriebe, die keine ausreichende Einkommensgrundlage mehr bieten[12].

Mit der Verringerung der Zahl der Betriebe ist bei annähernd konstanter landwirtschaftlicher Nutzfläche eine Vergrößerung der Fläche je Betrieb verbunden. Von 1925 bis 1969 stieg die Fläche je Betrieb von 143 auf 377 acres oder auf 264 vH[13]. Diese absolute Konzentration der landwirtschaftlichen Nutzfläche war auch von einer Zunahme der relativen Konzentration begleitet.

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[12] Gliedert man die landwirtschaftlichen Betriebe der USA nach dem Alter der Betriebsleiter, so zeigt sich, daß 1959 74 vH der Betriebsleiter, die Betriebe mit niedrigem Einkommen bewirtschaften, 55 Jahre und älter waren. Vgl. *Bundesministerium für Ernährung, Landwirtschaft und Forsten* in Zusammenarbeit mit dem *Bundesministerium für Wirtschaft* (Hrsg.), Niedrige Einkommen in der Landwirtschaft, Bericht der Organisation für Wirtschaftliche Zusammenarbeit und Entwicklung OECD, Bonn 1965, S. 535, Originaltitel: Low Incomes in Agriculture, Paris 1964.

[13] 1 acre = 0,40467 ha.

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Tabelle 2

Betriebe nach Größenklassen in acres
USA

Jahr	Betriebsgrößenklassen nach acres											insgesamt
	unter 10	10—49	50—99	100—179	180—259	260—499	500—999	1000—1999	2000 und mehr			
	Zahl der Betriebe in 1000											
1940	509	1782	1291	1310	486	459	164		101			6102
1950	489	1480	1048	1103	487	478	182		121			5388
1954	484	1213	864	953	464	482	192		131			4782
1959	244	813	658	773	414	472	200	79		57		3711
1964	183	637	542	633	355	451	210	85		60		3158
	Änderungsraten gegenüber der Vorperiode in vH											
1950	— 3,9	— 16,9	— 18,8	— 15,8	0,0	4,1	11,0		19,8			— 11,7
1954	— 1,0	— 18,0	— 17,6	— 13,6	— 4,7	+ 0,01	5,5		8,3			— 11,2
1959	— 49,6	— 23,0	— 23,8	— 18,9	— 10,8	— 2,1	4,2		2,3			— 22,4
1964	— 25,0	— 21,6	— 17,6	— 18,1	— 14,3	— 4,4	5,0	7,6		5,3		— 14,9

Quelle: Statistical Abstract of the United States 1969.

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Tabelle 2 zeigt, daß von 1940 bis 1950 die Zahl der Betriebe von einer Größe unter 180 acres abgenommen hat. Seit 1950 sinkt auch die Zahl der Betriebe der Größenklassen 180—259 acres und seit 1954 sogar schon die Zahl der Betriebe der Größenklassen 260—499 acres. Diese Strukturveränderung macht deutlich, daß die Konzentration eine Folge des Bestrebens ist, die Produktionskapazität den steigenden Einkommensansprüchen in der Volkswirtschaft anzupassen. Diese Tendenz wird auch die Entwicklung der nächsten Jahre bestimmen.

Von *W. E. Johnston*[14] und *Heady/Tweeten*[15] ist in ökonometrischen Studien die Zahl der landwirtschaftlichen Betriebe prognostiziert. Nach W. E. Johnston wird die Zahl der Betriebe 1980 nur etwa 2 Mill. betragen und im Jahr 2000 nur noch 585 000. Nach Heady/Tweeten wird die Zahl der Betriebe 1980 etwa 2,2 Mill. betragen.

Sicherlich stellt die Konzentration der landwirtschaftlichen Nutzfläche eine Ballung ökonomischer Größen dar, doch läßt sich die Intensität der Ballung wegen der großen Heterogenität der Qualität der Bodenflächen und der unterschiedlichen Intensität der Nutzung nur schwer abschätzen. Neben der Konzentration der Inputgröße Land soll daher die Konzentration der Verkaufserlöse als Maßstab für die Ballung ökonomischer Größen angesehen werden[16].

Nach einer Übersicht bei *R. Nikolitch* ist zwischen dem Faktorinput Land und den Verkaufserlösen zwar bei sektoraler Betrachtung eine enge Korrelation gegeben, aber nicht bei einzelbetrieblicher Betrachtung[17]. Einzelne Betriebe haben die Möglichkeit, durch Ausdehnung der flächenunabhängigen Veredlungsproduktion bei Zukauf von Futtermitteln die Produktionskapazität überdurchschnittlich zu steigern. Zwar bedeutet dies nicht zugleich eine gleichhohe Steigerung des Einkommenspotentials, doch stellt es eine „Ballung ökonomischer Größen" dar.

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[14] *W. E. Johnston,* Changes in Number of Farms, the West and the United States, Western Farm Economics Association Meeting, Las Cruces/New Mexico 1967. Zitiert nach: *T. Bischoff,* Zum Betriebsgrößenproblem in der Forschung und Landwirtschaft der USA, Berichte über Landwirtschaft (N. F.), Bd. 46, 1968, S. 162 f.

[15] *E. O. Heady* und *L. G. Tweeten,* a. a. O., S. 502.

[16] "The amount of arable land available to it gives very little real indication of the size of an enterprise." *U. Renborg,* Tendencies towards Concentration and Specialisation in Agriculture, in: *U. Papi* and *C. Nunn* (Hrsg.), Economic Problems of Agriculture in Industrial Societies, London u. a. 1969, S. 212; Zur Wahl der Kriterien als Maßstab der Betriebsgröße vgl. *H. Priebe,* Begriff und Abgrenzung der landwirtschaftlichen Betriebsgröße, in: Das landwirtschaftliche Betriebsgrößenproblem im Westen und Osten, Veröffentlichung der Gesellschaft für Wirtschafts- und Sozialwissenschaften des Landbaues e.V., Bd. 1, Hannover 1961, S. 53 ff.

[17] *R. Nikolitch,* Our 31 000 Largest Farms, US Department of Agriculture, Economic Research Service, Agricultural Economic Report No. 175, Washington. D.C., 1970, S. 55.

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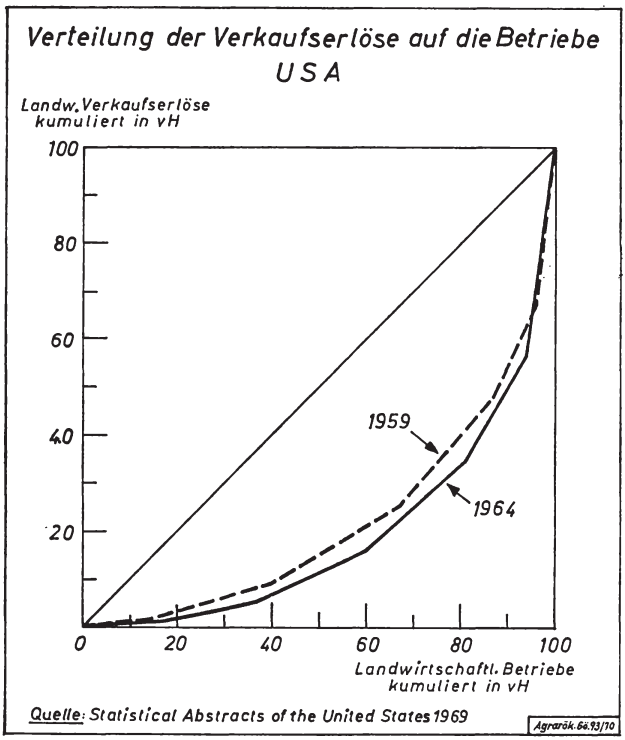


Schaubild 1

Schaubild 1 zeigt die Konzentration der Verkaufserlöse auf die Betriebe. 1959 wurden etwa 60 vH der Verkaufserlöse von 20 vH der Betriebe erzielt und 1964 erwirtschaftete der Anteil der Betriebe sogar etwa 66 vH der Verkaufserlöse. Die relative Konzentration steigt somit tendenziell als Folge der zunehmenden Spezialisierung der größeren Betriebe. Die Spezialisierungsmöglichkeiten der kleineren Betriebe sind dagegen wegen des fixen Arbeitspotentials begrenzt.

C. Beurteilung der horizontalen Konzentration

Bei der Darstellung der Ursachen der horizontalen Konzentration der Betriebe wurde die Notwendigkeit des Konzentrationsprozesses als Möglichkeit der Verbesserung der Einkommenschancen aufgezeigt. Die

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größeren Betriebseinheiten ermöglichen es[18], die Kapitalkosten von Maschinen und Gebäuden zu senken, die Arbeitsproduktivität zu steigern, die Bezugs- und Absatzbedingungen und dadurch die soziale Lage der landwirtschaftlichen Erwerbstätigen zu verbessern. Auch dürfte sich bei sektoraler Betrachtung die Produktionselastizität der Landwirtschaft bei partieller Variation der Produktpreise erhöhen. Da beim jetzigen Stand der Konzentration eine wesentliche Beschränkung des Wettbewerbs auf den Produkt- und Faktormärkten von Seiten der Landwirtschaft nicht zu befürchten ist, kann angenommen werden, daß der Konzentrationsprozeß im Agrarsektor auch weiterhin unter dem Optimum liegt[19].

Anders ist dagegen die Zunahme der relativen Konzentration der Flächen und Verkaufserlöse zu beurteilen: Wenn die Agrarstruktur zunehmend heterogener wird, ist eine Verwirklichung agrarpolitischer Ziele mit dem Instrumentarium der Markt- und Preispolitik immer weniger möglich. Bei Kleinbetrieben bedingt die unterschiedliche Variabilität der Faktoren, insbesondere der Arbeit, daß die Preisuntergrenze niedriger liegt als bei Großbetrieben[20]. Administrative Senkungen der Erzeugerpreise zur Herstellung des Marktgleichgewichts können daher bewirken, daß die effizienter produzierenden Betriebe wegen der höheren Preisuntergrenze aus der Produktion ausscheiden und die kleineren, weniger effizient produzierenden Betriebe die Produktion fortsetzen. Dieser Prozeß hätte somit eine nichtoptimale Allokation der Ressourcen zur Folge.

III. Landwirtschaft und vertikale Konzentration

A. Ursachen der vertikalen Konzentration

Durch die Marktunvollkommenheit kann nach *G. Gloy*[21] die Vertikalkonzentration bei statischer, aber nicht bei dynamischer Betrachtungsweise ausreichend erklärt werden. Beide Aspekte sind daher im folgenden bei der Darstellung der Ursachen der vertikalen Konzentration zu berücksichtigen.

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[18] Vgl. *M. Köhne*, Neue Formen der Entwicklung größerer Betriebseinheiten, Agrarwirtschaft, Jg. 18 (1969), S. 114.

[19] Zur Bestimmung des optimalen Konzentrationsgrades vgl. *K. Borchardt*, Zur Problematik eines optimalen Konzentrationsgrades, JB f. Nat. u. Stat., Bd. 176 (1964), S. 9 ff.

[20] Die Preisuntergrenze ist erreicht, wenn durch den Preis nur noch die variablen Kosten gedeckt werden.

[21] *G. Gloy*, Unternehmensexpansion und wirtschaftliches Wachstum im Ernährungsgütersektor. Ein Beitrag zur Theorie der Vertikalkonzentration und Kooperation, Karlsruhe 1969, S. 40 ff.

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Ein Integrator wird nur dann den Weg der Integration seiner Produktion mit vor- oder nachgelagerten Betrieben wählen, wenn er dadurch seiner Zielsetzung besser gerecht wird[22]. Die Zielsetzung „Gewinnmaximierung" ist besonders geeignet, Konzentrationsprozesse auf unvollkommenen Märkten zu erklären. Insbesondere bewirkt die temporäre Unvollkommenheit auf den Produkt- und Faktormärkten des Agrarsektors eine Zunahme der vertikalen Konzentrationsbestrebungen sowohl bei den Landwirten als auch bei den vor- und nachgelagerten Produktionsbereichen. Zunächst soll die zunehmende Bedeutung der temporären Unvollkomenheit der Produktmärkte für das Konzentrationsstreben der Landwirte dargestellt werden.

1. Bestimmungsgründe für das Konzentrationsstreben der Landwirtschaft

Oben wurde gezeigt, daß das wirtschaftliche Wachstum in einer Volkswirtschaft mit einer steigenden horizontalen Konzentration im Agrarsektor verbunden ist. Die Agrarproduktion wird zunehmend kapitalintensiver und spezialisierter. Die zunehmende Kapitalintensität führt zu einer Erweiterung des notwendigen Planungshorizontes. Rationale Investitionsentscheidungen sind — bedingt durch die Langlebigkeit einzelner Kapitalgüter — nur möglich, wenn genaue Vorstellungen über die Entwicklung auf den Produkt- und Faktormärkten bestehen, also die Markttransparenz zeitlich vollkommen ist. Da die Möglichkeit, durch Prognosen die Markttransparenz zu erhöhen, für den einzelnen weitgehend entfällt, versucht der Landwirt, die Marktrisiken durch eine vertikale Konzentration einzuschränken.

In gleicher Richtung wirkt die Spezialisierung[23]. Beim wenig spezialisierten Betrieb bedeutet ein breites Produktionssortiment eine Streuung der produktspezifischen Risiken. Der spezialisierte Betrieb versucht dagegen, das Risiko über eine vertikale Konzentration zu vermindern[24]. Somit besteht zwischen der horizontalen Konzentration der Produktion und der vertikalen Konzentration zwischen der Landwirtschaft und den nachgelagerten Produktionsbereichen ein enger Zusammenhang[25].

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[22] Vgl. *M. Neumann*, Vertikale Integrationsprozesse in der Industrie, Schmollers JB, Jg. 86 (1966, II), S. 666.

[23] Vgl. *M. v. Oppen*, Möglichkeiten und Grenzen der Anwendung vertraglicher Regelungen beim Absatz landwirtschaftlicher Produkte, Braunschweig-Völkenrode 1968, S. 13 ff.

[24] Vgl. *J. Le Bihan*, Vertical Integration and Development of Farms: The Perfection and Diffussion of Innovations in Integrated Systems, in: *U. Papi* and *C. Nunn* (Hrsg.), a. a. O., S. 333.

[25] Dabei ist die horizontale Konzentration nicht nur Ursache der vertikalen Konzentration, sondern die vertikale Konzentration wirkt auch auf eine stärkere horizontale Konzentration. Vgl. *J. A. Seagraves* and *C. E. Bishop*,

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Unabhängig von der zunehmenden Kapitalintensität und Spezialisierung wird durch eine gegebene temporäre Unvollkommenheit der Märkte das Risiko des landwirtschaftlichen Betriebes durch das Wirtschaftswachstum erhöht. Bekanntlich sinken die Einkommenselastizitäten der Mengennachfrage nach Nahrungsmitteln mit steigenden Pro-Kopf-Einkommen. Da die Summe der Kreuzpreiselastizitäten der Nachfrage nach Nahrungsmitteln insgesamt sehr klein ist, muß wegen der Gültigkeit der *Slutsky-Schultz*-Relation der absolute Wert der Preiselastizität der Mengennachfrage nach Nahrungsmitteln mit sinkenden Einkommenselastizitäten fallen. Sinkende Preiselastizitäten bedeuten aber steigende Preisflexibilitäten und damit bei gegebenen Angebotsänderungen zunehmende Preisfluktuationen. Bei gegebener temporärer Unvollkommenheit erhöht sich daher das Risiko des landwirtschaftlichen Betriebes.

Die temporäre Unvollkommenheit auf den Faktormärkten verstärkt ebenfalls die vertikalen Konzentrationsbestrebungen der Landwirte. Insbesondere gilt dies für die Unvollkommenheit auf dem Kreditmarkt. Landwirtschaftliche Produktionsrisiken und Preisfluktuationen auf den Agrarmärkten veranlassen den Kreditgeber, eine Risikoprämie in die Kreditkonditionen einzukalkulieren. Der Fremdkapitalzins ist — ceteris paribus — für die Landwirte um so höher, je weniger der Kreditor mit den speziellen landwirtschaftlichen Risiken vertraut ist. Da die der Landwirtschaft vor- und nachgelagerten Bereiche die Risiken der Kreditvergabe an Landwirte besser abschätzen können als andere Kreditoren, sind sie bereit, die Kredite zu günstigeren Konditionen zu vergeben[26]. Durch die vertikale Konzentration wird es den vor- und nachgelagerten Bereichen ermöglicht, die Kreditverwendung stärker zu kontrollieren. Daraus folgt eine weitere Verbesserung der Kreditbedingungen für die Landwirte. Die vertikale Konzentration kann somit — bedingt durch die temporäre Unvollkommenheit der Agrarmärkte — vom einzelnen landwirtschaftlichen Betrieb als Mittel der Kostenminimierung und damit der Gewinnmaximierung angesehen werden.

Ebenso führt die Unvollkommenheit der Märkte infolge mangelnder Homogenität der Produkte auf der Input- und Outputseite des landwirtschaftlichen Betriebes dazu, die vertikale Konzentration als Mittel der Gewinnmaximierung zu betrachten. Die Fixierung von Liefermenge, Lieferzeit und Qualität der Produkte ermöglicht es dem einzelnen landwirtschaftlichen Betrieb, günstigere Einkaufspreise und Verkaufspreise zu realisieren als der nicht vertikal konzentrierte Betrieb.

Impacts of Vertical Integration on Output, Price and Industry Structure, Journal of Farm Economics, Vol. 40 (1958), S. 1823.

[26] Vgl. u. a. *R. C. Engberg*, Credit Implications of Integration in Agriculture, Journal of Farm Economics, Vol. 40 (1958), S. 1376.

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Die Unvollkommenheit auf den Faktormärkten beschränkt den Zugang zu technischen Neuerungen. Wenn daher der landwirtschaftliche Betrieb durch eine vertikale Konzentration über bessere Beratung besseren Zugang zu den technischen Fortschrittsmöglichkeiten erlangt[27], wird er die vertikale Konzentration als ein Mittel der Gewinnmaximierung betrachten.

2. Bestimmungsgründe für das Konzentrationsstreben der Zulieferer- und Be- und Verarbeitungsindustrie

Auch für die der Landwirtschaft vor- und nachgelagerten Bereiche ist die Unvollkommenheit der Agrarmärkte ein wesentlicher Bestimmungsfaktor für die Vertikalkonzentration.

Die zunehmende Kapitalintensität der Verarbeitungs- und Zuliefererindustrie verlangt bei Kostenminimierung eine durchgehend hohe Auslastung der Kapazitäten. Da bei nichtvertraglicher Absicherung Angebots- und Nachfrageschwankungen eine kontinuierliche Auslastung der Kapazitäten entweder nicht ermöglichen oder nur bei schwankenden Output- oder Inputpreisen sicherstellen, dient die Vertikalkonzentration der Verarbeitungs- und Zuliefererindustrien als Mittel der Risikominderung und damit der Kostenminimierung.

Die zunehmende Kapitalintensität der Verarbeitungsindustrien verlangt aber nicht nur ein kontinuierliches, sondern auch ein homogenes Angebot. Da das Marktangebot jedoch bei der Mehrzahl der Agrarprodukte heterogen ist, dient die Vertikalkonzentration der Sicherung eines homogenen Angebots.

Neben diese Marktunvollkommenheiten als Bestimmungsgründe des Integrationsbestrebens der Zulieferer- und Be- und Verarbeitungsindustrie tritt als wesentlicher Faktor die Bedeutung der Marktform. *G. Schmitt*[28] zeigt in Anlehnung an *W. Krelle*, daß der monopsonistische Nachfrager oder der monopolistische Anbieter durch eine Vertikalkonzentration seinen Gewinn erhöhen kann. Zwar werden Zulieferer- und Verarbeitungsindustrien nur in Ausnahmefällen regional begrenzte Monopolstellungen besitzen, doch werden sie sich häufig in oligopolistischem Wettbewerb befinden. Die Vertikalkonzentration kann in diesen Fällen dazu dienen, die ungleichgewichtige Marktform des Oligopols für das einzelne Unternehmen zu verändern. Da der Preiswettbewerb bei dieser Marktstruktur möglichst vermieden wird, versucht man auf an-

[27] Vgl. *J. Le Bihan*, a. a. O., S. 336 f.

[28] Vgl. *G. Schmitt*, Einige Bemerkungen zum Begriff und zur Theorie der „vertikalen Integration" in der Landwirtschaft, Agrarwirtschaft, Jg. 13 (1964), S. 347.

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dere Mittel zurückzugreifen, um einen Wettbewerbsvorsprung vor den Konkurrenten zu erhalten.

Nach *Gloy*[29] müssen neben den Marktunvollkommenheiten und Marktformen als Bestimmungsfaktoren des Integrationsstrebens der vor- und nachgelagerten Bereiche noch die Faktoren, die sich aus dem Wachstumsziel der Unternehmung ergeben, berücksichtigt werden. Da das Wachstumsziel selbständig neben dem Ziel „Gewinnmaximierung" stehen kann, können bei dieser Zielsetzung weitere Bestimmungsgründe für das Konzentrationsstreben treten.

Insbesondere bewirkt die abnehmende Einkommenselastizität der Nachfrage nach Agrarprodukten, daß dem Expansionsstreben der Be- und Verarbeitungsindustrien bei konstanten Marktanteilen enge Grenzen gesetzt sind. Um eine stärkere Expansion durch den Veränderungswettbewerb bei oligopolistischen Marktformen zu vermeiden, bietet sich die Vertikalkonzentration als ein Instrument zur Vergrößerung des Unternehmenswachstums an[30]. Die nicht im eigenen Unternehmen investierten Gewinne werden über die Vertikalkonzentration in den vor- und nachgelagerten Bereichen angelegt.

Nachdem die wesentlichen Bestimmungsgründe der Vertikalkonzentration dargestellt wurden, ist es möglich, die einzelnen Agrarprodukte nach ihrer Eignung für die Vertikalkonzentration zu untersuchen.

B. Eignung ausgewählter landwirtschaftlicher Produkte für die Vertikalkonzentration

Ausgangspunkt der Betrachtung ist Tabelle 3.

Tabelle 3 gestattet keine Quantifizierung der Wirkung der einzelnen Bestimmungsfaktoren auf das Bestreben, eine Vertikalkonzentration einzugehen, da die Gewichtung und Ausprägung der einzelnen Eignungskriterien nicht ermittelt werden können. Auch kann der Einfluß eines bestimmten Kriteriums im Hinblick auf die Vertikalkonzentration recht unterschiedlich sein, da nicht produktbezogene Bestimmungsfaktoren, z. B. die Marktform und das Expansionsstreben der Unternehmer, nicht in die Übersicht aufgenommen werden konnten. Dennoch kann die Aufstellung in der Übersicht einen Anhaltspunkt für die Erklärung unterschiedlicher vertikaler Konzentrationsgrade bei den einzelnen Produkten geben.

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[29] Vgl. *G. Gloy*, a. a. O., S. 40 ff.

[30] Vgl. *G. Gloy*, a. a. O., S. 56; *H. K. Leckie*, Dynamics of the Integration of Agricultural Production and Marketing, Journal of Farm Economics, Vol. 40 (1958), S. 1364.

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Tabelle 3

Kennzeichnung ausgewählter landwirtschaftlicher Produkte nach ihrer Eignung zur Vertragserzeugung (Schema[a])

Eignungskriterien	Tierische Produkte					Pflanzliche Produkte				
	Eier	Ferkel	Mast-geflügel	Mast-schweine	Mast-rinder	Frisch-gemüse	Industr.-gemüse	Hopfen	Speise-kartoff.	Brot-getreide
1. Natürliches Erzeugungsrisiko	gering (—)	hoch (+)	gering (—)	gering (—)	mittel	hoch (+)	hoch (+)	hoch (+)	mittel	gering (—)
2. Kapital- und Arbeitsintensität des landw. Produktionsverfahrens	hoch (+)	hoch (+)	hoch (+)	hoch (+)	mittel	hoch (+)	hoch (+)	hoch (+)	mittel	gering (—)
3. Lagerfähigkeit	mittel	mittel	gering (+)	gering (+)	mittel	gering (+)	gering (+)	gut (—)	gut (—)	gut (—)
4. Transportfähigkeit	mittel	mittel	gering (+)	gering (+)	gering (+)	mittel	gering (+)	gut (—)	mittel	gut (—)
5. Eignung zur Standardisierung	gut (—)	gut (—)	mittel	mittel	mittel	mittel	mittel	gut (—)	gut (—)	gut (—)
6. Konsumreife	gut (—)	gut (—)	gering (+)	gering (+)	gering (+)	gut (—)	gering (+)	gering (+)	gut (—)	mittel
7. Zahl der Verwertungsmöglichkeiten	groß (—)	mittel	gering (+)	mittel	gering (+)	mittel	gering (+)	gering (+)	groß (—)	mittel
8. Preisschwankungen	stark (+)	stark (+)	gering (—)	gering (—)	gering (—)	stark (+)	stark (+)	stark (+)	stark (+)	gering (—)
9. Kapital- u. Arbeitsintensität der Verwertungseinrichtung	gering (—)	hoch (+)	hoch (+)	gering (—)	gering (—)	gering (—)	hoch (+)	hoch (+)	gering (—)	gering (—)
10. Wettbewerbskraft des Auslandsangebots	groß (+)	gering (—)	groß (+)	gering (—)	gering (—)	mittel	mittel	mittel	gering (—)	groß (+)
Eignung zur Vertragserzeugung[b]	mittel (— 2)	mittel (+ 1)	gut (+ 5)	mittel (± 0)	mittel (± 0)	mittel (+ 2)	gut (+ 8)	gut (+ 3)	gering (— 5)	gering (— 6)

[a] Einfluß „für" = (+); Einfluß „gegen" = (—); „mittlerer" Einfluß bleibt unbewertet. — [b] Ist die Summe der Eignungskriterien positiv, dann ist das Produkt für den Vertragsanbau geeignet, und zwar um so mehr, je größer die Summe ist. Das Entgegengesetzte gilt, wenn die Summe negativ ist. Da jedoch zur Bewertung der einzelnen Eignungskriterien lediglich das verhältnismäßig grobe Verfahren einer Gruppierung in drei Wertstufen herangezogen werden konnte und zudem die jeweiligen Eignungskriterien zueinander nicht das gleiche Gewicht haben, ist es nicht möglich, die einzelnen Produkte allein nach der für jedes Produkt ausgewiesenen Summe der Eignungskriterien eindeutig gegeneinander abzugrenzen. Vielmehr erlaubt eine solche Quantifizierung lediglich die Eingruppierung in eine von drei Kategorien (gut, mittel, gering) der Eignung zur Vertragserzeugung.

Quelle: M. v. Oppen, a. a. O., S. 142.

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C. Formen und Ausprägung der Vertikalkonzentration in der Landwirtschaft der USA

Die Vertikalkonzentration in der US-Landwirtschaft kann — in Anlehnung an die Systematik der Konzentrationsformen in der Landwirtschaft — durch eine Änderung der Zahl der ökonomischen Variablen und deren Verteilung hervorgerufen werden, und zum anderen durch eine Kooperation zwischen den ökonomischen Variablen.

1. Ausprägung der Vertikalkonzentration in der Form mehrstufiger Unternehmen

Zunächst werden mehrstufige Betriebe oder Unternehmen als die zu untersuchenden ökonomischen Variablen angesehen. Die Vertikalkonzentration kann dann sowohl durch ein stärkeres Wachstum der unveränderten Zahl der vertikalkonzentrierten Betriebe oder Unternehmen bei abnehmender Zahl der nicht vertikalkonzentrierten Einheiten zunehmen, als auch durch eine stärker steigende Zahl der vertikalkonzentrierten Einheiten.

Die erste Variante der zunehmenden Konzentration scheidet für die US-Landwirtschaft weitgehend aus. Mehrstufige Unternehmen waren in der Vergangenheit kaum anzutreffen und auch in der Gegenwart besteht wenig Neigung, solche Unternehmen durch Fusion oder Wachstum zu bilden. Hierfür lassen sich folgende Gründe angeben:

1. Die optimale Größe eines landwirtschaftlichen Betriebes liegt weit unter derjenigen der vorgelagerten Zuliefererbetriebe oder nachgelagerten Be- und Verarbeitungsbetriebe[31]. Eine annähernd gleiche Kapazitätsauslastung kann daher bei zwei vertikalkonzentrierten Betriebseinheiten nicht verwirklicht werden[32]. Fusionieren die der Landwirtschaft vor- und nachgelagerten Betriebseinheiten aber mit mehreren landwirtschaftlichen Betrieben, so wirft dies Probleme für das Management auf. Durch eine Vielzahl der Betriebseinheiten wird der Kommunikationsfluß der Führungsspitze erschwert. Außerdem bringt die räumliche Trennung der Betriebseinheiten zusätzliche Kosten bei der Zusammenarbeit unter einheitlicher Leitung.

2. Die Produktion des landwirtschaftlichen Betriebes fällt naturbedingt zu einem großen Teil saisonal an. Die Verarbeitungsindustrie wird daher durch die Angliederung einzelner landwirtschaftlicher Betriebe keine volle Auslastung der Kapazitäten während des ganzen

[31] Vgl. *G. Schmitt*, a. a. O., S. 346.
[32] Vgl. *W. F. Mueller* und *N. R. Collins*, Grower-processor Integration in Fruit and Vegetable Marketing, Journal of Farm Economics, Vol. 39 (1957), S. 1476.

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Jahres erreichen. Es wird daher versucht, die Produktion von regional gestreuten landwirtschaftlichen Betrieben zu erfassen, um eine gleichmäßigere Anlieferung der zu verarbeitenden Produkte zu ermöglichen[33].

3. Um die Bodenfruchtbarkeit zu erhalten und einen saisonalen Ausgleich der Arbeitskapazität zu verwirklichen, ist der landwirtschaftliche Betrieb gezwungen, ein breites Produktsortiment in sein Produktionsprogramm aufzunehmen[34]. Da die vor- und nachgelagerten Bereiche in der Regel weniger und teils andere Produkte erzeugen, würde eine Fusion zwischen landwirtschaftlichem und vor- und nachgelagertem Betrieb zu einer Ausweitung des Produktsortiments führen. Es besteht daher das Risiko, daß der Gewinn durch die Fusion eher vermindert als erhöht wird.

4. Bekanntlich liegt die Kapitalintensität bei der Produktion der Agrarprodukte über der Kapitalintensität in der Industrie. Der Zulieferer- oder Verarbeitungsindustrie ist daher die Fusion durch Kauf eines landwirtschaftlichen Betriebes wegen des hohen Kapitalbedarfs erschwert[35]. Auch die landwirtschaftlichen Betriebsinhaber werden selten die notwendigen finanziellen Mittel besitzen, um als Integrator aufzutreten.

5. In den entwickelten Volkswirtschaften kann allgemein eine disparitäre Entwicklung der Faktoreinkommen im Agrarsektor beobachtet werden. Es ist daher verständlich, daß Betriebe aus anderen Sektoren (z. B. Be- und Verarbeitungsindustrie) weitgehend vermeiden, mit landwirtschaftlichen Betrieben zu fusionieren. Hierdurch bestände die Gefahr, daß die Faktorentlohnung des integrierenden Unternehmens sinkt.

Diese Gründe erklären, daß die vertikale Konzentration durch ein stärkeres Wachstum der mehrstufigen Betriebe und Unternehmen sowie durch eine Zunahme dieser Einheiten in der Landwirtschaft von untergeordneter Bedeutung ist und wohl auch in Zukunft sein wird. Zunehmende Beachtung findet dagegen die vertikale Konzentration durch Kooperation.

2. Ausprägung der Vertikalkonzentration in der Form der Kooperation

Grundsätzlich kann angenommen werden, daß die Form der Vertikalkonzentration vom Integrator bestimmt wird. Integrator wird in der Regel der Betrieb mit der größeren Kapazität sein, da für ihn die

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[33] Vgl. *W. F. Mueller* und *N. R. Collins*, a. a. O., S. 1476.

[34] Vgl. *G. Schmitt*, a. a. O., S. 346; *W. F. Mueller* und *N. R. Collins*, a. a. O., S. 1476; *R. Trifon*, Guides for Speculation about the Vertical Integration of Agriculture with Allied Industries, Journal of Farm Economics, Vol. 41 (1959), S. 745.

[35] Vgl. *R. Trifon*, a. a. O., S. 745.

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Konzentrationswirkungen größer sind[36]. Hierfür spricht auch das häufig bessere Management und die größere Markttransparenz des größeren Betriebes. Aus diesem Grunde wird der Integrator vornehmlich die Zulieferer- oder Verarbeitungsindustrie sein und nicht der landwirtschaftliche Betrieb. Da diese Integratoren den Konzentrationszweck mit vertraglichen Absprachen voll erreichen können[37], werden sie diese Form der Konzentration wählen.

Besonders angeregt wurde das wissenschaftliche Interesse durch die zunehmende Vertikalkonzentration der Broilerproduktion. Wie Tabelle 3 zeigt, sind die Voraussetzungen für eine Vertikalkonzentration bei Mastgeflügel besonders gut. Neben den in der Übersicht genannten Gründen begünstigten den Konzentrationsprozeß bei der Broilerproduktion folgende Faktoren[38]:

1. Die großen technischen Fortschritte in der Mast führten zu fallenden Produktpreisen. Gewinnbringende Produktion konnte daher nur bei schneller Adoption des technischen Fortschritts aufrecht erhalten werden. Da die Einführung von Neuerungen durch die Vertikalkonzentration erleichtert wird[39], waren die landwirtschaftlichen Produzenten zu dieser Maßnahme gezwungen.

2. Durch die technischen Fortschritte stieg die optimale Betriebsgröße in der Broilermast erheblich. Die zum Ausbau der Kapazitäten notwendigen finanziellen Mittel konnten von der Landwirtschaft nicht aufgebracht werden. Die Finanzierung der Investitionen durch die Verarbeitungsindustrie wurde durch vertragliche Absprachen begünstigt.

3. Die Verarbeitung und der Absatz der Broiler wird durch eine homogene Qualität des Produktes wesentlich erleichtert. Um die Qualitätskontrolle des Vermarkters beim Produzenten zu ermöglichen, sind vertikale Vertragsabsprachen notwendig.

4. Die Verarbeitungsindustrie sah sich zur Vertikalkonzentration in der Broilerproduktion auch wegen der oligopolistischen Marktformen veranlaßt. Die Vertikalkonzentration kann als Erweiterung des preispolitischen Instrumentariums angesehen werden.

Diese Gründe machen verständlich, daß seit Ende der 50er Jahre etwa 95 % der Broilerproduktion vertikal konzentriert sind, und zwar etwa 75 % durch vertragliche Regelung und 20 % durch Eigentums-

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[36] Vgl. *R. L. Mighell* und *L. A. Jones*, Vertical Coordination in Agriculture. US Department of Agriculture, Agriculture Economic Report No. 19, 1963, S. 29.

[37] Vgl. *R. Trifon*, a. a. O., S. 745.

[38] Vgl. *W. P. Mortenson*, Possible Future Trends of Vertical Integration in Agriculture, Journal of Farm Economics, Vol. 40 (1958), S. 1861 f.

[39] Vgl. *J. Le Bihan*, a. a. O., S. 328 ff.

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verschmelzung zwischen mästenden landwirtschaftlichen Betriebseinheiten und der Verarbeitungsindustrie[40].

Dieser hohe „Konzentrationsgrad" vermag jedoch über die Intensität der „Ballung der ökonomischen Größen" nur wenig Auskunft zu geben, da nicht angegeben ist, inwieweit die integrierten Unternehmen durch die vertraglichen Absprachen in ihrem Entscheidungsspielraum eingeengt werden. Es ist daher sinnvoll, einzelne Vertragsbestandteile zu definieren, ein Graduierungsschema zu entwickeln und den Konzentrationsgrad auf dieser Basis zu berechnen[41]. Als Klassifikationsmerkmale bieten sich auf der Inputseite an[41]:

1. Entscheidungen über Art und Menge des Inputs
2. Eigentum am Faktoreinsatz und Risiko des Faktoreinsatzes.

In der Produktionssphäre verdienen folgende Merkmale gewichtet zu werden:

3. Produktionsentscheidungen, ausschließlich der Bestimmung der Produktionsmenge
4. Bestimmung der Produktqualität
5. Eigentumsverhältnisse am Produkt während der Produktion
6. Risiko des Verlustes während der Produktion
7. Einschränkungen in der Handlungsfreiheit des landwirtschaftlichen Produzenten (z. B. Festlegung der Produktionskapazität, Verzicht auf bestimmte Absatzwege [Genossenschaften] für nicht vertragsgebundene Produkte usw.).

Auf der Absatzseite sind folgende Gesichtspunkte zu berücksichtigen:

8. Entscheidungen im Bereich des Marketing (z. B. Bestimmung der Lieferzeiten und Lieferorte)
9. Bestimmung des Produktpreises
10. Bestimmung über Abnahmeverpflichtungen des Produktes

Nach Gewichtung dieser einzelnen Vertragselemente[42] kann ein sinnvoller durchschnittlicher vertikaler Konzentrationsgrad für die einzelnen Produkte berechnet werden.

Tabelle 4 zeigt, daß der Konzentrationsgrad in der Broilerproduktion bei 42 ausgewählten Verträgen Ende der 50er Jahre 31,1 betrug. Das besagt, daß der Entscheidungsspielraum der Vertragspartner durch die

[40] Vgl. u. a. *E. P. Roy*, Contract Farming, USA ..., Danville/Illinois 1963, S. 28.

[41] *M. Harris* und *D. T. Massey*, Vertical Coordination via Contract Farming, United States Department of Agriculture, Miscellaneous Publication No. 1073, Washington, D.C., 1968, S. 74 ff.

[42] Zur Gewichtung vgl. *M. Harris* und *D. T. Massey*, a. a. O., S. 75 ff.

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Tabelle 4

Durchschnittlicher vertikaler Konzentrationsgrad bei einzelnen landwirtschaftlichen Produkten USA

420 Vertragsabschlüsse

Produkt	Inputseite			Produktionssphäre					Marketingbereich			
	Zahl der Verträge	Art und Menge des Inputs	Eigentum und Risiko	Produktionsentscheidungen	Produktqualität	Eigentum während der Produktion	Risiko des Verlustes	Einschränkungen des Produzenten	Marketingentscheidungen	Produktpreis	Abnahmeverpflichtungen	Grad der Konzentration[a]
	Konzentrationspunkte											
Broiler	42	3,6	3,7	2,4	2,8	3,6	3,0	2,0	4,5	3,6	1,9	31,1
Eier (ohne Bruteier)	15	1,7	1,7	2,2	2,9	2,3	2,0	3,3	2,7	2,9	1,9	23,6
Mastschweine	1	1,0	0,0	4,0	4,0	1,0	1,0	4,0	3,0	1,0	2,0	21,0
Bruteier	10	3,1	3,7	3,5	3,4	2,1	3,3	2,7	3,0	3,4	1,7	29,9
Legehennen	3	2,3	2,7	2,0	2,7	2,3	1,3	1,0	1,0	3,0	1,0	19,3
Junghennen	5	4,0	4,2	4,0	3,4	5,0	4,0	3,8	4,2	5,0	1,4	39,0
Puten	7	3,0	3,7	3,3	3,1	3,7	3,0	2,0	2,9	4,4	1,0	30,1
Hybrid-Saatgut	17	3,1	4,1	3,6	3,5	4,1	3,6	3,5	3,6	2,5	3,3	34,8
Bohnen	33	3,0	3,0	3,4	3,3	1,8	3,2	2,3	3,5	3,1	3,0	29,6
Tomaten	40	2,5	2,5	1,4	2,3	1,6	1,7	3,7	2,8	3,4	2,9	24,8
Produktgruppen:												
Vieh, Geflügel, Eier	92	3,0	3,2	2,7	2,9	3,1	2,8	2,4	3,6	3,5	1,7	29,1
Saatgut	68	2,8	3,3	2,3	2,6	2,9	2,8	2,9	3,0	2,7	2,4	27,7
Obst, Gemüse, Nüsse, Spezialkulturen	260	2,3	2,4	2,5	2,7	1,7	2,3	2,8	3,3	3,6	2,9	26,3
Alle Verträge	420	2,5	2,7	2,5	2,7	2,2	2,5	2,7	3,3	3,4	2,5	27,2

[a] Wegen Auf- und Abrundungen kann die Addition der einzelnen Konzentrationspunkte von dem Grad der Konzentration abweichen.

Quelle: M. Harris und *D. T. Massey*, a. a. O., S. 91 f.

vertikale Konzentration um 31,1 % eingeschränkt wurde. Diese Zahl macht deutlich, daß aus der 95%igen vertraglichen Bindung der Broilerproduktion nicht auch auf einen hohen vertikalen Konzentrationsgrad geschlossen werden darf.

Ein höherer Konzentrationsgrad als in der Broilerproduktion ist nur bei Hybridsaatgut und Junghennen festzustellen. Beide Produkte zeichnen sich durch relativ enge Märkte aus. Kann kein Käufer für den spezifischen Verwendungszweck gefunden werden, dann kann das Produkt nur zu den erheblich niedrigeren Preisen des Substitutionsproduk-

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tes abgesetzt werden. Es ist daher verständlich, daß die Produzenten den Produktionserfolg über vertikale Verträge sichern wollen. Die gleiche Motivation wie bei Hybridsaatgut und Junghennen liegt auch den Vertragsabschlüssen bei Bruteiern[43] zugrunde.

Bei weitem die meisten Verträge fielen in der angeführten Untersuchung auf Obst, Gemüse[44], Nüsse und Spezialkulturen. Wie aus der Tabelle 4 hervorgeht, sind die Bestimmungsfaktoren, die zu einer vertikalen Konzentration führen, bei diesen Produkten besonders stark ausgeprägt. Dennoch liegt der durchschnittliche Konzentrationsgrad bei diesen Verträgen unter dem durchschnittlichen Konzentrationsgrad bei allen Verträgen (Tabelle 4 26,3 gegenüber 27,2). Durch eine exakte Spezifizierung der Produktqualität wird die Gestaltung der Inputseite und der Produktionssphäre weitgehend bestimmt, so daß der Zwang einer vertraglichen Regelung dieser Elemente zur Sicherung einer bestimmten Produktqualität entfällt. Außerdem ist die Kapitalintensität der landwirtschaftlichen Produktionsverfahren bei Obst, Gemüse und Spezialkulturen nicht so hoch wie bei Veredlungsprodukten. Die Notwendigkeit der Finanzierung seitens der Be- und Verarbeitungsindustrien und der damit verbundenen Kontrolle des Produktionsprozesses ist daher nicht so dringend.

D. Beurteilung der vertikalen Konzentration

Grundsätzlich kann angenommen werden, daß sich zwei Wirtschaftseinheiten nur dann zu einem vertikalen Konzentrationsprozeß entschließen, wenn sich daraus ein Vorteil für beide ergibt. Im folgenden soll nicht geprüft werden, welcher Partner einen größeren Vorteil erlangt[45]. Gegenstand der Analyse sollen vielmehr die gesamtwirtschaftlichen Auswirkungen der Zunahme der vertikalen Konzentration in der Landwirtschaft sein. Insbesondere muß geprüft werden, wie der Marktmechanismus durch den Konzentrationsprozeß tangiert wird.

Wegen der mangelnden Homogenität zwischen vertraglich gebundenen und freien Produktlieferungen kann der freie Marktpreis bei der vertraglichen Regelung nur eine begrenzte Hilfe leisten. Daraus darf aber nicht gefolgert werden, daß der Marktpreis seiner Funktion der

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[43] Bei Hybridsaatgut und Bruteiern ist die gesamte Produktion durch vertikale Verträge erfaßt.

[44] 1959 wurde 90 v. H. des Gemüses, das die Konserven- und Tiefgefrierwarenindustrie verarbeitete, durch vertikale Verträge erfaßt.

[45] Grundsätzlich wird der Konzentrationsvorteil für den Partner größer sein, der die bessere Markttransparenz und das bessere Management hat. Da beide Faktoren stark mit der Unternehmensgröße korrelieren, wird der Konzentrationsvorteil für die Zulieferer und Be- und Verarbeitungsindustrie in der Regel größer sein als für den landwirtschaftlichen Betrieb.

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Angebotssteuerung nur noch unzureichend genüge[46]. Da zwischen frei angebotenen und vertraglich gelieferten Produkten Substitutionsbeziehungen auf der Angebots- und Nachfrageseite bestehen, muß es auch einen Preiszusammenhang geben. Wenn die präsumtiven Vertragspartner genügend Alternativen haben, wird durch vertragliche Regelungen die Funktion des Preises eher verbessert als verschlechtert: Die Preisdifferenzierung entsprechend den Produktunterschieden ist bei vertikaler Konzentration erleichtert. Damit ist die Möglichkeit geschaffen, spezifische Nachfragewünsche durch ein spezifisches Angebot zu erfüllen. Entscheidend ist jedoch, daß die Vertragspartner bei den einzelnen Vertragsabschlüssen eine ausreichende Markttransparenz besitzen. Nur dann ist gewährleistet, daß sich für ein bestimmtes Produkt nur ein Preis bildet und die Funktion des Preismechanismus verbessert wird[47].

Eine weitere Verbesserung des Marktmechanismus wäre denkbar, wenn sich durch die vertikale Konzentration die Preisfluktuationen auf den Agrarmärkten vermindern ließen[48]. *Strecker* zeigt jedoch, daß es „den Anbietern auf einem Wettbewerbsmarkt nicht möglich (ist, U.K.), das gesamte Angebot des betreffenden Erzeugnisses oder einen marktbestimmenden Anteil mengenmäßig nach einheitlicher Planung zu fixieren"[49]. Naturbedingte und preisinduzierte[50] Angebotsschwankungen werden auch bei einer weitgehend vertikal konzentrierten Landwirtschaft nicht auszuschließen sein. Da die Endnachfrage nach Agrarprodukten durch den Konzentrationsprozeß nicht verändert wird, müssen sich die Angebots- und Nachfrageschwankungen weiterhin in Preisschwankungen niederschlagen[51]. Allerdings ist möglich, daß die preisinduzierten Angebotsschwankungen durch die Verbesserung der Markttransparenz vermindert werden.

Generell kann angenommen werden, daß die Markttransparenz bei den Integratoren, der Be- und Verarbeitungsindustrie und der Zuliefererindustrie, größer ist als die der landwirtschaftlichen Produzenten. Bei einer vertikalen Konzentration wird sich die bessere Information

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[46] Vgl. *N. R. Collins,* Changing Role of Price in Agricultural Marketing, Journal of Farm Economics, Vol. 41 (1959), S. 530.

[47] Vgl. *R. W. Gray,* Some Thoughts on the changing Role of Price, Journal of Farm Economics, Vol. 46 (1964), S. 117.

[48] Dieser Meinung ist u. a. *D. I. Padberg,* Efficiency and Welfare Considerations in Integrated Agriculture, Journal of Farm Economics, Vol. 48 (1966), S. 1399.

[49] *O. Strecker, G. Roller, A. Saft, W. H. Schuch,* Die Landwirtschaft und ihre Marktpartner. Neue Formen der Zusammenarbeit, Landwirtschaft — Angewandte Wissenschaft, H. 119, Hiltrup 1963, S. 1965.

[50] Der gegenwärtige Preis gilt als Grundlage der Planung des zukünftigen Angebots mit der Folge möglicher zyklischer Angebots- und Preisschwankungen.

[51] Vgl. *M. v. Oppen,* a. a. O., S. 148 f.

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über den zukünftigen Marktablauf stärker in der zukünftigen Angebotsplanung niederschlagen, als es ohne Konzentration der Fall wäre.

Die Erhöhung der Markttransparenz auf den Agrarmärkten führt zu einer Verminderung des Risikos und damit auch zu einer besseren Allokation der Ressourcen in der Volkswirtschaft[52]. Positive Wohlfahrtseffekte sind daher nicht nur für die Vertragspartner zu erwarten, sondern auch für die Konsumenten in der Form niedrigerer Nahrungsmittelpreise.

In der gleichen Richtung wirkt auch die durch die Vertikalkonzentration mögliche Rationalisierung und Verbesserung der Absatzwege[53]. Insbesondere ist eine Reduzierung der Lagerungs-, Transport- und Erfassungskosten möglich.

Die größten gesamtwirtschaftlichen Vorteile aus der Vertikalkonzentration in der Landwirtschaft können aus der beschleunigten Adoption des technischen Fortschritts erwachsen[54]. Wegen der niedrigen Preiselastizitäten der Nachfrage und des relativ preisunelastischen Angebots auf den Agrarmärkten schlägt sich die Erhöhung der technischen Fortschrittsrate bei gegebener Marktform und freier Preisbildung in einer stärker fallenden Tendenz der Erzeugerpreise nieder als in steigenden Gewinnen der Konzentrationspartner.

Als Nachteil der Vertikalkonzentration wird häufig der Verlust der bäuerlichen Selbständigkeit und Unabhängigkeit angesehen[55]. Wie stark dieser Nachteil zu bewerten ist, läßt sich nur nach der Bestimmung des Stellenwertes der Faktoren bäuerlicher Unabhängigkeit und Selbständigkeit in der wirtschafts- und gesellschaftspolitischen Zielfunktion abschätzen.

Nicht auszuschließen ist die Gefahr, daß sich durch die vertikale Konzentration der Wettbewerbsgrad auf den Agrarmärkten verringert. Da dies „dem marktwirtschaftlichen Leitbild der staatlichen Wirtschaftspolitik“[56] nicht entspricht, ist durch das wirtschaftspolitische Instrumentarium sicherzustellen, daß „sowohl auf der Angebots- als auch auf der Nachfrageseite sehr viele unabhängig voneinander operierende Betriebe an dem Markt beteiligt sind und daß für die Verträge jeweils keine sehr lange Laufzeit vereinbart wird“[57, 58].

Bei Wertung der gesamtwirtschaftlichen Vor- und Nachteile der vertikalen Konzentration in der Landwirtschaft wird in der Regel ein

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[52] Anderer Meinung sind: *J. A. Seagraves* und *C. E. Bishop*, a. a. O., S. 1823.
[53] Vgl. *M. v. Oppen*, a. a. O., S. 146.
[54] Vgl. *J. Le Bihan*, a. a. O., S. 325 ff.
[55] Vgl. *J. Le Bihan*, a. a. O., S. 325 ff.
[56] Ebenda, S. 158.
[57] Ebenda.
[58] Allerdings bedeuten Verträge, deren Laufzeit kürzer ist als die Abschreibungsperiode, eine Erhöhung des Risikos.

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positiver Effekt zu erwarten sein. Dies trifft insbesondere für die Beurteilung der Vertikalkonzentration in der US-Landwirtschaft zu, da dort durch die großen Märkte eine Änderung der Marktform durch die Vertikalkonzentration weniger zu befürchten ist und die Faktoren bäuerliche Unabhängigkeit und Selbständigkeit einen geringeren Stellenwert in der gesamtwirtschaftlichen Wohlfahrtsfunktion einzunehmen scheinen als in der Bundesrepublik Deutschland.

Literatur: Stigler, G., The Division of Labour is Limited by the Extent of the Market, J. Pol. Ec., Vol. 59 (1951), S. 185 ff. — *Adelman, M. A.,* Concept and Statistical Measurement of Vertical Integration, in: Business Concentration and Price Policy, National Bureau of Economic Research, Princeton 1955, S. 281 ff. — *Mighell, R. L.,* The Extent and Forms of Vertical Integration, in: Vertical Integration in Agriculture. Proceedings Joint Conference of the Marketing Research Committee and the Farm Management Research Committee of the Western Agricultural Economics Research Council, Reno 1959, S. 3 ff. — *Blaich, O. P.,* Vertical Integration in Theory, Department of Agricultural Economics, Institute of Agriculture, University of Minnesota, Report No. 520, St. Paul 1961. — *Nikolitch, R.,* The Expanding and the Contracting Sectors of American Agriculture, US Department of Agriculture, Economic Research Service, Agricultural Economic Report No. 74, Washington, D.C., 1965. — *Rintelen, P.* (Hrsg.), Konzentration und Spezialisierung in der Landwirtschaft, Schriften der Gesellschaft für Wirtschafts- und Sozialwissenschaften des Landbaues e. V., Bd. 22, München, Basel, Wien 1965. — *Nikolitch, R.,* Our 31 000 Largest Farms, US Department of Agriculture Economic Research Service, Agricultural Economic Report No. 175, Washington D.C., 1970. — *Hülsemeyer, F.,* Formen, Möglichkeiten und Grenzen der Kooperation im Agrarbereich, Agrarwirtschaft, Jg. 19 (1970), S. 297.

Summary

Agricultural Concentration in the United States

The author starts with a general systematic of the various types of concentration in the agrarian sector and analyses special points of the problems involved: The factors determining the process of horizontal concentration, the empirical evidence of decreasing numbers of farms and increasing acreage and sales per farm, and the valuation of the horizontal concentration from a macroeconomic point of view are discussed under II. Chapter III shows the motivation influencing the degree of vertical concentration from the interest of the farmers as well as of the industrialists. A classification of the agricultural products in respect to their qualification for vertical contracting helps to explain the different degree of vertical concentration of various products in the US agriculture.

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Die Konzentrationspolitik in der EWG*

Von *Werner Zohlnhöfer*, Freiburg/Br.**

I. Einführung und Abgrenzung des Themas
II. Darstellung der Konzentrationspolitik
A. Die Begründung
B. Die Leitbildvorstellungen
C. Die Förderung der Unternehmenskonzentration
1. Werbende Stellungnahmen
2. Gesellschaftsrechtliche Maßnahmen
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C. Zur Angemessenheit der Förderungsmaßnahmen
D. Zum Ausmaß der wettbewerbspolitischen Kontrolle
E. Die Unausgewogenheit der Konzeption und die Notwendigkeit einer Korrektur

I. Einführung und Abgrenzung des Themas

Die EWG hat nach dem Willen ihrer Gründer neben ihrer langfristigen politischen Zielsetzung die Aufgabe, „durch die Errichtung eines Gemeinsamen Marktes und die schrittweise Annäherung der Wirtschaftspolitik der Mitgliedstaaten" (Art. 2 EWGV) Stabilität und Wachstum zu fördern. Der EWG-Vertrag zielt somit auf eine umfassende und tiefgreifende Verschmelzung der beteiligten Volkswirtschaften ab. Es ist daher nur konsequent, wenn er nicht nur den systematischen Abbau der Beschränkungen des grenzüberschreitenden Warenverkehrs vorsieht, sondern auch die Herstellung der Freizügigkeit, der Niederlassungsfreiheit sowie eines freien Kapital- und Dienstleistungsverkehrs über die nationalen Grenzen der Mitgliedstaaten hinweg. Da bei einer so weit-

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* Vgl. hierzu auch den Beitrag von *E.-J. Mestmäcker*, Die Beurteilung der Unternehmenskonzentrationen nach den Wettbewerbsregeln des EWG-Vertrages, im 1. Bd. dieses Werkes.

** Zur Vorbereitung dieses Beitrages erhielt der Verfasser durch eine Einladung der EW-Kommission dankenswerterweise die Möglichkeit zu einem einwöchigen Informationsaufenthalt in Brüssel.

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gehenden Öffnung der Waren- und Faktormärkte, die durch die nationalstaatliche Wirtschafts- und Rechtspolitik gestalteten Rahmenbedingungen den Wettbewerb zwischen Unternehmen verschiedener Länder erheblich verfälschen können, überträgt der Vertrag der EWG-Kommission auch die Befugnis, ja die Aufgabe, auf jene Angleichung dieser staatlich gesetzten Wettbewerbsbedingungen hinzuwirken, die den intendierten Gemeinsamen Markt erst voll funktionsfähig macht.

Die Forderung nach Schaffung binnenmarktähnlicher Verhältnisse impliziert, daß dem Wettbewerb als Instrument zur Verwirklichung der Gemeinschaft und ihrer wirtschaftlichen Ziele eine zentrale Rolle zugedacht ist[1]. Durch die Öffnung der nationalen Märkte und die Schaffung „harmonisierter" Wettbewerbsbedingungen in den Mitgliedsländern soll das primäre Aktionsfeld der Unternehmen erweitert, der Wettbewerb zwischen den Anbietern intensiviert und ihre Leistungsfähigkeit gesteigert werden. Die durch die Entfaltung intensiver Wettbewerbsbeziehungen über die nationalen Grenzen hinaus zu aktualisierende Verschmelzung der Märkte ist gleichzeitig davor zu schützen, durch private Wettbewerbsbeschränkungen in ihrer Wirksamkeit wieder in Frage gestellt zu werden. Diese Logik der Verschmelzung nationaler Volkswirtschaften durch den Wettbewerbsprozeß findet in den Vertragsbestimmungen gegen Wettbewerbsbeschränkungen (Art. 85 und 86 EWGV) deutlichen Ausdruck.

Wie sind im Lichte dieses, dem EWG-Vertrag zugrunde liegenden Funktionsmodells Unternehmenszusammenschlüsse zu beurteilen?

Mit dieser Frage hätte die Kommission sich im Zuge der Durchführung des Vertrages in jedem Falle auseinandersetzen müssen. Denn einmal erforderte im Rahmen der Rechtsangleichung vor allem die Gestaltung des Gesellschafts- und Steuerrechts früher oder später eine konzentrationspolitische Entscheidung. Zum anderen wäre eines Tages die Wirksamkeit der Wettbewerbsregeln gegenüber wettbewerbsbeschränkenden Zusammenschlüssen zu testen gewesen.

Tatsächlich hat sich die Kommission jedoch, losgelöst von konkreten Maßnahmen oder Vorschlägen, schon frühzeitig zum Problem der Unternehmenskonzentration ausführlich und dezidiert geäußert. Der wesentliche Grund dafür dürfte in der Entwicklung der konzentrationspolitischen Diskussion und Praxis nach Gründung der EWG zu suchen sein. Hatte man vor Abschluß des Vertrags hervorgehoben, daß (z. B. technologisch bedingte) nationale Monopole oder Teilmonopole durch die Schaffung des Gemeinsamen Marktes ihre beherrschende Position einbüßen und sich wieder wirksamem Wettbewerb ausgesetzt sehen wür-

[1] Vgl. bes. *H. von der Groeben,* Europa. Plan und Wirklichkeit, Baden-Baden 1967, Teil III, S. 169 ff.

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den, so wurde bald nach Inkrafttreten des Vertrages die These, ein größerer Markt erfordere größere Unternehmen, propagiert und daraus die Forderung nach Zusammenschlüssen abgeleitet. Die wissenschaftliche Auseinandersetzung über die Frage nach dem Beitrag der Großunternehmen zum technischen Fortschritt einerseits und das Vordringen amerikanischer Unternehmen mit zahlreichen Aufkäufen namhafter Firmen in EWG-Ländern andererseits verliehen diesem Postulat Aktualität, Publizität und eine zusätzliche, schlagkräftige Begründung.

Diese vor allem von den Unternehmensverbänden[2] vertretene und propagierte Auffassung von der Notwendigkeit größerer Unternehmen in der EWG machten sich vor allem auch die Regierungen Frankreichs und Italiens zu eigen. Da sie außerdem vor allem im Vergleich zur BRD einen erheblichen „Nachholbedarf" an Betriebs- und Unternehmenskonzentration feststellten, sahen sie in der als Zielvorstellung nicht weiter präzisierten Schaffung größerer Unternehmen eine wesentliche Voraussetzung für die Bewährung ihrer Industrie im Gemeinsamen Markt und intensivierten nach Vertragsabschluß ihre schon vorher begonnene systematische Förderung von Zusammenschlüssen (auch) großer und größter Unternehmen[3]. In den anderen Ländern taten die genannten Argumente und Bedingungen auch ohne regierungsamtliche Ermutigung und Hilfe ihre Wirkung. So entfaltete sich im Laufe der sechziger Jahre in den EWG-Ländern eine — gemessen an der Zahl und Größe der beteiligten Unternehmen — wachsende Konzentrationsbewegung, die — in unterschiedlichem Ausmaß — alle Branchen erfaßte. Was dabei zunächst nur eine allerdings wohlbegründete Vermutung war, ist inzwischen eine statistisch erhärtete Tatsache: Während Zusammenschlüsse von Unternehmen gleicher Nationalität zahlenmäßig an erster und Zusammenschlüsse mit amerikanischen Firmen an zweiter Stelle stehen, weisen multinationale Zusammenschlüsse von Unternehmen verschiedener Mitgliedsländer (sog. „transnationale" Zusammenschlüsse) die geringste Häufigkeit auf[4].

Unter diesen Bedingungen stellte sich bald auch für die Märkte der Gemeinschaft die alte Frage, inwieweit die technisch-betriebswirtschaft-

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[2] Vgl. UNICE-Denkschrift über Aspekte ungleichgewichtiger Größenstrukturen der EWG-Spitzenunternehmen im Vergleich zu ihren Hauptkonkurrenten aus Drittländern vom 26. 2. 1965, abgedr. in: *F. Knaus* u. a., Unternehmenskonzentration in der westlichen Welt. FIW-Schriftenreihe, Bd. 40, Köln usw. 1967, S. 95 ff.

[3] Vgl. *A. P. Weber*, Concentration des entreprises et politique économique en France de 1945 à 1970, sowie *V. G. Venturini*, Economic Concentration and Concentration Policy in Italy, beide in diesem Werk.

[4] Vgl. dazu Kommission der Europäischen Gemeinschaften, Die Industriepolitik der Gemeinschaft. Memorandum der Kommission an den Rat, Brüssel 1970, S. 92, Tab. 7 und S. 94, Tab. 8 (künftig zitiert als: EG-Kommission, Die Industriepolitik . . .; alle Seitenangaben beziehen sich auf die gebundene Ausgabe).

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lich wünschenswerte Unternehmenskonzentration die Entfaltung eines funktionsfähigen Wettbewerbs zu gefährden drohe. Gleichzeitig aber warf die Nationalitäten-Struktur des Konzentrationsprozesses für die Kommission Probleme auf. Insbesondere erhob sich die Frage nach der Bedeutung des Übergewichts der Zusammenschlüsse von Unternehmen gleicher Nationalität für die Verwirklichung des Gemeinsamen Marktes.

Vor diesem Hintergrund ist die Konzentrationspolitik der EWG-Kommission zu sehen. Sie ist das Resultat einer Auseinandersetzung der Kommission mit den skizzierten Entwicklungen und Problemen unter dem Gesichtspunkt der Verwirklichung des Gemeinsamen Marktes. Ihre Entfaltung zerfällt deutlich in drei Phasen: In einer Phase der Vorbereitung ist die Kommission offenbar um die Begründung einer stichhaltigen eigenen konzentrationspolitischen Position bemüht, äußert sich jedoch nur vereinzelt kurz zu diesem Thema. Im Jahre 1965 erfolgt der Übergang zur zweiten Phase, die durch programmatische Äußerungen zur Konzentrationspolitik gekennzeichnet ist[5]. Die dritte Phase endlich beginnt 1969/70 und bringt die Transformation erklärter Grundsätze in konkrete Maßnahmen(vorschläge)[6].

Die Ergebnisse dieses Prozesses der Artikulation und der zunehmenden Konkretisierung einer Konzentrationspolitik in der EWG sollen im folgenden systematisch dargestellt und kritisch gewürdigt werden. Dabei steht der Begriff der Konzentrationspolitik für die Gesamtheit der (artikulierten) Bestrebungen, Vorschläge und Maßnahmen, die darauf abzielen und/oder primär geeignet sind, die Entwicklung der Unternehmensgrößenstruktur durch Konzentrationsvorgänge zu beeinflussen und den Gebrauch der mit zunehmender Konzentration verbundenen wirtschaftlichen Macht zu kontrollieren[7]. Im Mittelpunkt steht daher, der zu analysierenden faktischen Politik entsprechend, die Förderung und Beschränkung des externen Unternehmenswachstums in der Industrie der EWG durch horizontale Zusammenschlüsse, und zwar vor allem solche, die eine Verringerung der Zahl und eine Änderung der Größen-

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[5] Hierher gehören vor allem die Denkschrift der EWG-Kommission, Das Problem der Unternehmenskonzentration im Gemeinsamen Markt, vom Jahre 1965 (künftig zitiert als EWG-Kommission, Das Problem der Unternehmenskonzentration . . .; alle Seitenangaben beziehen sich auf die Veröffentlichung dieser Denkschrift als Heft 3 der Reihe Wettbewerb, Brüssel 1966); sowie zentrale Teile des von der Kommission vorgelegten und vom Ministerrat angenommenen Zweiten Programms für die Mittelfristige Wirtschaftspolitik vom Jahre 1968 (künftig zitiert als: Zweites Programm . . .; alle Seitenangaben beziehen sich auf die Veröffentlichung im Amtsblatt der Europäischen Gemeinschaften vom 30. 5. 1969, 12. Jahrgang Nr. L 129, S. 1 ff.).

[6] Von besonderer Bedeutung ist dafür EG-Kommission, Die Industriepolitik . . ., a. a. O.

[7] Die Breite dieses Ansatzes entspricht im wesentlichen der weiten Fassung des Begriffs der Konzentrationspolitik bei *H. Arndt*, Art. Konzentration, in: Sowjetsystem und Demokratische Gesellschaft, München 1970, Sp. 1338 ff.

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verhältnisse jener Unternehmen mit sich bringen, die den Großteil des Angebots mindestens eines Marktes auf sich vereinigen, d. h. zu einem höheren Konzentrationsgrad führen[8].

Als Konzentrationsvorgänge werden dabei nur solche Zusammenschlüsse betrachtet, die zumindest für eines der beteiligten Unternehmen mit der Aufgabe seiner wirtschaftlichen Selbständigkeit als Anbieter auf wenigstens einem Markt verbunden sind. Auch diese Abgrenzung kann zwar den in der Realität fließenden Übergang zwischen Konzentration und Kooperation nicht eindeutig fixieren. Immerhin macht sie deutlich, daß hier primär die verschiedenen Formen finanzieller Beteiligung zwischen Unternehmen, die Verschmelzung zweier oder mehrerer Unternehmen zu einer neuen Gesellschaft sowie personelle Verflechtungen von Unternehmen interessieren, die Zusammenarbeit auf bloß vertraglicher Basis dagegen prinzipiell außer Betracht bleibt. Diese Abgrenzung entspricht der von der Kommission getroffenen Unterscheidung[9]. Sie erscheint hier sachlich insofern gerechtfertigt, als die Kommission die zwischenbetriebliche Zusammenarbeit wettbewerbsrechtlich zunehmend erleichtert hat, so daß aus der in Art. 85 und 86 EWGV angelegten Unausgewogenheit in der wettbewerbspolitischen Behandlung von vertraglichen und faktischen Wettbewerbsbeschränkungen keine eigenständigen, ins Gewicht fallenden Impulse für das externe Unternehmenswachstum ausgehen dürften[10].

Als primärer Träger der Konzentrationspolitik in der EWG wird die Kommission betrachtet. Das läßt sich nicht nur damit begründen, daß es nach Art. 155 EWGV ihre Aufgabe ist, für die Verwirklichung des Gemeinsamen Marktes Sorge zu tragen. Es entspricht auch ihrer tatsächlichen Rolle als Promotor der Unternehmenskonzentration in der EWG. Dabei wird freilich nicht nur auf die Politik der ehemaligen EWG-Kommission abgestellt, sondern auch auf die der Kommission der Europäischen Gemeinschaften (EG-Kommission), die durch Fusion der Exekutiv-Organe von EWG, Euratom und EGKS geschaffen wurde. Da die EG-Kommission als Nachfolgerin der Hohen Behörde der Montan-

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[8] Die Bemühungen der Kommission, bestimmte Formen der Konzentration des Angebots landwirtschaftlicher Produkte zu fördern, müssen hier — schon aus Raummangel — außer Betracht bleiben. Vgl. zum gegenwärtigen Stand dieser Bestrebungen: Geänderter Vorschlag der Verordnung (EWG) des Rates betreffend die landwirtschaftlichen Erzeugergemeinschaften und ihre Vereinigungen, ABl. v. 12. 6. 1970, Nr. C 70, S. 31 ff.

[9] Vgl. EWG-Kommission, Das Problem der Unternehmenskonzentration . . ., a. a. O., S. 13 und S. 21 ff.

[10] Vgl. dazu besonders *K. Spormann,* Die Aufweichung des Kartellverbots im europäischen Wettbewerbsrecht, WuW, 20. Jg. (1970), S. 459—470. Umgekehrt kann sich freilich die erleichterte Kooperation als Wegbereiter für Zusammenschlüsse erweisen. Vgl. dazu allgemein *H. O. Lenel,* Ursachen der Konzentration, Tübingen (1962) 1968², S. 229 ff.

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union somit auch deren Befugnisse aus dem EGKS-Vertrag wahrnimmt, ist die Konzentrationspolitik dieser Instanz soweit zu berücksichtigen, wie es zum Verständnis der Politik der EG-Kommission gegenüber dem Montanbereich erforderlich ist. Auch auf die Rolle der anderen Gemeinschaftsorgane (Ministerrat, Europäisches Parlament und Europäischer Gerichtshof) wird nur insoweit eingegangen, als diese zur materiellen Gestaltung der Konzentrationspolitik beigetragen haben.

Richtschnur für die folgende Analyse bleibt daher uneingeschränkt die Konzentrationspolitik der Kommission. Sie ist anschließend möglichst authentisch darzustellen. Dabei soll aus heuristischen Gründen in Anlehnung an die analytischen Kategorien einer wirtschaftspolitischen Konzeption[11] vorgegangen und schwerpunktmäßig nach der Begründung (Situationsanalyse), den Leitbildvorstellungen (Zielen und ordnungspolitischen Grundsätzen) und den Instrumenten dieser Politik gefragt werden. Dieser Gesamtdarstellung soll dann eine kritische Auseinandersetzung mit der konzentrationspolitischen Konzeption der Kommission folgen.

II. Darstellung der Konzentrationspolitik

A. Die Begründung

Bezeichnet man als Diagnose jene Art von Erklärungsversuchen, die „Unterschiede zwischen dem Sein und dem Seinsollen" aufzeigen, „und sei es auch nur für die Ursachenzurechnung"[12], so umschreibt dieser Begriff recht zutreffend die Bemühungen der Kommission, ihre Konzentrationspolitik zu begründen. Ausgangspunkt ist die Feststellung, daß die europäischen Unternehmen sich infolge der Öffnung der nationalen Märkte im Zuge der Schaffung der EWG einerseits und infolge der scharfen Konkurrenz von seiten der Unternehmen aus Drittstaaten, insbesonders aus den USA, andererseits sowohl innerhalb als — bei der zunehmenden Liberalisierung des Welthandels — auch außerhalb des Gemeinsamen Marktes einer grundlegend veränderten Wettbewerbssituation gegenübersehen. Daraus schließt die Kommission auf die Notwendigkeit einer „beschleunigten Umstrukturierung" der Firmen in den EWG-Ländern.

Sie nennt dafür *allgemein* vor allem zwei Gründe. Zum einen müßten die Unternehmen der EWG ihre noch vorwiegend an den nationalen Märkten orientierten Dimensionen den Größenordnungen des Gemein-

[11] Vgl. *Th. Pütz*, Die wirtschaftspolitische Gesamtkonzeption, in: E. von Beckerath u. a. (Hrsg.): Wirtschaftsfragen der freien Welt, Festschrift für L. Erhard, Frankfurt o. J., S. 44 ff.

[12] *H. Giersch*, Allgemeine Wirtschaftspolitik: Grundlagen, Wiesbaden 1961, S. 44.

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samen Marktes anpassen; denn „der Gemeinsame Markt erfordert Unternehmen europäischen Ausmaßes“[13]. Zum anderen betont sie, daß die erheblichen Größenunterschiede, die zwischen den umsatzstärksten US-Firmen und den entsprechenden Unternehmen der EWG-Länder im allgemeinen und auf einzelnen Märkten im besonderen bestehen, diese Anpassung noch dringlicher machten; denn „in vielen Fällen entsprechen die Wirtschaftsstrukturen in Europa noch nicht den neuen Orientierungen in der Welt“[14]. In dieser Situation sei es daher geboten, „daß sich zahlreiche europäische Unternehmen sowohl durch inneren Ausbau als auch durch den Zusammenschluß mit anderen Unternehmen vergrößern“[15].

Als Ziel dieser Umstrukturierung schwebt der Kommission offenbar die annäherungsweise Verwirklichung optimaler Unternehmensgrößen vor. Obgleich sie selbst feststellt, daß sich darüber allgemeine Aussagen nicht machen lassen[16], geht sie doch wohl davon aus, daß die europäischen Unternehmen weithin suboptimal sind. Denn sie verspricht sich von ihrer Vergrößerung durch internes oder externes Wachstum erhebliche Vorteile.

Ein Vergleich der Äußerungen zu diesem Thema zeigt zwar erhebliche Unterschiede in der Akzentsetzung. Als wesentlich werden jedoch wiederholt vor allem drei zu erwartende Vorteile genannt: „Das Wachstum der Unternehmen wird eine Verbesserung der Rentabilität, eine Beschleunigung des technischen Fortschritts und eine Verringerung der Produktionskosten ermöglichen.“[17] Verfolgt man die Beurteilung der Gültigkeit dieser drei Argumente durch die Kommission im Zeitablauf, so zeigt sich eine gewisse Differenzierung dieser sehr allgemeinen Feststellungen.

Die von der Schaffung größerer Unternehmen zu erwartenden Vorteile auf dem Gebiet der technologischen Entwicklung hat die Kommission zunächst hoch eingeschätzt[18] und als den vielfach entscheidendsten Grund für die Schaffung größerer Unternehmen in der EWG betrachtet. Inzwischen hat sie diese Auffassung jedoch erheblich modifiziert. Einerseits empfiehlt sie neuerdings kleineren und mittleren Unternehmen für die Deckung ihres Bedarfs an technologischer Entwicklung Kooperation statt Konzentration[19]. Doch auch für Zusammenschlüsse von Großunter-

[13] EWG-Kommission, Das Problem der Unternehmenskonzentration . . ., a. a. O., S. 5.
[14] Ibid., S. 8.
[15] Ibid.
[16] Ibid., S. 7/8.
[17] Ibid., S. 7.
[18] Vgl. ibid., S. 8.
[19] Vgl. Zweites Programm . . ., a. a. O., S. 17; sowie EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 321.

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nehmen hat das in Frage stehende Argument für die Kommission wohl seine generelle Gültigkeit verloren, da die stärkste Dynamik und die größte Risikobereitschaft keineswegs immer von den größten Unternehmen ausgehe[20]. Außerdem anerkennt sie selbst, daß der von den größten Unternehmen für Forschung und Entwicklung „bereitgestellte Prozentsatz des Umsatzes" in der EWG nicht immer geringer ist als in den USA[21]. Als voll gültig erachtet sie das Argument offenbar nur noch für die sog. „Sektoren fortgeschrittener Technologie" (Computerbau, Luft- und Raumfahrtindustrie, Reaktorbau). Hierfür hat sie selbst begründende Studien vorgelegt[22]. Außerdem kann sie sich auf die bekannten OECD-Studien stützen[23]. Inwieweit das in Frage stehende Argument darüber hinaus Gültigkeit besitzt, bleibt offen.

Das Argument, die moderne Produktionstechnik zwinge zu immer größeren Unternehmen, wird in dieser allgemeinen Form 1969 noch einmal vorgebracht[24], aber auch in diesem Zusammenhang nicht weiter präzisiert oder vertieft. In dem an anderer Stelle durchgeführten Vergleich der Betriebsgrößenstruktur der Industrie in den USA und in den EWG-Ländern ist jedoch ein Versuch zu sehen, diese produktionstechnologische Begründung der Forderung nach größeren europäischen Unternehmen empirisch zu testen[25]. Dabei zeigt sich, daß (1) die „optimalen Betriebsgrößenklassen"[26] der einzelnen Industriezweige in den verschiedenen Ländern weitgehend übereinstimmen; (2) der Anteil an den Gesamtbeschäftigten eines Sektors jedoch, den die zu der jeweils optimalen Betriebsgrößenklasse gehörenden Betriebe auf sich vereinigen, in den EWG-Ländern zwar durchweg geringer ist als in den USA, wobei allerdings zwischen den EWG-Ländern selbst erhebliche Unterschiede bestehen; aber (3) die durchschnittlichen Beschäftigungszahlen in Großbetrieben (über 1000 Beschäftigte) in den wichtigsten Industriezweigen aller Länder durchaus vergleichbar sind, ja in einzelnen Sektoren das eine oder andere EWG-Land sogar an der Spitze steht. Daraus folgert

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[20] Vgl. Zweites Programm . . ., a. a. O., S. 17.

[21] Vgl. EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 317.

[22] So vor allem: Probleme der Elektronik, veröffentlicht als Anhang II zum Entwurf des Zweiten Programms für die mittelfristige Wirtschaftspolitik, KOM (68) 148 endg., Brüssel 1968; sowie: Umstrukturierung der Elektromaschinenbauindustrie in der Gemeinschaft, von der Kommission dem Rat vorgelegt, Brüssel, den 22. April 1970, SEK (70), 613 endg. (fotomechanisch vervielfältigt).

[23] Vgl. OECD, Gaps in Technology between Member Countries: General Report, Paris 1968; sowie die relevanten Einzelstudien.

[24] Vgl. Zweites Programm . . ., a. a. O., S. 17.

[25] Vgl. EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 95 ff. Die Angaben beziehen sich auf die Jahre 1962/63.

[26] Als optimal werden dabei jeweils diejenigen Betriebsgrößenklassen betrachtet, die in den einzelnen Sektoren im internationalen Vergleich am häufigsten den größten Teil der in den jeweiligen Sektoren Beschäftigten auf sich vereinigten. Ibid., S. 97.

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die Kommission, daß eine „etwaige Schwäche der europäischen Industrie auf diesem speziellen Gebiet" wohl weniger darin bestehen könne, „daß die Dimension ihrer Großbetriebe hinter der der entsprechenden Betriebe in den Hauptkonkurrenzländern zurücksteht", sondern vielmehr darin zu sehen sei, „daß ihre Zahl, vor allem in Frankreich und Italien, zumindest im Vergleich zu den Vereinigten Staaten, proportional geringer ist"[27].

Was endlich das Rentabilitäts-Argument angeht, so hat es die Kommission zunächst zurückhaltend geäußert und eher verharmlost[28]. Ein paar Jahre später aber erschien ihr eine „ungenügende Rentabilität" als „die Schwäche, die die Unternehmen der Mitgliedsländer am stärksten kennzeichnet"[29]. Sie gibt zu, daß die Lage nicht für alle Firmen gleich ungünstig ist. „Dennoch ist die ungenügende Rentabilität ... so verbreitet, daß sie hinreichend Anlaß zur Besorgnis gibt."[30] In so verschiedenen Industriezweigen wie der Automobilindustrie, der Elektrotechnik, der Chemie, der Erdöl- und der Stahlindustrie sei die Gewinnmarge der größten drei Anbieter (d. h. der Nettogewinn im Verhältnis zum Umsatz), nur etwa halb so hoch wie die der entsprechenden US-Unternehmen.

Die Gründe dafür seien „zahlreich und komplex" und lägen sicherlich z. T. auch außerhalb der Unternehmen. „Die Hauptursachen müssen jedoch wohl bei den Unternehmen selbst gesucht werden, und zwar in ihrer Organisation und in ihrer Betriebsführung ...."[31] Als „Fehler", die in diesem Zusammenhang relevant sind, werden vor allem eine „zu geringe Spezialisierung im Verhältnis zur Größe", eine „zu geringe Größe im Verhältnis zur Breite des Produktionsprogramms" und „das Mitschleppen wenig rentabler Geschäftszweige" angeprangert[32]. Da die oftmals niedrige Rentabilität europäischer Unternehmen ihre Selbstfinanzierungsmöglichkeiten beschränke, könne „ein circulus vitiosus mit negativen Wirkungen für ihre Leistungsfähigkeit entstehen. Ihm muß angesichts des ständig wachsenden Wettbewerbs mit grundlegenden Reformen der Strukturen und Verhaltensweisen der Unternehmen dringend entgegengewirkt werden"[33].

B. Die Leitbildvorstellungen

Als das wohl wesentlichste, wenn auch nicht einzige Mittel zur Verwirklichung dieser Forderung nach „grundlegenden Reformen der

[27] Ibid., S. 106.
[28] Vgl. EWG-Kommission, Das Problem der Unternehmenskonzentration ..., a. a. O., S. 8.
[29] Zweites Programm ..., a. a. O., S. 16.
[30] Ibid.
[31] Ibid.
[32] Ibid., S. 16/17.
[33] Ibid., S. 17.

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Strukturen" betrachtet die Kommission Zusammenschlüsse von Unternehmen oder Unternehmensteilen zu leistungsfähigeren Einheiten. Deshalb sieht sie es prinzipiell als ihre Aufgabe an, Unternehmenszusammenschlüsse in der EWG zu fördern. Da die optimale Unternehmensgröße von Branche zu Branche vermutlich sehr verschieden und weithin überhaupt unbekannt ist, erhebt sich die Frage nach anderen konkreten Leitbildvorstellungen oder Referenzkriterien für eine solche Politik: Welche Unternehmen sollen sich in welchem Ausmaß zusammenschließen? Welche Grenzen sind Zusammenschlüssen zu setzen?

In einer der wenigen direkten Antworten auf diese Frage fordert die Kommission: „Das Ziel muß sein, das Auftreten von Unternehmen möglich zu machen und sogar zu erleichtern, die ... in der Lage sein müssen, in Europa und auf dem Weltmarkt den Wettbewerb mit den Giganten in Übersee aufzunehmen."[34] Der Versuch einer Präzisierung dieser Aussage stößt allerdings auf Schwierigkeiten, da relevante Äußerungen meist allgemein gehalten und nicht selten mit weitreichenden, aber unbestimmten Vorbehalten versehen sind. Immerhin lassen sich vor allem mit Hilfe negativer und illustrativer Stellungnahmen einige Konturen der konzentrationspolitischen Leitbildvorstellungen der Kommission verdeutlichen.

Zunächst stellt sie klar, daß „nicht systematisch alle Unternehmen zu einer Erweiterung ihrer Unternehmensgröße veranlaßt werden"[35] sollen, weil sie auch für die Zukunft Firmen verschiedener Größe für erwünscht und lebensfähig hält. Die Chance der kleineren und mittleren Unternehmen bestehe in der Wahrnehmung spezifischer Aufgaben (wie Spezialproduktionen, Neuheiten, Zulieferungen). Anpassungsprobleme, die diesen Firmen die Entwicklung der Nachfrage und der Technik stelle, könnten „eher im Wege der Spezialisierung und der zwischenbetrieblichen Zusammenarbeit als im Wege der Konzentration gemeistert"[36] werden. Gleichzeitig aber sieht die Kommission „für zahlreiche Unternehmen manchmal sehr dringende Anpassungsprobleme, die nur über eine Verbesserung ihrer Größenordnung gelöst werden können"[37]. Die Anforderungen, welche die Forschung und die Einführung „modernster Produktionsverfahren" bei der zunehmenden Integration der Märkte mit sich bringen, lassen nach ihrer Ansicht „Zweifel an der Lebensfähigkeit der gegenwärtigen Größenordnungen entstehen:

> Dies gilt selbst für solche Unternehmen, die angesichts der technischen und kommerziellen Gegebenheiten in der Vergangenheit als relativ groß betrachtet werden konnten, die jedoch den heutigen Erfordernissen schon

[34] EG-Kommission, Die Industriepolitik ..., a. a. O., S. 27.
[35] Zweites Programm ..., a. a. O., S. 16.
[36] Ibid., S. 17.
[37] Ibid.

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nicht mehr und denen der nächsten Zukunft noch weniger entsprechen. Einen Hinweis dafür gibt ein Vergleich des Umfangs der größten Unternehmen der Mitgliedsländer mit dem Umfang gleichartiger und konkurrierender Unternehmen von Nichtmitgliedsländern, namentlich der Vereinigten Staaten. Dieser Vergleich zeigt oft ein erhebliches Mißverhältnis des Größengefälles zugunsten der amerikanischen Unternehmen ... Zieht man außerdem in Betracht, daß sie gewöhnlich [auch relativ] sehr viel höhere Gewinne erwirtschaften, so ergibt sich ... eine Überlegenheit an Mitteln ..., die folgenschwer ist ... Daher werden die Unternehmen, die in ihren jeweiligen Sektoren weiterhin eine Spitzenrolle spielen wollen, normalerweise auf dem Wege über eine Anpassung ihrer Größe nach oben eine Lösung ihrer strukturellen Probleme suchen müssen"[38].

Damit werden für diese zweite Kategorie von Unternehmen, die eigentlichen Großunternehmen der Industrie, offenbar die Größenordnungen relevanter US-Unternehmen zum konzentrationspolitischen Leitbild deklariert, wenn auch „gleich große Dimensionen" „nicht unbedingt erforderlich" sind[39]. Im Interesse ihrer Wettbewerbsfähigkeit müßten den europäischen Firmen jedoch „gleichwertige Möglichkeiten eröffnet werden". Was darunter zu verstehen ist, wird allerdings nicht erläutert. Man geht jedoch wohl kaum fehl in der Vermutung, daß damit Zusammenschlüsse von Unternehmen zur Annäherung an die Größenordnungen amerikanischer Leitbilder grundsätzlich als wünschenswert zu betrachten sind, solange sie die Entfaltung eines wirksamen Wettbewerbs nicht gefährden. Die Bestimmung dieser Grenze wird dann freilich zur zentralen Frage.

Diese Interpretation der konzentrationspolitischen Intentionen der Kommission wird durch andere relevante Äußerungen nicht in Frage gestellt, sondern eher bestätigt. So beurteilt sie den sich beschleunigenden Konzentrationsprozeß in den EWG-Ländern „im großen und ganzen positiv"[40] und hält es für erforderlich, daß dieser sich „noch erheblich" verstärkt, wenn die Anpassung „an die neuen Gegebenheiten" rasch vollzogen werden soll[41]. Selbst in einer Politik „der größtmöglichen Förderung der Konzentration im nationalen Rahmen" sieht sie nur „bei gleichzeitigen Versuchen, transnationale Verbindungen oder Zusammenschlüsse einzuschränken", „sehr große Gefahren" für die Verwirklichung des Gemeinsamen Marktes[42]. Dabei befürchtet sie offenbar die Bildung nationaler Einheitsgesellschaften, die früher oder später der direkten Kontrolle der nationalen Regierungen unterstellt werden und die Inte-

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[38] Ibid., S. 17/18 und 20.
[39] EWG-Kommission, Das Problem der Unternehmenskonzentration ..., a. a. O., S. 8.
[40] EG-Kommission, Die Industriepolitik ..., a. a. O., S. 26.
[41] Zweites Programm ..., a. a. O., S. 20.
[42] EG-Kommission, Die Industriepolitik ..., a. a. O., S. 26.

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gration der relevanten nationalen Märkte zumindest de facto weitgehend verhindern könnten.

Damit wurden bereits zwei von drei Grundsätzen angesprochen, von denen sich die Kommission bei der konkreten Gestaltung ihrer Konzentrationspolitik vor allem leiten lassen will: Zunächst sollen die erforderlichen Zusammenschlüsse möglichst die Verschmelzung der nationalen Märkte begünstigen. Deshalb betrachtet die Kommission Zusammenschlüsse „über die Grenzen hinweg" als besonders wünschenswert und förderungswürdig. „Gegenüber solchen Zusammenschlüssen erscheint ganz allgemein eine positive Einstellung erforderlich"[43]. Das gilt insbesondere für die Sektoren fortgeschrittener Technologie, wo nach ihrer Ansicht meist „kein Platz für so viele Unternehmen (ist), wie die Gemeinschaft Länder hat", ja mitunter „sogar der Gemeinschaftsraum eine unzureichende Existenzgrundlage"[44] bietet. Nach dem zweiten Grundsatz soll durch Maßnahmen zur Förderung der Konzentration die Entscheidungsfreiheit des Unternehmers nicht eingeschränkt werden[45]. Das schließt freilich den Einsatz finanzieller Anreize ebenso wenig aus wie öffentliche Appelle. Was unangetastet bleiben soll, ist das Recht des Unternehmers, sich dagegen auszusprechen.

Dem dritten Grundsatz zufolge soll ein „wirksamer" Wettbewerb aufrechterhalten, ja gefördert werden, da er „den besten Anreiz für die Anpassung" biete[46]. Was darunter zu verstehen ist, bleibt im wesentlichen offen. Immerhin stellt die Kommission fest, im Interesse der Aufrechterhaltung eines „effektiven" Wettbewerbs auf dem Gemeinsamen Markt „müßten" sektoral „die größten Unternehmen eines Landes *nicht unbedingt* die entsprechenden Unternehmen eines Nachbarlandes absorbieren"[47]. Abgesehen davon, daß diese Äußerung für die Sektoren fortgeschrittener Technologie vermutlich nicht gilt, ist damit freilich über die rechtliche Zulässigkeit von Zusammenschlüssen solcher Größenordnung auf der Basis des geltenden Wettbewerbsrechts auch generell noch nichts gesagt.

Als Zwischenergebnis ist somit festzuhalten: Zur Verwirklichung der Entwicklungsmöglichkeiten, die der im Entstehen begriffene Gemeinsame Markt bietet, und zur Herstellung der Chancengleichheit der europäischen Industrie im internationalen Wettbewerb hält die Kommission eine entschiedene Förderung von Unternehmenszusammen-

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[43] EWG-Kommission, Das Problem der Unternehmenskonzentration . . ., a. a. O., S. 8.
[44] EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 177.
[45] Vgl. z. B. EG-Kommission: Die Industriepolitik . . ., a. a. O., S. 181 f.
[46] Zweites Programm . . ., a. a. O., S. 16.
[47] EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 177 (Betonung hinzugefügt).

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schlüssen in der EWG für dringend erforderlich. Sie erwartet davon für die zu bildenden Unternehmen vor allem eine bessere Nutzung moderner Methoden der Massenproduktion, eine höhere Rentabilität und damit auch bessere Voraussetzungen für die Finanzierung kostspieliger Entwicklungsvorhaben insbesondere in technologischen „Spitzensektoren". Dabei orientiert sie sich prinzipiell an amerikanischen Vorbildern. Als entscheidende Grenze wünschenswerter Konzentration betrachtet sie lediglich die strukturellen Bedingungen für die Entfaltung eines wirksamen Wettbewerbs. In diesem Rahmen sieht sie ihre spezielle Aufgabe in der Förderung grenzüberschreitender Zusammenschlüsse. Dabei will sie alle Mittel, die ihr aufgrund der Verträge zur Schaffung der europäischen Gemeinschaften offenstehen, nutzen, soweit sie die unternehmerische Entscheidungsfreiheit unangetastet lassen.

Die von der Kommission im Rahmen dieser Politik vorgeschlagenen oder durchgeführten Maßnahmen sollen nunmehr in einem kurzen Überblick dargestellt werden.

C. Die Förderung der Unternehmenskonzentration

Es ist vermutlich weitgehend auf die jahrelange politische Krise der EWG zurückzuführen, daß die Kommission die Erarbeitung konkreter Instrumente zur Förderung der für nötig erachteten Unternehmenszusammenschlüsse erst in jüngster Zeit entschieden in Angriff genommen hat. Was bisher vorliegt, sind daher meist erst Vorschläge, die noch der Zustimmung des Ministerrats bedürfen, und Absichtserklärungen. Die Wahl der Instrumente läßt deutlich erkennen, daß es der Kommission vor allem darum geht, bei aller Begrenztheit ihrer Kompetenzen den bereits in Gang befindlichen Konzentrationsprozeß im Sinne ihrer Präferenz für grenzüberschreitende Zusammenschlüsse zu kanalisieren.

Das konzentrationspolitische Aktionsprogramm der Kommission umfaßt vorläufig drei Schwerpunkte, die sich nach ihren Ansatzpunkten unterscheiden lassen: Maßnahmen des Gesellschaftsrechts, des Steuerrechts und der finanziellen Förderung. Als das bisher wirksamste Instrument aber ist wohl das der „moral suasion" zu betrachten, dessen sich die Kommission ausgedehnt bedient (hat), um private Entscheidungsträger zu einem Verhalten im Sinne ihrer Intentionen zu ermutigen. Auf diesen integralen und integrierenden Bestandteil der Konzentrationspolitik in der EWG ist daher zunächst kurz einzugehen.

1. Werbende Stellungnahmen

Die Kommission hat, wie oben gezeigt wurde, vor allem in den letzten fünf Jahren in zahlreichen programmatischen Äußerungen versucht, die

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dringende Notwendigkeit von grenzüberschreitenden Unternehmenszusammenschlüssen in der EWG zu begründen. Auch wenn sie diese Stellungnahmen nicht „als systematische Befürwortung" solcher Verbindungen angesehen wissen will[48], sorgen die sehr allgemeinen Begründungen und die vagen Zielvorstellungen dafür, daß sie kaum anders verstanden werden können. Tatsächlich dürfte es kaum eine Industriebranche oder eine Großunternehmung geben, die bei Bedarf nicht das eine oder andere der relevanten Argumente für sich in Anspruch nehmen könnte. In jedem Fall bezweckt die Kommission mit diesen Verlautbarungen wohl auch zweierlei: Sie setzt das Gewicht ihrer Autorität ein, um den — schon von anderer Seite in Gang gebrachten — Abbau der sog. „psychologischen" Widerstände gegen Unternehmenszusammenschlüsse in der EWG zu beschleunigen und auf dieser Basis „europäische Industriekonzentrationen" zu ermutigen[49].

Es entspricht ganz dieser Intention, wenn die Kommission kooperations- und konzentrationsfreudige Unternehmen auffordert, „sich zunächst (zu) fragen, ob es nicht zweckmäßig ist, einen Partner innerhalb des Gemeinschaftsraumes zu suchen"[50]. Die von den Angesprochenen bisher gezeigte Präferenz für Zusammenschlüsse mit Partnern aus dem gleichen Mitgliedstaat oder aus einem Drittland findet sie zwar erklärlich, zumal für schrumpfende oder technologisch stagnierende Bereiche; für „dynamische Bereiche" aber seien solche Verbindungen „weder die beste Antwort auf die modernen Formen des Wettbewerbs noch die beste Ausnutzung der neuen Möglichkeiten, die sich mit der Schaffung der Gemeinschaft bieten"[51]. Sie räumt ein, daß die Entscheidungen über erfolgversprechende Zusammenschlüsse letztlich nur auf der Basis der spezifischen Gegebenheiten des Einzelfalls getroffen werden können, äußert jedoch gleichzeitig die Vermutung, daß die am bisherigen Konzentrationsprozeß beteiligten Unternehmen „zwei wichtige Faktoren in ihrem Wert nicht richtig erkannt" hätten[52]; sie hätten die „rechtliche und politische Sicherheit" und die Vorteile, die der Gemeinsame Markt schon heute und vor allem in Zukunft bietet, unterschätzt und gleichzeitig die zweifellos vorhandenen Schwierigkeiten überbewertet. Fehlschläge und Enttäuschungen seien durch ein bewußtes „Fusionsmanagement", d. h. durch die Beachtung bestimmter aus der Erfahrung gewonnener Verhaltensregeln vermeidbar[53].

Freilich genügt weder der „Wille zur Konzentration" noch das beste „Fusionsmanagement", um die angestrebte Umstrukturierung zu ver-

[48] Ibid., S. 162.
[49] Ibid., S. 182.
[50] Ibid., S. 167.
[51] Ibid., S. 163.
[52] Ibid., S. 164.
[53] Ibid., S. 166.

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wirklichen, solange die Transparenz auf dem Gemeinschaftsmarkt für Unternehmensverbindungen gering ist. Deshalb bemüht sich die Kommission neuerdings um eine Lösung auch dieses Problems — vorläufig primär in Gestalt von Empfehlungen.

Zunächst weist sie die Berufsverbände und Arbeitgeberverbände darauf hin, daß sie eine „besonders nützliche Rolle" spielen könnten, wenn sie ihre Mitglieder über die sich in der Gemeinschaft stellenden Umstrukturierungsprobleme eingehend informierten und „die verschiedenen Interessenten miteinander in Verbindung brächten"[54]. Besonders dringlich sei die Unterstützung der Klein- und Mittelbetriebe bei der Suche nach etwaigen Partnern in anderen Mitgliedsländern, da es in Europa „trotz einiger begrenzter Versuche" keine Institution gebe, die unter Wahrung der unerläßlichen Diskretion diese Maklerfunktion ausübt. Nach Ansicht der Kommission wären die Großbanken der Gemeinschaft am besten geeignet, diese Lücke zu füllen. Zwar hätten diese trotz der Gründung einiger multinationaler Tochtergesellschaften, die sich auf diese Maklerfunktion und das damit zusammenhängende Dienstleistungsangebot spezialisieren sollten, bisher „nur wenig Erfolge auf Gemeinschaftsebene zu verzeichnen"[55]. Um so mehr erwartet sie von diesen nationalen Instanzen, künftig durch „eine organisierte Zusammenarbeit" dazu beizutragen, daß „die industrielle Umstrukturierung Gemeinschaftsdimensionen annimmt"[56].

Für den Fall, daß der zur Förderung internationaler Konzentrationsprozesse für dringend erforderlich erachtete Bedarf an Informationen, Vermittlung und Dienstleistungen auf diese Weise nicht zufriedenstellend gedeckt werden kann, stellt sie die Schaffung eines „Instruments zur Erleichterung und Förderung der Umstrukturierung von Unternehmen in der Gemeinschaft über die Grenzen hinweg" in Aussicht. Dabei schwebt ihr offenbar eine Institution nach dem Muster der englischen Industrial Reorganization Corporation und des französischen Institut de Development Industriel vor[57].

2. Gesellschaftsrechtliche Maßnahmen

Soweit es heute in der EWG zu grenzüberschreitenden Zusammenschlüssen kommt, erfolgen diese fast ausnahmslos in Gestalt finanzieller Verflechtungen (Beteiligungen, Gründung von Tochterunternehmen oder Holding-Gesellschaften). Dies erklärt sich vermutlich nicht nur aus der speziellen Eignung jeder dieser Formen für bestimmte Zwecke, sondern

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[54] Ibid., S. 167.
[55] Ibid., S. 181.
[56] Ibid.
[57] Ibid., S. 180.

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auch daraus, daß das bislang in der EWG geltende (nationale) Gesellschaftsrecht Fusionen zwischen Firmen verschiedener Mitgliedstaaten praktisch unmöglich macht[58]. Da die Kommission aber zumindest in manchen Fällen eine transnationale Fusion als die beste Voraussetzung für die angestrebte Umstrukturierung ansieht, will sie die dafür nötigen gesellschaftsrechtlichen Grundlagen schaffen. Sie verfolgt dieses Ziel gleichzeitig auf zwei Wegen: einmal durch ein Abkommen zwischen den Mitgliedsländern und zum anderen durch ein Statut über eine Europäische Aktiengesellschaft (EAG).

Den ersten Weg zeichnet der EWG-Vertrag selbst vor, wenn er die Mitgliedstaaten auffordert, „soweit erforderlich" die „Verschmelzung von Gesellschaften, die den Rechtsvorschriften verschiedener Mitgliedstaaten unterstehen", zu ermöglichen (Art. 220). Praktisch setzt die Realisierung jedoch die weitgehende Harmonisierung des nationalen Gesellschaftsrechts und die wechselseitige Anerkennung der nationalen Handelsgesellschaften durch alle Mitgliedsländer voraus. Die Bemühungen zur Herstellung dieser Vorbedingungen haben bisher erst zu Teilergebnissen geführt. Zwar wurde ein Übereinkommen über die gegenseitige Anerkennung von Kapitalgesellschaften erreicht[59]. Im Bereich der Harmonisierung des Gesellschaftsrechts aber wurde lediglich eine erste Richtlinie über die Angleichung allgemeiner Schutzvorschriften vom Ministerrat verabschiedet[60]. Zwei weitere Richtlinien hat die Kommission vorgelegt, andere werden vorbereitet[61]. Inwieweit die Verwirklichung dieses umfangreichen Harmonisierungs-Programms als Vorbedingung für den Abschluß der angestrebten Konvention über die internationale Fusion anzusehen ist, kann heute noch nicht gesagt werden. Deshalb ist auch der Zeitpunkt nicht abzusehen, von dem an internationale Fusionen in der EWG auf der Basis nationalen Gesellschaftsrechts möglich sein werden.

Das ist sicher ein Grund dafür, daß die Kommission, den zweiten Weg zur Erreichung dieses Zieles gleichzeitig und mit großer Entschiedenheit beschritten hat: die Schaffung eines Statuts einer Europäischen Aktiengesellschaft. Der entscheidende Grund allerdings liegt wohl darin, daß die angestrebte Konvention auf der Grundlage der Rechtsangleichung nichts daran zu ändern vermag, daß jede Gesellschaft dem Recht eines Mitgliedstaats untersteht, d. h. in diesem Sinne eine „nationale" Gesellschaft bleibt. Auf diesem Wege ist also die von der Kommission als

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[58] Zu den Hinderungsgründen im einzelnen vgl. ibid., S. 153 f.

[59] Übereinkommen über die gegenseitige Anerkennung von Gesellschaften vom 29. Februar 1968; vgl. dazu Bulletin der EG, Sonderbeilage Nr. 2 (1969).

[60] Vgl. Erste Richtlinie zur Angleichung der nationalen Handels- und Gesellschaftsrechte, ABl. v. 14. 3. 1968, Nr. L 65, S. 8 ff.

[61] Vgl. dazu: Zweiter Gesamtbereicht der Gemeinschaften (1968), S. 87 (Tz. 84).

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sehr beträchtlich erachtete psychische Barriere gegen internationale Fusionen nicht zu beseitigen. Dieses Hindernis kann nur durch die Schaffung einer europäischen Gesellschaftsform überwunden werden. Die Kommission hat deshalb kürzlich den Entwurf eines Statuts einer Europäischen Aktiengesellschaft vorgelegt[62]. Die darin vorgesehene europäische Gesellschaftsform soll sich auf ein für die gesamte Gemeinschaft einheitliches und unmittelbar geltendes Recht stützen, das einheitlich vom Europäischen Gerichtshof interpretiert wird. Die Europäische Aktiengesellschaft ist allerdings nicht daraufhin angelegt, die nationalen Gesellschaftsformen zu verdrängen. Sie ist vielmehr auf die Deckung des skizzierten gesellschaftsrechtlichen Bedarfs abgestellt.

Nur Unternehmen verschiedener Mitgliedsstaaten, die eine Fusion, die Bildung einer Holding-Gesellschaft oder die Gründung einer gemeinsamen Tochterfirma anstreben, können sich dieser Rechtsform bedienen. Das Mindestkapital ist so niedrig gewählt, daß auch mittlere Unternehmen davon Gebrauch machen können. Im übrigen orientiert es sich an den mutmaßlichen Ergebnissen der im Gang befindlichen Harmonisierung der nationalen Gesellschaftsrechte, so daß es allgemein im Vergleich mit diesen für Unternehmen keine ins Auge fallenden Vor- oder Nachteile bietet.

In dem Bemühen, die gesellschaftsrechtlichen Möglichkeiten für grenzüberschreitende Zusammenschlüsse dem ganzen Spektrum praktischer Bedürfnisse möglichst weitgehend anzupassen, prüft die Kommission neuerdings die Möglichkeit einer weiteren Ergänzung des vorliegenden Angebots.

Dabei denkt sie einerseits an die Einführung einer „Zwischenform zwischen Kooperation und Konzentration", d. h. einer Rechtsform, die möglichst Rechtspersönlichkeit besitzen sollte und Unternehmen eine Zusammenlegung einzelner Unternehmensfunktionen gestattet, ohne daß eine „Änderung in der Persönlichkeit und rechtlichen Autonomie der beteiligten Unternehmen" eintreten soll[63]. Als das „zweifellos interessanteste" Experiment dieser Art betrachtet die Kommission das französische „Groupement d'interèt economique", das speziell für diesen Zweck geschaffen wurde. Sie glaubt, bald mit ausreichendem zeitlichem Abstand beurteilen zu können, ob die französischen Erfahrungen die Übernahme dieser Rechtsform durch die anderen Mitgliedsstaaten oder sogar die Gemeinschaft als geboten erscheinen lassen „wie verschiedene nationale Berufsverbände in Europa es wünschen"[64].

Als zweite Erweiterung der gesellschaftsrechtlichen Möglichkeiten internationaler Zusammenschlüsse erwägt die Kommission die im Euratom-Vertrag vorgesehene multinationale Rechtsform, das sog. „gemeinsame Unter-

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[62] Vgl. EG-Kommission, Europäische Aktiengesellschaft. Vorschlag der Kommission an den Rat, KOM (70) 600 endg. — 3 Teile, vom 24. Juni 1970.
[63] EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 145 f.
[64] Ibid., S. 147.

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nehmen", den Bedürfnissen der Gesamtgemeinschaft anzupassen[65]. Die Vorschriften über die Gründung solcher für die Kernindustrie gedachten Unternehmen sind allerdings weitgehend auf die Errichtung gemeinsamer Tochtergesellschaften zur Durchführung bestimmter begrenzter Aufgaben zugeschnitten. Die Kommission arbeitet deshalb offenbar daran, durch eine Änderung dieser Bestimmungen die Rechtsgrundlage für bestimmte Sonderformen industrieller Zusammenarbeit, insbesondere in den Sektoren „der fortgeschrittenen Technologie", zu schaffen. Die resultierende Rechtsform wird jedoch — im Gegensatz zu den bisher diskutierten — privaten Unternehmen nicht ohne weiteres offenstehen.

3. Steuerrechtliche Maßnahmen

Neben den skizzierten gesellschaftsrechtlichen Lücken sind nach Ansicht der Kommission steuerrechtliche Vorschriften „die größten Hindernisse, die internationalen Unternehmenszusammenschlüssen im Wege stehen"[66]. Das nationale Steuerrecht erschwert aber nicht nur, wie das entsprechende Gesellschaftsrecht, Fusionen, sondern auch Verflechtungen auf der Basis von Beteiligungen zwischen Unternehmen verschiedener Mitgliedstaaten.

Das herkömmliche Steuerrecht entmutigt Fusionen insofern ganz allgemein, als es den Wertzuwachs, der bei der Einbringung eines Unternehmens als Unterschied zwischen dem tatsächlichen und dem Steuerbilanzwert des Vermögens zutage tritt, einer sofortigen Besteuerung unterwirft. Alle Mitgliedstaaten haben inzwischen diese steuerliche Hürde für „intranationale" Fusionen abgebaut. Diese Regelungen gelten jedoch nicht für internationale Fusionen. Firmen, die ihr Vermögen in ein ausländisches Unternehmen einbringen, gelten nach wie vor als aufgelöst und unterliegen daher uneingeschränkt der relevanten Besteuerung. Das geltende Steuerrecht privilegiert somit eindeutig Zusammenschlüsse von Firmen gleicher Nationalität[67].

Die Kommission hat zur Beseitigung auch dieser Diskriminierung internationaler Fusionen bereits konkrete Vorschläge unterbreitet[68]. Die inzwischen auch vom Europäischen Parlament[69] gut geheißene Regelung sieht — in Anlehnung an die Behandlung nationaler Fusionen — vor, die

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[65] Vgl. ibid., S. 152 f.
[66] Ibid., S. 159.
[67] Vgl. dazu allgemein *H. von der Groeben*, Die Bedeutung der Steuerangleichung für die europäische Integration, Heft 89 der Schriftenreihe des Instituts „Finanzen und Steuern", Bonn 1968.
[68] Vgl. Vorschlag einer Richtlinie des Rates über das gemeinsame Steuersystem für Fusionen, Spaltungen und die Einbringung von Unternehmensteilen, die Gesellschaften verschiedener Mitgliedstaaten betreffen (von der Kommission dem Rat vorgelegt am 16. Januar 1969), ABl. Nr. C 39, vom 22. 3. 1969, S. 1 ff.
[69] Vgl. Europäisches Parlament, Sitzungsdokumente 1969/70, Dokument Nr. 206 vom 3. Februar 1970.

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Zahlung der Steuern auf die Wertsteigerungen bis zu ihrer tatsächlichen Realisierung durch die übernehmende Gesellschaft hinauszuschieben. Diese Aufschiebung ist an die Voraussetzung gebunden, daß die betroffenen Vermögenswerte der einbringenden Gesellschaft dem fiskalischen Zugriff des Staates, dessen Rechtsordnung sie bis zur Fusion unterstanden, nicht entzogen werden (z. B. durch eine Übertragung in den Staat der übernehmenden Gesellschaft). Dadurch soll verhindert werden, daß der Staat der einbringenden Firma steuerliche Nachteile erleidet, die ihn zu einer Blockierung solcher Fusionen veranlassen könnten. Die eingebrachten Wirtschaftsgüter sollen somit nur der „harmonisierten" Gesellschaftssteuer unterliegen. Dagegen dürfte eine Besitzwechselsteuer oder eine ähnliche Abgabe nicht erhoben werden. Auch Wertsteigerungen von Beteiligungspapieren und die Aushändigung der neuen Teilhaberpapiere sollen keiner Steuer unterliegen. Die Regeln sollen grundsätzlich auch für die Einbringung einzelner Unternehmensteile gelten[70].

Während sich die bisher skizzierten Regelungen auf die steuerrechtliche Behandlung des *Fusionsvorgangs* selbst beziehen, gehört zu einer wirksamen steuerrechtlichen Erleichterung internationaler Fusionen auch eine für alle Beteiligten befriedigende Verteilung der Kompetenzen zur Gewinnbesteuerung des aus dem Zusammenschluß resultierenden Unternehmens, das ja in aller Regel wenigstens in zwei Mitgliedsstaaten Betriebsstätten besitzt. Nach der von der Kommission vorgeschlagenen Lösung dieses Problems soll der Gewinn grundsätzlich von demjenigen (Mitglied-)Staat versteuert werden, in dem er entsteht[71]. Entsprechend ist jeder Mitgliedstaat berechtigt, Gewinne eines Betriebs zu versteuern, der zu einer Gesellschaft gehört, die der Gesetzgebung eines anderen Mitgliedstaats unterliegt. Umgekehrt hat jeder Mitgliedstaat auf die Besteuerung der Gewinne von Betriebsstätten, die ein seiner Gesetzgebung unterstehendes Unternehmen in einem anderen Mitgliedsland besitzt, zu verzichten[72].

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[70] In dem Sonderfall, daß das einbringende Unternehmen eine Betriebsstätte in einem dritten Mitgliedsland oder in einem Drittstaat besitzt, verzichtet der Staat der einbringenden Gesellschaft vom Zeitpunkt der Fusion an endgültig auf eine Besteuerung dieses Betriebes; wenn der Staat, in dem die Betriebsstätte sich befindet, ein Mitgliedstaat ist, wird er so gestellt, als handele es sich dabei um eine einbringende Gesellschaft. Vgl. Abschnitt IV der in Fußnote 68 genannten Richtlinie.

[71] Vgl. Abschnitt V der in Fußnote 68 genannten Richtlinie.

[72] Eine Ausnahme dieses Grundsatzes ist insofern vorgesehen, als dem multinationalen Unternehmen die Möglichkeit eröffnet werden soll, für das sog. Weltgewinn-System zu optieren. Die Modalitäten für die Anwendung dieser Alternative stehen jedoch noch aus; sie sollen bis zum 1. Januar 1973 festgelegt werden. Deshalb lehnte das Europäische Parlament diesen Teil der Richtlinie als noch unpraktikabel ab. Im übrigen ist es für die Gültigkeit dieser Regeln für die Gewinnbesteuerung ohne Belang, ob das betroffene

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Im Gegensatz zur Fusion wirft der Akt des Zusammenschlusses in Form finanzieller Verflechtungen selbst keine steuerrechtlichen Probleme auf. Hier sieht die Kommission das mögliche Hindernis für internationale Konzentrationsprozesse darin, daß die von einer Tochter- an die Muttergesellschaft transferierten Gewinne im Falle einer wesentlichen Beteiligung einer doppelten Besteuerung unterliegen. In den einzelnen Mitgliedstaaten ist diese Gefahr für Inlandsbeteiligungen generell und für Beteiligungen im Ausland weitgehend ausgeschaltet. Um die verbleibenden Lücken zu schließen und eine im Interesse der Herstellung binnenmarktähnlicher Verhältnisse gebotene generelle Regelung sicherzustellen, hat die Kommission ein „gemeinsames Steuersystem für Mutter- und Tochtergesellschaften verschiedener Mitgliedstaaten"[73] vorgeschlagen. Prinzipiell ist wieder davon auszugehen, daß der Gewinn dort versteuert wird, wo er entsteht. Die von einer Tochter- an ihre Muttergesellschaft ausgeschütteten Gewinne sollen künftig aber vom Quellenabzug befreit sein, insbesondere bei der Kapitalertragssteuer[74].

In Ergänzung dieser relativ einfachen und kurzfristig zu verwirklichenden Lösung strebt die Kommission an, Muttergesellschaften, die mindestens zur Hälfte an Firmen eines anderen Mitgliedstaats beteiligt sind, die Möglichkeit zu eröffnen, sich für mindestens fünf Jahre für das System der konsolidierten Gewinne zu entscheiden. Freilich steht diese Wahlmöglichkeit einstweilen nur auf dem Papier; praktisch bedeutsam wird sie erst, wenn die für „später" (Art. 7 Abs. 3) angekündigte konkrete Ausgestaltung vorliegt. Immerhin scheint die Kommission Wert darauf zu legen, die künftige Entwicklung auf diesem Gebiet programmatisch vorzuzeichnen — im Sinne einer Erleichterung grenzüberschreitender Unternehmenskonzentration.

4. Finanzielle Beihilfen

Als massivste Form der Förderung grenzüberschreitender Zusammenschlüsse hat die Kommission jüngst den Einsatz finanzieller Anreize

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multinationale Unternehmen als Gesellschaft nationalen Rechts oder als Europäische Aktiengesellschaft organisiert ist.

[73] Vgl. Vorschlag einer Richtlinie des Rates über das gemeinsame Steuersystem für Mutter- und Tochtergesellschaften verschiedener Mitgliedstaaten (von der Kommission dem Rat vorgelegt am 16. Januar 1969), ABl. Nr. C 39 vom 22. 3. 1969, S. 7 ff.

[74] Abweichend davon, aber im Einklang mit dem genannten Grundprinzip, kann jeder Mitgliedstaat, in dem der Körperschaftssteuersatz für ausgeschüttete Gewinne niedriger als für nicht ausgeschüttete ist, Erlöse, die eine seiner Rechtsordnung unterstellte Tochter- an ihre Muttergesellschaft überträgt, einem Quellenabzug in Höhe des Unterschieds zwischen den beiden Steuersätzen unterwerfen. Voraussetzung dafür ist, daß diese Differenz der Steuersätze mindestens 10 Punkte ausmacht und der Quellenabzugssatz sich im Rahmen dieser Differenz hält, keinesfalls aber 25 % übersteigt. Schüttet die Mutter diesen Gewinn aus, hat sie Anspruch auf Rückerstattung des — von ihrer Tochtergesellschaft — zuviel bezahlten Steuerbetrags.

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und öffentlicher Subventionen angekündigt. Zu diesem Zweck will sie die ihr im Rahmen der europäischen Verträge gebotenen Möglichkeiten voll nutzen und sich weitere erschließen.

Eine erste Kategorie von Bestrebungen der Kommission, Unternehmenszusammenschlüsse finanziell zu fördern, bilden Empfehlungen an die Regierungen der Mitgliedsländer. Ein Beispiel dafür enthalten die im Zweiten Programm zur mittelfristigen Wirtschaftspolitik formulierten Leitlinien einer Politik zur strukturellen Anpassung der Unternehmen. Dort nämlich heißt es ausdrücklich: „Anpassungsbeihilfen für bestimmte Sektoren ... können gegebenenfalls dahingehend genutzt werden, daß die betreffenden Unternehmen dazu angehalten werden, gewisse Umstrukturierungen, insbesondere in Form von Zusammenschlüssen, vorzunehmen."[75] Durch Untersuchungen einzelner Sektoren versucht die Kommission diese Leitlinie fallweise zu präzisieren; so liegen beispielsweise Studien über die Schiffbau-, die elektronische und die Elektromaschinenbau-Industrie vor[76]. Im übrigen soll diese Leitlinie jedoch nicht nur für die sektorale, sondern auch für die regionale Strukturpolitik und für die Förderung der wissenschaftlichen und technischen Forschung gelten. Die praktische Wirksamkeit dieser Empfehlungen hängt letztlich freilich allein vom Willen der angesprochenen Regierungen ab[77].

Auf der Suche nach wirksameren Maßnahmen will die Kommission künftig die verschiedenen Gemeinschaftsinstrumente zur Industrieförderung soweit wie möglich auch in den Dienst ihrer Konzentrationspolitik stellen. Dabei ist zunächst der EGKS-Vertrag zu nennen, der ihr zwei Ansatzpunkte bietet: Er ermöglicht ihr die Gewährung von Krediten oder Bürgschaften zum Zwecke der Finanzierung (1) von Investitionsprogrammen der Kohle- und Stahlindustrie sowie von „Arbeiten und Einrichtungen ..., die unmittelbar und in erster Linie dazu beitragen [in diesen Sektoren] die Produktion zu steigern, die Gestehungskosten zu senken und den Absatz ... zu erleichtern" (Art. 54), und (2) von Investitionen zur Wiederbeschäftigung von Arbeitskräften, die von der Kohle- und Stahlindustrie freigesetzt werden (Art. 56). Während bisher nur Kredite nach Art. 56 zu Vorzugszinsen gewährt wurden, soll künftig in wohlbegründeten Fällen auch bei Darlehen nach Art. 54 vom Grund-

[75] Zweites Programm ..., a. a. O., S. 22.

[76] Vgl. Probleme des Schiffbaus, veröff. als Anhang I zum Entwurf des Zweiten Programms für die mittelfristige Wirtschaftspolitik, KOM (68) 148 endg., Brüssel 1968; sowie die in Fußnote 22 genannten Studien.

[77] In der Richtlinie des Rats vom 28. Juli 1969 über die Gewährung von Beihilfen für den Schiffbau zum Ausgleich der Wettbewerbsverzerrungen auf dem internationalen Markt (ABl. Nr. L 206 vom 15. 8. 69, S. 25 ff.) als dem bisher einzigen strukturpolitischen Dokument dieser Art findet sich beispielsweise keine Bestimmung, die Zusammenschlüsse als (besonders) förderungswürdig deklariert.

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satz der kostendeckenden Zinsen abgegangen werden. Bei der Vergabe dieser Mittel will die Kommission in Zukunft die Bildung multinationaler Unternehmen als eines der Kriterien für eine positive Beurteilung von Kreditanträgen betrachten[78].

Gleichzeitig möchte sie auch die Kreditpolitik der Europäischen Investitionsbank (EIB) für konzentrationspolitische Zwecke eingesetzt wissen[79]. Tatsächlich gehört es nach Art. 130 EWGV zu den Hauptaufgaben der Bank, neben den bisher im Vordergrund stehenden „Vorhaben von gemeinsamem Interesse für mehrere Mitgliedstaaten" und Projekten „zur Erschließung weniger entwickelter Gebiete" auch Investitionen zur Umstrukturierung von Unternehmen, „die sich aus der schrittweisen Errichtung des Gemeinsamen Marktes ergeben" in ihrer Finanzierung zu erleichtern. Die EIB braucht daher nach Ansicht der Kommission zunächst nur ihre bislang praktizierte Kreditpolitik entsprechend zu erweitern, um ihrem Auftrag gemäß zur Finanzierung auch der Aufgaben beizutragen, die der auf der nunmehr erreichten Integrationsstufe erforderliche Umstrukturierungsprozeß für viele Unternehmen mit sich bringt. Zur Erhöhung der Wirksamkeit dieser kreditpolitischen Maßnahmen möchte die Kommission darüber hinaus die Möglichkeit schaffen, „für die als wirklich unerläßlich und dringend anerkannten Umstrukturierungsmaßnahmen gewisse Vorteile zu gewähren"[80]. Solche Vorteile seien dadurch gerechtfertigt, daß internationale Fusionen erheblich schwieriger zu verwirklichen seien als nationale; sie könnten in Form von Garantien angeboten und aus dem ordentlichen Haushalt der Gemeinschaft finanziert werden. In diesem Zusammenhang will die Kommission auch prüfen, ob die EIB nicht über ihre Darlehensgeschäfte hinaus die Aufgabe übernehmen könnte, „bestimmte Umstrukturierungsmaßnahmen zu fördern, ohne übermäßig in die Finanzstruktur der Unternehmen einzugreifen"[81].

Als drittes Gemeinschaftsinstrument könnte der Europäische Sozialfonds zur finanziellen Förderung von Unternehmenszusammenschlüssen eingesetzt werden. Das liegt insofern nahe, obgleich die Kommission diese Absicht noch nicht geäußert hat, als multinationale Zusammenschlüsse auch oder in besonderem Maße mit der Freisetzung von Arbeitskräften verbunden sein können. Die sich daraus ergebenden Aufgaben der Umsiedlung und/oder Umschulung könnten vom Sozialfonds mit Vorrang finanziert werden. Voraussetzung für eine spürbare Hilfe-

[78] Vgl. EG-Kommissions, Die Industriepolitik . . ., a. a. O., S. 28 sowie die Bekanntmachung der Kommission über: Zinsverbilligte Industriedarlehen, die von der EG-Kommission im Rahmen von Art. 54 EGKS gewährt werden können, ABl. v. 18. 6. 1970, Nr. C 73, S. 20.

[79] EG-Kommission, Die Industriepolitik . . ., a. a. O., S. 182 f.

[80] Ibid., S. 182.

[81] Ibid., S. 183.

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stellung dieser Art ist die grundlegende Reform des Fonds im Sinne der von der Kommission dem Ministerrat unterbreiteten Vorschläge[82].

Abgesehen davon, daß die skizzierte Neuorientierung bzw. Aufgabenerweiterung der genannten Gemeinschaftsinstrumente zur Industrieförderung sich praktisch erst entfalten muß, ja zum Teil noch der zeitraubenden Schaffung entsprechender Rechtsgrundlagen bedarf, hält die Kommission diese Möglichkeiten einer Förderung multinationaler Zusammenschlüsse gerade dort für unzureichend, wo ihr Hilfe am dringlichsten erscheint, nämlich in den Sektoren fortgeschrittener Technologie. Deshalb hat sie gerade in jüngster Zeit die Einführung neuer Instrumente zur gezielten finanziellen Förderung dieser Bereiche vorgeschlagen. Dabei handelt es sich einmal um die Vergabe sog. industrieller Entwicklungsverträge durch die Gemeinschaft und zum anderen um die Konzertierung der Beschaffungspolitik für Produkte dieser Sektoren[83].

Als Entwicklungsverträge bezeichnet die Kommission Abkommen zwischen der öffentlichen Hand und Industrieunternehmen über die Entwicklung von neuen Materialien oder Produkten. In Ergänzung zur bisherigen Praxis einer nur nationalen und daher zum Teil unzureichenden Förderung der in Frage stehenden Sektoren will sie künftig Entwicklungen, die die Möglichkeiten einzelner Unternehmen und/oder Länder übersteigen auf der Basis von Gemeinschaftsverträgen mit Industrieunternehmen fördern. Im Gegensatz zu den bisherigen Formen der internationalen Zusammenarbeit auf diesem Gebiet soll mit Hilfe solcher Verträge aber nicht nur eine Reihe technologischer Entwicklungen ermöglicht, sondern auch die Errichtung „grenzüberschreitender europäischer Unternehmen" gefördert werden, „die in der Lage sind, es im Wettbewerb mit den mächtigsten Firmen der Drittländer aufzunehmen"[84]. Gleichzeitig erwartet die Kommission davon eine zunehmende Öffnung der bisher faktisch noch weitgehend isolierten nationalen Märkte dieser Sektoren.

Die Lösung dieses Problems soll im übrigen vor allem durch die zur Überwindung ungenügender Markttransparenz vorgeschlagene „Konzertierung der Beschaffungspolitik auf (der) Ebene der Käufer von Gütern fortgeschrittener Technologie" vorangetrieben werden[85]. Kernstück dieses Vorschlags ist die Ermittlung des voraussichtlichen Bedarfs der einzelnen Produkte nach Umfang und technischer Beschaffenheit.

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[82] Vgl. Stellungnahme der Kommission an den Rat über die Reform des Europäischen Sozialfonds (Art. 126 EWGV) vom 20. Juni 1969, KOM (69) 347 endg./3.

[83] Vgl. EG-Kommission, Die Industriepolitik . . ., a. a. O., Teil IV, S. 339 ff.

[84] Ibid., S. 349.

[85] Ibid., S. 365.

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Dadurch soll die Festlegung technischer Normen auf Gemeinschaftsbasis erleichtert und den Produzenten die Möglichkeit gegeben werden, sich frühzeitig auf die Entwicklung der Nachfrage einzustellen. Die Beschaffungsstellen selbst sollen als Käufer aus der „Konzertierung" vor allem dadurch profitieren, daß sie aus einem erweiterten Spektrum präzisierter und vergleichbarer Angebote — auch von jenseits der Landesgrenzen — wählen können. Nach den noch wenig konkreten Vorstellungen der Kommission soll der Ministerrat jedoch — auf ihren Vorschlag hin — „Leitlinien für alle mit der sektoralen Konzertierung beauftragten Organe" festlegen. Dadurch möchte sie offenbar nicht zuletzt sicherstellen, daß auch der Einsatz dieses Instruments zur Umstrukturierung der relevanten Industriesektoren beiträgt. So sollen für die Erteilung von Aufträgen nicht allein „Preis- und Qualitätserwägungen", sondern auch „industriepolitische Überlegungen maßgeblich sein": Die Aufträge sollen „nach Möglichkeit europäischen multinationalen Konsortien erteilt werden, anstatt Unternehmen gleicher Nationalität"[86].

Überblickt man die hiermit abgeschlossene Darstellung der vielfältigen Bestrebungen zur Förderung multinationaler Unternehmenszusammenschlüsse, so wird deutlich, daß die Kommission der Verwirklichung ihrer konzentrationspolitischen Zielvorstellungen gerade in letzter Zeit zunehmende Aufmerksamkeit geschenkt und starke neue Impulse gegeben hat. Um so dringlicher stellt sich die Frage, welche Grenzen sie der so entschieden geförderten Unternehmenskonzentration im Interesse der gleichzeitig angestrebten Aufrechterhaltung eines „wirksamen" Wettbewerbs gesetzt wissen will und wie sie glaubt, die aus ihrer Konzentrationsförderung resultierende wirtschaftliche Macht kontrollieren zu können.

D. Die wettbewerbspolitische Kontrolle der Unternehmenskonzentration

Wenn auch die Auffassungen über die Breite des Spektrums marktstruktureller Konstellationen, welche die Entfaltung eines funktionsfähigen Wettbewerbs ernsthaft gefährden, auseinandergehen, so besteht doch verbreitete Übereinstimmung darüber, daß das Monopol und das hochkonzentrierte Oligopol, insbesondere das asymmetrische, enge Oligopol auf weitgehend gesättigten Märkten, dazu gehören. Vor allem — und das ist hier entscheidend — hat sich die Kommission gelegentlich zu dieser Auffassung bekannt[87]. Da dem „unverfälschten Wettbewerb" auf offenen Märkten in den Europäischen Gemeinschaften wesentliche

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[86] Ibid., S. 371.

[87] Vgl. vor allem EG-Kommission, Grundzüge einer Wettbewerbspolitik hinsichtlich der Strukturen der Stahlindustrie, ABl. Nr. C 12 vom 30. 1. 1970, S. 5 ff.

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Steuerungsfunktionen übertragen sind, enthält sowohl der EWG- als auch der EGKS-Vertrag Normen gegen bestimmte Formen von Wettbewerbsbeschränkungen. Was hier zunächst interessiert, ist die Frage, inwieweit auf der Grundlage dieser Bestimmungen Beschränkungen des Wettbewerbs durch Unternehmenszusammenschlüsse verhindert werden können, d. h. wo die Grenzen zulässiger Zusammenschlüsse liegen.

Die ihrem Geltungsbereich nach wichtigsten Wettbewerbsregeln der Art. 85 und 86 EWGV enthalten keine Bestimmung, die sich ausdrücklich gegen Unternehmenszusammenschlüsse als Quelle unzulässiger Wettbewerbsbeschränkungen wendet. Andererseits ließ sich jedoch ihre Anwendbarkeit auf Tatbestände dieser Art auch nicht von vornherein ausschließen. Um die dadurch bedingte Unsicherheit einzudämmen, sah sich die Kommission — schon im Interesse ihrer Politik zur Förderung von Zusammenschlüssen — veranlaßt, in aller Form zu diesem Problem Stellung zu nehmen, noch bevor der erste relevante Fall zur Entscheidung anstand. Da es bis heute keinerlei einschlägige Entscheidungspraxis gibt, ist diese Stellungnahme noch immer als maßgeblich zu betrachten. Zieht man spätere Äußerungen der Kommission zu diesem Thema sowie die bisherige Interpretation von Art. 66 EGKSV mit heran, so ergibt sich ein hinreichend klares Bild von den Grenzen, die der Unternehmenskonzentration durch das geltende Wettbewerbsrecht gezogen sind.

Nach Meinung der Kommission ist Art. 85 EWGV, der — grob gesprochen — die Beschränkung des Wettbewerbs durch Verträge und Parallelverhalten prinzipiell verbietet, unter bestimmten Bedingungen jedoch Ausnahmen zuläßt, auf Unternehmenszusammenschlüsse nicht anwendbar[88].

Zur Begründung dieser folgenschweren Entscheidung führt sie vor allem an, aus dem Zweck, den verwendeten Maßstäben sowie den vorgesehenen Rechtsfolgen gehe hervor, daß sich diese Norm gegen Kartelltatbestände richte, während es sich bei Konzentrationen wesentlich um die relativ dauerhafte Neugestaltung von Eigentumsverhältnissen handle. Deshalb bleibe Art. 85 auch durchaus anwendbar, wenn eine Vereinbarung „keine definitive Änderung der Eigentumsverhältnisse, sondern eine Koordinierung des Marktverhaltens wirtschaftlich selbständig bleibender Unternehmen zum Gegen-

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[88] Vgl. EWG-Kommission, Das Problem der Unternehmenskonzentration . . ., a. a. O., S. 21 ff. Zustimmend vor allem *E.-J. Mestmäcker*, Die Beurteilung von Unternehmenszusammenschlüssen nach Art. 86 EWGV, in: *E. von Caemmerer* u. a. (Hrsg.), Probleme des Europäischen Rechts (Festschrift für W. Hallstein), Frankfurt 1966, S. 323 ff. sowie die dort unter Fn. 5 zitierte Literatur. Abweichend *E. Günther*, Europäische und nationale Wettbewerbspolitik, in: *H. Coing* u. a. (Hrsg.), Wirtschaftsordnung und Rechtsordnung (Festschrift für F. Böhm), Karlsruhe 1965, S. 279 ff.; sowie vor allem *P. C. Canellos* und *H. S. Silber*, Concentration in the Common Market-II, Common Market Law Review, Bd. 7 (1970), S. 138 ff., bes. S. 147 ff.

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stand hat"[89]. Selbst Konzentrationsvorgänge, bei denen mehrere wirtschaftlich selbständige Unternehmen fortbestehen, wie etwa im Fall der Gründung von Gemeinschaftsunternehmen, seien sorgfältig daraufhin zu prüfen, ob nicht auch wettbewerbsbeschränkende Vereinbarungen vorlägen.

Dagegen sieht die Kommission kein Hindernis, das in Art. 86 EWGV enthaltene Verbot des Mißbrauchs einer beherrschenden Stellung zur Beeinträchtigung des zwischenstaatlichen Handels auch auf Unternehmenszusammenschlüsse anzuwenden[90]. Da ein Zusammenschluß, an dem ein Unternehmen mit einer beherrschenden Stellung auf dem Gemeinsamen Markt oder einem wesentlichen Teil desselben teilnimmt, in aller Regel nicht ohne Einfluß auf den zwischenstaatlichen Handel sein dürfte, ergibt sich die zu erwartende Beschränkung für Konzentrationen vor allem aus der näheren Bestimmung der beiden anderen Tatbestandsmerkmale. In jedem Fall ist aber festzuhalten, daß die Existenz, ja auch die Bildung von beherrschenden Positionen (durch Zusammenschlüsse) als zulässig zu betrachten ist.

Bei der Interpretation des Tatbestands der „beherrschenden Stellung" geht die Kommission davon aus, daß ein Unternehmen jedenfalls dann über eine solche Position verfügt, wenn es *markt*beherrschend ist. Doch könne Marktbeherrschung nicht allein als Marktanteil oder mittels anderer marktstruktureller Merkmale definiert werden. Sie sei vielmehr als die Fähigkeit eines Unternehmens anzusehen, einen wesentlichen und (zumindest für dieses selbst) voraussehbaren Einfluß auf das Marktgeschehen und damit auch auf die Entscheidungen anderer Firmen auszuüben. Diese „wirtschaftliche Potenz" lasse sich daher auch nur im konkreten Einzelfall bestimmen. Dabei sei stets auf einen oder mehrere genau bestimmbare Märkte abzustellen. Der Sitz eines Unternehmens spiele keine Rolle; er könne auch in einem Drittland liegen.

Eine „mißbräuchliche Ausnutzung" sieht die Kommission dann als gegeben an, wenn sich das Verhalten des Unternehmens im Hinblick auf die im Vertrag festgelegten Zielsetzungen objektiv als Fehlverhalten darstellt[91]. Da es keinen allgemeinen Begriff des Mißbrauchs gäbe, müsse der Bewertungsmaßstab „jeweils aus der Zielsetzung der Norm abgeleitet werden, in der der Begriff Mißbrauch verwendet wird"[92]. Aus den in Art. 86 (b) genannten Beispielen folge, daß sich das Verbot nicht nur gegen Marktverhalten im engeren Sinne richte, sondern auch Vorgänge innerhalb des Unternehmens erfasse.

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[89] EWG-Kommission, Das Problem der Unternehmenskonzentration ..., a. a. O., S. 21 ff.
[90] Ibid., S. 24 ff.
[91] Ibid., S. 26.
[92] Ibid.

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Auf der Basis dieser Erörterungen hält die Kommission Art. 86 in zwei Kategorien von Fällen auf Unternehmenszusammenschlüsse für anwendbar, und zwar

(1) wenn „ein Unternehmen seine beherrschende Stellung durch ... Verdrängungswettbewerb oder durch andere Praktiken dazu ausnutzt, ein anderes Unternehmen gegen dessen Willen oder zu ungünstigen Bedingungen zu einer Fusion zu zwingen“[93] und

(2) wenn „eine Fusion zwischen einem Unternehmen in beherrschender Stellung und einem anderen Unternehmen, durch die Wettbewerb, der sonst auf dem Markt weiterbestünde, ausgeschaltet wird, ... eine Monopolsituation entstehen läßt[94].

Im Gegensatz zu dem zuerst genannten Verbot einer Erzwingung von Zusammenschlüssen wirft das zweitgenannte Verbot der Monopolbildung in der praktischen Anwendung auf den konkreten Einzelfall erhebliche Abgrenzungsprobleme auf. Schließt eine marktbeherrschende Position eines Unternehmens das Vorhandensein von Wettbewerb, der ausgeschaltet werden könnte, nicht überhaupt von vornherein aus? Inwieweit bleibt selbst bei einer bloß „beherrschenden“ Position noch Raum für Wettbewerb? Und in welchem Ausmaße ist dessen Ausschaltung durch Konzentration zulässig? Die Beantwortung dieser Fragen hängt vor allem von der konkreten Bestimmung des Schlüsselbegriffs „beherrschende Stellung“ ab. Faßt man ihn als Marktbeherrschung im Sinne eines Unternehmens, das „keinem wesentlichen Wettbewerb ausgesetzt ist“ (§ 22 GWB), so kann ex definitione kaum noch Wettbewerb ausgeschaltet werden. Setzt man die Schwelle der „beherrschenden Position“ erheblich niedriger an, wie es der zitierte Begriff der „wirtschaftlichen Potenz“ erlaubt, so gibt es wenigstens noch begrenzten Wettbewerb, den weitere Konzentration gefährden kann.

Eine gewisse Erhöhung der praktischen Wirksamkeit von Art. 86 EWGV könnte sich daraus ergeben, daß nach dem Wortlaut dieser Norm auch zwei oder mehr Unternehmen kollektiv im Besitz einer beherrschenden Stellung sein können. Doch dürfte das Fehlen einer operationalen Abgrenzung des Schlüsselbegriffs auch diese Entwicklung verhindern. Denn es zeigt sich auch hier das skizzierte Dilemma.

Dabei ist allerdings zu beachten, daß es für die Anwendung von Art. 86 EWGV genügt, wenn die erforderliche „beherrschende Stellung“ auf einem „wesentlichen Teil“ des Gemeinsamen Marktes gegeben ist. Damit wird der Bereich unzulässiger oder zumindest angreifbarer Zusammenschlüsse zweifellos größer. Doch wird die praktische Bedeutung dieser erweiterten Anwendbarkeit von Art. 86 im Zuge der Verschmelzung der nationalen Märkte vermutlich zunehmend reduziert, da sich geographische Teilmärkte immer weniger isolieren lassen dürften. Eine Ausnahme bilden höchstens Märkte von Gütern, deren Transport relativ hohe Kosten verursacht.

In jedem Falle möchte die Kommission aber offenbar auch für Unternehmen mit einer beherrschenden Position die Zulässigkeit von Zusammenschlüssen großzügig geregelt wissen. So betont sie ausdrücklich, daß

[93] Ibid.
[94] Ibid.

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die Übernahme „verschiedener, kleinerer Unternehmen" durch eine Firma mit beherrschender Stellung nicht ohne weiteres als ein Verstoß gegen Art. 86 zu betrachten sei, weil deren Verschwinden für das Funktionieren des Wettbewerbs bedeutungslos sein könne. Das gelte selbst für den Fall eines kleinen Unternehmens, „von dem zwar vorerst noch ein *beträchtlicher* Wettbewerbsdruck ausgeht", wenn es „in absehbarer Zeit auch ohne Unternehmenskonzentration vom Markt verschwinden würde"[95]. Wie das schon im Zeitpunkt des Zusammenschlusses mit hinreichender Sicherheit festgestellt werden soll, wird allerdings nicht gesagt.

Damit ergibt sich, daß nach Art. 86 EWGV Unternehmen mit einer „beherrschenden Stellung" mit Sicherheit lediglich zwei Aktionen untersagt sind: die Erzwingung von Zusammenschlüssen und die völlige Ausschaltung des Wettbewerbs auf wenigstens einem Markt durch Konzentration. Dagegen ist der Aufbau „beherrschender" Positionen und/oder enger Oligopole zweifelsfrei als zulässig zu betrachten. Obgleich die Kommission die bisher erörterte Anwendbarkeit von Art. 86 EWGV auf Konzentrationsvorgänge primär nur für horizontale Zusammenschlüsse bejahte, dürfte das diese Norm kennzeichnende generelle Verbot des Mißbrauchs einer beherrschenden Stellung grundsätzlich auch eine Anwendung auf vertikale und konglomerale Zusammenschlüsse einschließen. Das gilt in jedem Fall für das Verbot der Erzwingung solcher Zusammenschlüsse. Doch durften auch vertikale Zusammenschlüsse, die anderen Firmen den Zugang zu vor- oder nachgelagerten Märkten erheblich erschweren, und konglomerale Zusammenschlüsse, die in erheblichem Maße die Forcierung reziproker Transaktionen ermöglichen, als Mißbrauch einer beherrschenden Stellung im Sinne von Art. 86 EWGV interpretierbar sein[96].

Bei diesem Stand des EWG-Rechts gegen wettbewerbsbeschränkende Konzentration ist es kaum verwunderlich, wenn es bisher noch zu keinem einschlägigen Verfahren kam.[96a] Ob die Kommission bei weitergehenden Interventionsmöglichkeiten Zusammenschlüsse zu verhindern

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[95] Ibid., S. 27 (Betonung hinzugefügt).

[96] Zu Möglichkeiten und Grenzen der Anwendbarkeit von Art. 86 EWGV auf Unternehmenszusammenschlüsse vgl. vor allem *E.-J. Mestmäcker,* Die Beurteilung von Unternehmenszusammenschlüssen nach Art. 86 EWGV, a. a. O., S. 323 ff., insb. S. 332 ff.

[96a] Zum Zeitpunkt des Abschlusses dieses Beitrages untersucht die Kommission, ob sie mit Hilfe von Art. 86 EWGV gegen die als „ungewöhnlich stark" bezeichneten Konzentrationsvorgänge auf dem Markt für Weißblech- und Kunststoffverpackungsmittel vorgehen kann. Sollte diese Prüfung zur Einleitung eines Verfahrens führen, käme es damit zum ersten Testfall für die Wirksamkeit dieser Norm als Instrument zur Verhinderung wettbewerbsbeschränkender Unternehmenszusammenschlüsse in der EWG. Vgl. dazu FAZ vom 13. 8. 1970, S. 13.

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versucht hätte, ist schwer auszumachen. Interessanter ist die Frage, inwieweit sie den Stand des relevanten Rechts als ergänzungsbedürftig betrachtet. Anhaltspunkte dafür lassen sich aus der Handhabung der in Art. 66 EGKSV vorgesehenen präventiven Fusionskontrolle gegenüber den Konzentrationsvorgängen in der Stahlindustrie gewinnen.

Nach Art. 66 EGKSV bedarf — abgesehen von gewissen Bagatellfällen, die durch Verordnung generell freigestellt sind — jeder Zusammenschluß, an dem auch nur ein Unternehmen der Kohle- oder Stahlindustrie beteiligt ist, der vorherigen Genehmigung durch die Hohe Behörde bzw. (seit 1967) die EG-Kommission. Diese ist zu erteilen, wenn der Zusammenschluß den Beteiligten nicht die Möglichkeit gibt, „. . . einen wirklichen Wettbewerb zu verhindern" oder sich eine „künstliche Vorzugsstellung" auf Beschaffungs- oder Absatzmärkten aufzubauen. Dabei soll nach dem Prinzip der Nichtdiskriminierung die Größe schon bestehender Unternehmen insoweit berücksichtigt werden, als es zum Ausgleich oder zur Vermeidung der „aus einer Ungleichheit der Wettbewerbsbedingungen sich ergebenden Nachteile" gerechtfertigt erscheint.

Die bisherige Durchführung dieser Fusionskontrolle läßt sich nach dem in Anwendung gebrachten Beurteilungsmaßstab in zwei Perioden unterteilen[97]. Die erste Periode umfaßt die fünfziger Jahre. Sie war noch durch die Art. 66 zugrunde liegende Skepsis gegenüber einer stärkeren Unternehmenskonzentration und eine sich nicht zuletzt daraus ergebende Unsicherheit der Hohen Behörde bei der wettbewerbspolitischen Beurteilung von Zusammenschlüssen gekennzeichnet. In dieser Situation klammerte sie sich an den genannten Grundsatz der Nichtdiskriminierung und machte — zumindest de facto — den Marktanteil des größten Stahlproduzenten der Gemeinschaft zum Maßstab zulässiger Unternehmenskonzentration. Die im Jahre 1958 beantragte Fusion der August-Thyssen-Hütte mit Phönix-Rheinrohr brachte die erste klare Herausforderung und gleichzeitig den Anstoß zur Überwindung dieser Entscheidungsregel.

Damit begann — zugleich mit den sechziger Jahren — die zweite Periode. Die Hohe Behörde besann sich zunehmend auf die anderen Kriterien des Art. 66 EGKSV und stellte künftig vor allem darauf ab zu verhindern, daß durch Konzentration Unternehmen entstehen, die in der Lage sind, den Wettbewerb zu beschränken oder sich den Vertragsnormen zu entziehen. Der wesentliche Grund für diese Neuorien-

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[97] Vgl. dazu *H. G. Mueller*, The Policy of the European Coal and Steel Community towards Mergers and Agreements by Steel Companies, The Antitrust Bulletin, Bd. 14 (1969), S. 413 ff.; sowie *D. L. McLachlan* und *D. Swann*, Competition Policy in the European Community, London u. a. 1967, S. 195 ff.

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tierung ist in der Überzeugung der Hohen Behörde zu suchen, daß produktionstechnologische Entwicklungen, die Finanzierung der nötigen Innovationen und die Investitionskontrolle zur Verhinderung von Überkapazitäten größere Unternehmen erfordern[98]. Die Intensivierung des Wettbewerbs auf dem Weltstahlmarkt und die sinkenden Preise und Gewinne des gemeinsamen Stahlmarktes in der zweiten Hälfte der sechziger Jahre bestärkten die Hohe Behörde bzw. die Kommission in dem Bestreben, die Zahl der selbständigen Entscheidungseinheiten zu verringern. Praktisch führte dies dazu, daß die Hohe Behörde im Laufe der Zeit immer größere Zusammenschlüsse genehmigte. Als Folge dieser Politik ist 1970 der Anteil an der gesamten Rohstahlproduktion, der jeweils auf die fünf größten Hersteller(gruppen) entfällt, in der EGKS annähernd ebenso groß wie in den USA, nämlich knapp 60 Prozent[99].

Wesentliche Unterschiede sind jedoch darin zu sehen, daß es in der EGKS kein eindeutig dominierendes Unternehmen gibt und die Größenstreuung der (zwei, fünf oder acht) größten Hersteller erheblich geringer ist als in den USA oder in Japan. Das ist vermutlich vor allem das Ergebnis der Interpretation von Art. 66 EGKS im Sinne einer Präferenz für eine „ausgewogene" Struktur.

Für die Zukunft hat die Kommission ihre wettbewerbs- bzw. konzentrationspolitische Zielvorstellung für den Stahlsektor mit seltener Deutlichkeit formuliert[100]. Danach hält sie es zur Aufrechterhaltung eines „wirksamen Wettbewerbs" unter den gegebenen Bedingungen für unerläßlich, daß die Zahl der Unternehmen, die 90 % der Stahlerzeugung der Gemeinschaft bestreiten, nicht unter zehn sinkt. Gleichzeitig hält sie ein Oligopol dieses Zuschnitts für wünschenswert, wobei die größten Anbieter nicht mehr als 12 bis 13 % des Rohstahls der Gemeinschaft erzeugen sollten[101]. Im übrigen behält sie sich vor, Zusammenschlüsse auch innerhalb des damit gesetzten Rahmens nicht zu genehmigen, „wenn sie zu einer beherrschenden Stellung auf den Märkten für bestimmte Stahlerzeugnisse führen"[102]. Somit zeigt sich, daß die Kom-

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[98] Hohe Behörde, Dreizehnter Bericht, Luxemburg 1965, S. 184 ff.

[99] Vgl. dazu *H. G. Mueller*, The Policy of the European Coal and Steel Community towards Mergers and Agreements by Steel Companies, a. a. O., S. 440 ff. in Verbindung mit Angaben über die jüngsten Zusammenschlüsse im Zweiten Gesamtbericht (1968), S. 50 und Dritten Gesamtbericht (1969), S. 69. Zieht man die sich durch die Walzstahlkontore ergebende zusätzliche Konzentration des Angebots in Betracht, so ergeben sich für die fünf bzw. acht größten Anbieter in der EGKS wesentlich höhere Werte.

[100] Vgl. EG-Kommission, Grundzüge einer Wettbewerbspolitik hinsichtlich der Strukturen der Stahlindustrie, ABl. Nr. C 12 vom 30. 1. 1970, S. 5 ff.

[101] Unternehmen dieser Größe haben nach Ansicht der Kommission die Möglichkeit, „ihr industrielles Optimum" zu erreichen und die dafür nötigen „finanziellen und kommerziellen Voraussetzungen" zu schaffen. Ibid., S. 7 (Tz. 15).

[102] Ibid., (Tz. 14). Die Genehmigung des Zusammenschlusses der Röhrenproduktion von Thyssen und Mannesmann ist dann wohl als Grenzfall noch

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mission mit der ihr nach Art. 66 EGKSV zustehenden Fusionskontrolle die Bildung allzu enger Oligopole sowie vor allem die Schaffung beherrschender Positionen durch Unternehmenszusammenschlüsse in der Stahlindustrie nicht nur bisher verhindert hat, sondern auch künftig verhindern will. Dagegen dürfte die Kommission, wie oben gezeigt wurde, *auf der Basis von Art. 86 EWGV* kaum in der Lage sein, die Bildung solcher Angebotsstrukturen durch Konzentrationsvorgänge wirksam zu unterbinden. Eine ähnliche Befürchtung hat 1970 auch das Europäische Parlament mit aller Deutlichkeit geäußert und daher gefordert, daß für „Zusammenschlüsse, als deren Folge ein bestimmter Marktanteil oder bestimmte Größenordnungen überschritten werden", eine Anmeldepflicht mit einem befristeten Widerspruchsrecht der Kommission eingeführt wird[103].

Freilich ist der Beweis für die angedeuteten Grenzen der Wirksamkeit von Art. 86 EWGV gegenüber wettbewerbsbeschränkenden Zusammenschlüssen in Gestalt gescheiterter Anwendungsversuche noch nicht erbracht. Auch hat die Kommission diese Grenzen ihrer Kontrolle des Konzentrationsprozesses noch nicht direkt ausgesprochen oder bedauert. Daher ist es nicht verwunderlich, daß sie bisher kaum etwas unternommen hat, das geltende EWG-Wettbewerbsrecht im Sinne einer wirksamen präventiven Fusionskontrolle zu novellieren.

Immerhin hat die Kommission inzwischen eingeräumt, daß in einigen Sektoren schon jetzt (im Jahre 1970) „ein hoher Konzentrationsgrad" besteht, die Zahl dieser Bereiche sich erhöhen wird, wenn der Konzentrationsprozeß sich ihren Vorstellungen entsprechend entwickelt und sich daher deutlich „das politische und wirtschaftliche Problem der Aufrechterhaltung eines wirksamen Wettbewerbs stellt"[104]. Konkret hat sie dazu bisher aber nur vorsichtig angedeutet, daß „zu gegebener Zeit sicher eine modernere und präzisere Konzentrationsgesetzgebung"[105] nötig sein werde. Dabei erwähnt sie ausdrücklich die Notwendigkeit einer Verbesserung des Verwaltungsverfahrens. Im übrigen fordert sie vorerst lediglich für Zusammenschlüsse im Energiesektor die Einführung eines „Anmeldeverfahrens mit Wartefrist", um weitere Konzentrationsvorgänge in diesem stark konzentrierten Bereich wirksam kontrol-

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zulässiger Konzentration dieser Art zu betrachten. Vgl. EG-Kommission: Zusammenschluß Thyssen-Mannesmann, Mitteilung an die Presse vom 22. 1. 70, IP (70) 9.

[103] Vgl. Europäisches Parlament, Sitzungsdokumente 1969/70: Bericht im Namen des Wirtschaftsausschusses über die Wettbewerbsregeln und die Stellung der europäischen Unternehmen auf dem Gemeinsamen Markt und in der Weltwirtschaft. Dokument 69/197 vom 2. Februar 1970, S. 3 f. sowie S. 22 (künftig zitiert als: Europäisches Parlament, Dokument 69/197).

[104] EG-Kommission, Die Industriepolitik . . ., S. 157.

[105] Ibid.

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lieren zu können[106]. Für den Fall, daß sich dieses Verfahren als unzulänglich erweist, kündigt sie eine Präventivkontrolle an. Über materielle Aspekte einer Neuregelung des Rechts gegen wettbewerbsbeschränkende Unternehmenszusammenschlüsse läßt sie auch in diesem Zusammenhang nichts verlauten.

Zumindest in einer Hinsicht jedoch hält die Kommission Art. 86 EWGV zur Beschränkung von Konzentrationen für umgehend ergänzungsbedürftig: als Instrument zur Verhinderung unerwünschter Zusammenschlüsse zwischen Firmen einzelner Mitgliedstaaten und Unternehmen aus Drittländern in den Sektoren fortgeschrittener Technologie. Da sie hier in multinationalen innergemeinschaftlichen Zusammenschlüssen die einzige Möglichkeit sieht, unabhängige und leistungsfähige europäische Unternehmen zu schaffen, betrachtet sie die Übernahme wesentlicher „Bausteine" durch US-Unternehmen als eine ernsthafte Gefährdung des Erfolges ihrer Industriepolitik auf diesem Gebiet. Gleichzeitig möchte sie den Widerstand von Mitgliedsregierungen gegen unerwünschte US-Beteiligungen kanalisieren und für die Schaffung leistungsfähiger EWG-Unternehmen fruchtbar machen. Deshalb schlägt sie den Mitgliedstaaten ein „schnelles, elastisches und wirksames Verfahren" zur Behandlung dieser speziellen Strukturprobleme und zur Erarbeitung gemeinschaftlicher Lösungen vor. Dabei will sie auch „die Ausrichtung der erforderlichen Zusammenschlüsse" behandelt wissen[107]. Das Verfahren soll auf Antrag der Kommission oder eines Mitgliedstaates von Fall zu Fall eingeleitet werden können und wegen der wirtschaftlichen und politischen Bedeutung dieser Fragen die zuständigen Minister zusammenführen.

Eine grundlegende Verbesserung der sehr begrenzten Möglichkeiten, die Art. 86 EWGV zur Verhinderung wettbewerbsbeschränkender Unternehmenszusammenschlüsse bietet, strebt die Kommission offenbar erst im Rahmen der nach Erweiterung der Gemeinschaft vorgesehenen Fusion der Verträge an[108]. Inzwischen kann man eine gewisse Vorbereitung auf diese Aufgabe darin sehen, daß sie mit Hilfe von Branchenstudien über Ursachen und Wirkungen der Konzentration sowie durch systematische Datensammlung ihre Informationsgrundlage über hochkonzentrierte Sektoren zu verbessern sucht und die Beobachtung der Konzentrationsprozesse in diesen Branchen intensiviert hat[109].

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[106] Vgl. EG-Kommission, Erste Orientierung für eine gemeinsame Energiepolitik (dem Rat vorgelegt am 18. 12. 1968), Bulletin der Europäischen Gemeinschaften Nr. 12-1968, Sonderbeilage, S. 15.

[107] EG-Kommission, Die Industriepolitik . . ., S. 180.

[108] Vgl. *P. Düesberg*, Konzentration gezielt fördern — wirksam kontrollieren, Der Volkswirt, Nr. 24 vom 12. 6. 1970, S. 35.

[109] Ibid., S. 36.

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E. Die Kontrolle des Mißbrauchs wirtschaftlicher Macht

Die geringe Beschränkung zulässiger Unternehmenszusammenschlüsse verleiht der Forderung nach einer wirksamen Kontrolle wirtschaftlicher Macht besonderes Gewicht.

Die Möglichkeiten einer solchen Kontrolle ergeben sich für die EWG aus den Bestimmungen des bereits genannten Art. 86 EWGV. Die angedeutete Verhinderung bestimmter Zusammenschlüsse ist nur *ein* Wirkungsaspekt der ganz allgemein gefaßten Aufgabe dieses Artikels, „die mißbräuchliche Ausnutzung einer beherrschenden Stellung auf dem Gemeinsamen Markt oder einem wesentlichen Teil desselben durch ein oder mehrere Unternehmen" zu verhindern, soweit dadurch eine Beeinträchtigung des Handels zwischen den Mitgliedstaaten zu erwarten ist. Ausdrücklich verboten sind Praktiken wie die Erzwingung unangemessener Geschäftsbedingungen sowie sachlich nicht gerechtfertigter Kopplungsverträge, die Diskriminierung von Handelspartnern und die Verschlechterung der Marktversorgung. Doch ist es im Sinne einer möglichst umfassenden Mißbrauchskontrolle als besonders positiv zu bewerten, daß Art. 86 EWGV auch, ja vor allem als generelle Verbotsnorm gefaßt ist. Seine Anwendbarkeit auf Zusammenschlüsse illustriert diesen Vorteil.

Die wesentliche Grenze der möglichen Wirksamkeit dieser Kontrolle ist, wie bereits betont wurde, darin zu sehen, daß ein erfolgreiches Einschreiten an den Nachweis einer beherrschenden Stellung gebunden ist. Wie die internationale Praxis zeigt, ist dieser Nachweis im allgemeinen schwer zu führen und damit ein beträchtliches Hindernis für die Anwendung solcher Verbotsnormen auf den konkreten Einzelfall. Entscheidend ist auch hier, was von der Kommission und dem Europäischen Gerichtshof als „beherrschende" Stellung angesehen wird. Immerhin erscheint es möglich, mit Art. 86 EWGV wenigstens grobe und eklatante Fälle eines Mißbrauchs wirtschaftlicher Macht zu erfassen und abzustellen[110].

Eine Entscheidungspraxis, die diese Vermutung bestätigen könnte, liegt allerdings noch nicht vor. Das dürfte vor allem darauf zurückzuführen sein, daß die Kommission bisher mit der Anwendung des EWG-Wettbewerbsrechts auf die verschiedenen Formen der viel verbreiteteren vertraglichen Wettbewerbsbeschränkung voll ausgelastet war. So hat sie, nach den Jahresberichten zu schließen, bislang nur einen hochkonzentrierten Sektor auf Mißbrauchstatbestände hin systematisch un-

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[110] Vgl. dazu vor allem *I. Samkalden* und *I. E. Druker,* Legal Problems Relating to Article 86 of the Rome Treaty, Common Market Law Review, Bd. 3 (1965/66), S. 158 ff.

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tersucht, ohne allerdings zu schlüssigen Ergebnissen zu kommen[111]. Das dürfte die allgemeine Erfahrung bestätigen, daß sich bei subtileren Formen des Mißbrauchs die Beweisführung großen Schwierigkeiten gegenübersieht — ein Faktum, das hier wie allgemein die Notwendigkeit unterstreicht, die Schaffung beherrschender Positionen durch externes Unternehmenswachstum mittels einer präventiven Fusionskontrolle von vornherein zu verhindern.

III. Kritik der Konzentrationspolitik

Wenn im folgenden die Konzentrationspolitik in der EWG kritisch unter die Lupe genommen wird, so steht dabei ein bestimmter Beurteilungsmaßstab im Hintergrund. Danach ist es Aufgabe der Konzentrationspolitik, Unternehmenszusammenschlüsse grundsätzlich zu ermöglichen, soweit durch deren Vollzug nicht die Funktionsfähigkeit des Wettbewerbs gefährdet wird. Da eine begründete Vermutung besteht, daß in dem damit gesetzten Rahmen die betriebswirtschaftliche mit der gesamtwirtschaftlichen Bewertung von Konzentrationsvorgängen übereinstimmt und die Unternehmen a priori am besten in der Lage sind, die mit Zusammenschlüssen verbundenen Vor- und Nachteile zu beurteilen, bedarf jede Ausnahme von dieser Regel und damit insbesondere auch eine öffentliche Förderung der Unternehmenskonzentration einer expliziten Begründung. Wer die Ausnahme fordert, hat die Beweislast zu tragen.

Deshalb geht es hier vor allem darum, zu prüfen, inwieweit die von der Kommission formulierte Politik der Propagierung und Förderung der Unternehmenskonzentration stichhaltig begründet und mit der Aufrechterhaltung eines funktionsfähigen Wettbewerbs vereinbar ist.

A. Zur Stichhaltigkeit der Begründungen

Die von der Kommission unternommenen Versuche, die besondere Notwendigkeit von Unternehmenszusammenschlüssen in der EWG zu begründen, sind — mit Ausnahme des Betriebsgrößen-Strukturvergleichs — methodisch wenig befriedigend. Sie sollen daher kurz im einzelnen mit kritischen Einwänden konfrontiert werden. Dabei ist primär zu prüfen, inwieweit diese Begründungen eine generelle Gültigkeit beanspruchen können und die Forderung nach externem Wachstum

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[111] Das kritisiert das Europäische Parlament, das die Kommission gleichzeitig auffordert, von den ihr durch Art. 12 der VO Nr. 17 gebotenen Möglichkeiten solcher Untersuchungen mehr Gebrauch zu machen. Vgl. Europäisches Parlament, Dokument 69/197, S. 23 f. (Tz. 73).

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auch der großen und größten Unternehmen rechtfertigen, wie sie vor allem im Zweiten Programm zur mittelfristigen Wirtschaftspolitik erhoben wird.

Wenn eine der vorgebrachten Begründungen Allgemeingültigkeit beanspruchen kann, so ist es die für die EWG spezifische These, der größere Markt erfordere größere Unternehmen. Die These erscheint vordergründig plausibel, zumal wenn man an das interne Unternehmenswachstum denkt, ob man die „Größe" des Marktes ökonomisch oder geographisch interpretiert. Sie entspringt jedoch einer komparativstatischen Betrachtungsweise, die von dem evolutorischen Prozeß, der von einem zum anderen der verglichenen Zustände führt, abstrahiert. Deshalb ist diese Feststellung als generelle Begründung für Unternehmenszusammenschlüsse in der EWG nicht zwingend. In dieser Funktion impliziert sie nämlich, daß das größere Unternehmen eine wesentliche Voraussetzung für die adäquate Versorgung und/oder die Nutzung des Wachstumspotentials des erweiterten Marktes ist, während eine dynamische Sicht des tatsächlichen Verlaufs des Integrationsprozesses vermuten läßt, daß es sich auch, ja vorwiegend umgekehrt verhält: Ein Unternehmen wächst, weil es aufgrund seiner Leistungsfähigkeit auf dem sich erweiternden Markt Erfolg hat und trägt dabei uno actu zur Verwirklichung des „größeren" Marktes bei. Darauf deuten nicht nur die wenigen spektakulären Marktentwicklungen hin, wie beispielsweise das Vordringen der zunächst relativ kleinen italienischen Hersteller von elektrischen Haushaltsgeräten im Gemeinsamen Markt[112]. Dafür sprechen auch die vorliegenden Statistiken über die Häufigkeit verschiedener grenzüberschreitender Verbindungen in der EWG[113]. Vor allem aber wird die geäußerte Vermutung von der einzigen empirischen Untersuchung bestätigt, die zu diesem Thema bisher vorliegt[114].

Danach vollzieht sich das Vordringen eines Unternehmens auf die sich öffnenden Nachbarmärkte am häufigsten in typischen Stufen internen Wachstums: von einer Anfangsphase des Exports über den Auf- und Ausbau eines eigenen Vertriebsnetzes bis zur Erstellung einer Produktions- oder Montagestätte in anderen Mitgliedsländern. Der strategisch wichtigste Akt ist dabei offenbar der Aufbau eines leistungsfähigen Vertriebs- und Servicenetzes, wobei die Kooperation mit ansässigen Unternehmen der Handelsstufe eine besondere Rolle spielen dürfte. Die große

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[112] Vgl. EG-Kommission, Erster Gesamtbericht (1967), S. 110 ff. (Tz. 94).

[113] Vgl. EG-Kommission, Die Industriepolitik . . ., S. 89 ff. (bes. Tab. 7). Es heißt dort (S. 90): „Von den internationalen Operationen ist die einseitige Niederlassung die häufigste. Sie macht 58 % der Gesamtzahl aus, während Fusionen und Beteiligungen zwecks Beherrschung am wenigsten vorkommen."

[114] Vgl. *H.-W. de Jong* und *M. Alkema*, Mitteilung, in: Kooperation, Konzentrationen und Fusionen von Unternehmen in der EWG, Revue du Marché Commun, Bd. 109 (Januar-Februar 1968), S. 143 ff.

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Verbreitung von Alleinvertriebsverträgen über die innergemeinschaftlichen Grenzen hinaus ist wohl symptomatisch dafür. Erst bei entsprechender Entwicklung des Absatzes wird die Frage der Errichtung eines Zweigwerks in dem einen oder anderen Nachbarland aktuell — ein Vorgang des internen Unternehmenswachstums, der nicht Voraussetzung, sondern Folge des größer werdenden Marktes ist. Damit soll nicht bezweifelt werden, daß Zusammenschlüsse, insbesondere mittlerer Unternehmen über die Grenzen hinweg, in einer Reihe von Fällen zweckmäßig und der Verschmelzung der Märkte dienlich sein können. Es wird lediglich bestritten, daß die Schaffung des Gemeinsamen Marktes eine generelle Begründung für Unternehmenszusammenschlüsse liefert und Zusammenschlüsse großen und größten Ausmaßes eine Voraussetzung für die Verwirklichung des Wachstumspotentials der EWG darstellen.

Auch die These der Kommission, Unternehmenskonzentrationen großen Ausmaßes seien erforderlich, um die EWG-Firmen für den harten internationalen Wettbewerb vor allem gegenüber ihren wesentlich größeren amerikanischen Konkurrenten zu wappnen, ist generell nicht haltbar. Soweit es sich dabei um das Ziel handelt, die europäischen Unternehmen gegen die überlegene wirtschaftlich-finanzielle Macht von US-Giganten zu schützen, sind Unternehmenszusammenschlüsse ein prinzipiell ungeeignetes Mittel. Zum einen läßt sich dieses Schutzbedürfnis so nicht befriedigen, ohne die Funktionsfähigkeit des Wettbewerbs aufs Spiel zu setzen. Zum anderen aber ist das entscheidende Kriterium für den Erfolg der europäischen Industrie im internationalen Wettbewerb nicht ihre Größe und Finanzstärke, sondern ihre Leistungsfähigkeit. Es ist Sache einer konsequenten Wettbewerbspolitik zu verhindern, daß wirtschaftliche Macht statt Leistungsfähigkeit über den Markterfolg entscheidet. Hier ist daher anzusetzen, wenn es darum geht, europäische Unternehmen vor möglichen Mißbräuchen der überlegenen Finanzkraft einzelner Marktteilnehmer zu schützen[115].

Doch werden in diesem Zusammenhang Unternehmenszusammenschlüsse auch als Voraussetzung für eine mit amerikanischen Maßstäben vergleichbare Leistungsfähigkeit europäischer Unternehmen gefordert. Inwieweit rechtfertigen die dafür genannten Gründe eine öffentliche Förderung der Konzentration?

Die am wenigsten überzeugende Begründung stellt das oben umschriebene Rentabilitätsargument dar. Der von der Kommission be-

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[115] Vgl. dazu *H. Arndt,* Machtkampf oder Leistungswettbewerb in und außerhalb der EWG?, in: *ders.,* Recht, Macht und Wirtschaft (Schriftenreihe des Instituts für Konzentrationsforschung an der FU. Berlin, Bd. 2) Berlin 1968, S. 31 ff.

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hauptete Zusammenhang zwischen Unternehmensgröße und Rentabilität bleibt eine unbewiesene Vermutung; denn der von ihr vorgenommene Vergleich zwischen der Ertragslage der größten Anbieter in fünf Sektoren der EWG und der USA kommt für die hier interessierende Frage methodologisch gesehen über den Status einer Illustration nicht hinaus. Was diesem Vergleich jede Beweiskraft nimmt, ist die Vermutung, daß die eine wesentlich höhere Rentabilität aufweisenden US-Unternehmen — mit Ausnahme der Erdölindustrie — auch höhere Anteile stärker asymetrisch konzentrierter und relativ gesättigter Märkte auf sich vereinigen[116]. Deshalb ist nicht auszuschließen, daß ihre höhere Ertragskraft vor allem auf höhere Monopolgrade zurückzuführen ist, während die geringere Rentabilität der europäischen Firmen die Folge eines erheblich intensiveren Wettbewerbs auf den stärker expandierenden relevanten EWG-Märkten sein dürfte. Dafür spricht im übrigen auch, daß keines der in Frage stehenden US-Unternehmen sich als Träger des technischen Fortschritts besonders hervorgetan hat. Es bleibt daher äußerst zweifelhaft, inwieweit Zusammenschlüsse, insbesondere von Großunternehmen, eine Verbesserung der Ertragslage ermöglichen, es sei denn durch eine Beschränkung des Wettbewerbs. Tatsächlich bestätigen die vorliegenden empirischen Untersuchungen den von der Kommission unterstellten Zusammenhang zwischen Unternehmensgröße und Rentabilität nicht[117].

Die zunächst nur global formulierte produktionstechnologische Begründung von Unternehmenszusammenschlüssen hat die Kommission durch den geschilderten Strukturvergleich der Industriebetriebsgrößen selbst erheblich relativiert. Danach entfällt (1962) in den EWG-Ländern — im Vergleich zu den USA — ein höherer Anteil der Gesamtbeschäftigten auf Kleinbetriebe und ein geringerer auf Großbetriebe, wobei sich allerdings von Land zu Land und von Branche zu Branche beträchtliche Unterschiede zeigen. Zusammenschlüsse von Großbetrieben lassen sich aus diesem Vergleich aber in keinem Fall begründen. Obgleich sich damit die „Strukturschwächen" recht klar lokalisieren lassen und eine begründete Vermutung besteht, daß die Wertschöpfung pro Arbeitskraft, ja sogar die Arbeitsproduktivität mit wachsender Betriebs- und Unternehmensgröße zumindest in bestimmten Grenzen zunimmt[118], dürften Unternehmenszusammenschlüsse nur begrenzt geeignet sein,

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[116] Das gilt in jedem Fall für die Stahlindustrie; vgl. dazu oben Fußnote 99. Für die Automobil-, die Chemie- und die Elektroindustrie läßt sich diese Vermutung vorläufig aus Mangel an Statistiken über die relevanten EWG-Märkte nicht erhärten.

[117] Vgl. dazu US Senate Subcommittee on Antitrust and Monopoly, Hearings on Economic Concentration, Part 4: Concentration and Efficiency, 89th Cong., 1st Sess., Washington 1965, passim, bes. S. 1551 ff. (Statement von *J. M. Blair*).

[118] Vgl. EG-Kommission, Die Industriepolitik . . ., S. 106 ff.

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die nötige Umschichtung der Beschäftigten voranzutreiben; denn durch Zusammenschlüsse von kleinen und mittleren Betrieben entstehen noch keine leistungsfähigeren Großbetriebe. In der Realität dürfte sich der angestrebte Strukturwandel vor allem durch internes Wachstum leistungsfähiger Unternehmen im Verlauf eines evolutorischen Wachstums- und Selektionsprozesses auf der Basis eines intensiven Leistungswettbewerbs vollziehen.

Somit erweist sich keiner der von der Kommission unternommenen Versuche, die Notwendigkeit von Zusammenschlüssen auch, ja gerade großer Unternehmen in der EWG generell zu begründen, als haltbar. Es zeigt sich, daß ein differenzierteres Vorgehen geboten ist, wenn es darum geht, Maßnahmen der Konzentrationsförderung zu rechtfertigen und zu gestalten. Mit dem Betriebsgrößenstrukturvergleich und der faktischen Begrenzung der entwicklungstechnologischen Argumentation auf die Sektoren fortgeschrittener Technologie hat die Kommission die ersten Schritte in diese Richtung getan.

B. Zur Vertretbarkeit der Leitbildvorstellungen

Um so problematischer erscheint die direkte oder indirekte Propagierung der Dimensionen der größten US-Firmen als Leitbildvorstellungen einer europäischen Industriestrukturpolitik. Das gilt auch, wenn damit nur eine Präferenz für möglichst große Unternehmen zum Ausdruck kommt, wie die werbenden Äußerungen der Kommission zu diesem Thema wohl zu verstehen sind. Diese Bezüge besagen schon deshalb wenig, weil den Umsätzen der US-Firmen ein mehr als doppelt so hohes Volkseinkommen und damit eine wesentlich höhere Kaufkraft gegenübersteht[119]. Vor allem aber gibt es — auch über die von der Kommission vorgebrachten Argumente hinaus — keine wirtschaftspolitische Rechtfertigung für eine solche Orientierung europäischer Konzentrationspolitik. Vorhandene Untersuchungen weisen ausnahmslos darauf hin, daß schon wesentlich kleinere Unternehmen in den verschiedenen Sektoren in der Lage sind, die größenabhängigen Kostenvorteile in Produktion, Vertrieb und Management voll zu nutzen[120], wobei sich von Branche zu Branche erwartungsgemäß erhebliche Unterschiede zeigen.

[119] Vgl. *H. W. de Jong:* Concentration in the Common Market, Common Market Law Review, Bd. 4 (1966/67), S. 166 ff.

[120] Vgl. bes. *J. S. Bain,* Industrial Organization, 2. Aufl., New York etc. 1968, S. 164 ff.; *D. Lees* and *J. Perrin,* Is Bigness Best? Management Accounting, Bd. 46 (1968), S. 200 ff.; *H. W. de Jong,* Statement, in: US Senate Subcommittee on Antitrust and Monopoly: Hearings on Economic Concentration, Part 7: Concentration Outside the United States, 20th Cong., 2nd Sess., Washington 1968, S. 3608, bes. S. 3617 (Tab. 2); sowie *H. Jürgensen* und *H. Berg,* Konzentration und Wettbewerb im Gemeinsamen Markt: Das Beispiel der Automobilindustrie (Wirtschaftspolitische Studien aus dem Institut für Europäische Wirtschaftspolitik, Bd. 12), Göttingen 1968.

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Außerdem ist Kostenminimierung nur ein Aspekt optimaler Marktversorgung. Als Träger des technischen Fortschritts aber sind gerade die viel zitierten US-Firmen meist nicht beispielgebend, wie überhaupt die bisher vorliegenden empirischen Befunde der weit verbreiteten Vorstellung, große und größte Unternehmen seien die hervorragenden Träger des technischen Fortschritts, eindeutig widersprechen[121].

Darüber hinaus entspringt die Proklamierung der in Frage stehenden Leitbildvorstellungen einer recht einseitigen Sicht der damit angesprochenen amerikanischen Realität. Sie verschweigt die mit den zur Nachahmung empfohlenen Unternehmensgrößen unmittelbar verbundene wachstums-, wettbewerbs- und gesellschaftspolitische Problematik ebenso wie die ausgeprägten Schwierigkeiten ihrer Bewältigung. Wenn die Konzentrationspolitik in der EWG von den relevanten amerikanischen Erfahrungen lernen will — und das sollte sie in der Tat tun —, so kann dies mit Erfolg nur auf der Basis einer alle wesentlichen Aspekte erfassenden Gesamtanalyse der amerikanischen Verhältnisse geschehen[122].

C. Zur Angemessenheit der Förderungsmaßnahmen

Wenn die bisher vorgebrachten Einwände zutreffen, so ergeben sich daraus auch Konsequenzen für die Beurteilung der von der Kommission praktizierten oder vorgeschlagenen Instrumente zur Förderung der Konzentration.

Da hier keineswegs die Zweckmäßigkeit von Zusammenschlüssen generell in Abrede gestellt wird, ist gegen die gesellschaftsrechtliche Ermöglichung internationaler Fusionen ebenso wenig einzuwenden wie gegen die steuerrechtliche Erleichterung aller Formen grenzüberschreitender Konzentrationen. Auch eine gezielte finanzielle Förderung ist nicht zu verwerfen, sofern dabei strenge Maßstäbe angelegt werden. Insbesondere ist die Notwendigkeit und Zweckmäßigkeit solcher Maßnahmen von Fall zu Fall überzeugend zu begründen. Gleichzeitig darf

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[121] Vgl. vor allem das Material in: US Senate Subcommittee on Antitrust and Monopoly: Hearings on Economic Concentration, Part 3; Concentration, Invention and Innovation, 89th Cong., 1st Sess., Washington 1965; sowie dessen Auswertung durch *E. Günther*, Die Bedeutung der Konzentration für den technischen Fortschritt und die internationale Wettbewerbsfähigkeit, in *E. Salin* u. a. (Hrsg.), Notwendigkeit und Gefahr der wirtschaftlichen Konzentration, Basel und Tübingen 1969, S. 57 ff.; *H. Petry*, Technischer Fortschritt, Integration, internationale Wettbewerbsfähigkeit und Unternehmensgröße, Jb. f. Nat. u. Stat., Bd. 183 (1969), S. 271 ff.; *L. Jüttner-Kramny*, Zur Bedeutung der Unternehmensgrößen für den technischen Fortschritt (FIW-Schriftenreihe, Bd. 53), Köln etc. 1970.

[122] So könnte insbesondere die Entwicklung und der heutige Stand der wettbewerbspolitischen Kontrolle von Unternehmenszusammenschlüssen in den USA der europäischen Konzentrationspolitik wichtige Einsichten vermitteln. Vgl. dazu *W. Zohlnhöfer*, Wettbewerbspolitik im Oligopol. Erfahrungen der amerikanischen Antitrustpolitik (Veröffentlichungen der List Gesellschaft, Reihe B, Bd. 54), Basel und Tübingen 1968, bes. S. 151 ff.

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die besondere Präferenz der Kommission für grenzüberschreitende Zusammenschlüsse nicht zu einer faktischen Diskriminierung rein nationaler Unternehmen und damit zu einer Verfälschung des Wettbewerbs zwischen diesen beiden Kategorien von Anbietern führen. Deshalb ist selbst für die Sektoren fortgeschrittener Technologie vor einer allzu forcierten Konzentrationsförderung zu warnen: Denn einmal ist die Überlegenheit der US-Unternehmen auch hier nicht nur auf ihre Größe zurückzuführen, sondern vermutlich in noch höherem Maße auf den außergewöhnlich hohen Umfang der öffentlichen Finanzierung ihrer Entwicklungstätigkeit. Zum anderen erfordert die Nutzung des reichen technologischen Potentials in diesen Sektoren ein breites Spektrum von Forschungs- und Entwicklungsinitiativen. Konzentrationspolitik sollte daher in diesen Sektoren vor allem als integraler Bestandteil einer Politik differenzierter Förderung technologischer Entwicklungen konzipiert werden.

Äußerst kritisch ist dagegen die in zahlreichen Stellungnahmen der Kommission zum Ausdruck kommende *ungezielte* Werbung für eine höhere Unternehmenskonzentration zu beurteilen. Diese beinahe in jeder Hinsicht unbestimmten Aufforderungen zu Zusammenschlüssen entspringen der skizzierten Überschätzung der leistungssteigernden Potenz höherer Konzentration und sind schon deswegen nicht vertretbar. Da die dabei in der Regel gemachten Vorbehalte im Hinblick auf die Gültigkeit solcher Befürwortungen so allgemein gehalten sind, daß sie eine Abgrenzung des mutmaßlichen Adressatenkreises kaum zulassen, sind sie weitgehend willkürlichen Ausdeutungen zugänglich. Damit aber sind sie auch geeignet, Konzentrationsprozesse zu ermutigen oder wenigstens zu tabuisieren, die vor allem auf die Schaffung der strukturellen Voraussetzungen für eine (kollektive) Marktkontrolle abzielen. Diese wenig wünschenswerten Auswirkungen sind besonders zu befürchten, solange eine die Funktionsfähigkeit des Wettbewerbs wirksam schützende präventive Fusionskontrolle fehlt, wie das vorläufig für die EWG der Fall ist.

D. Zum Ausmaß der wettbewerbspolitischen Kontrolle

Ist die Kommission in ihren Bemühungen zur Förderung der Unternehmenskonzentration somit weit über das Maß des wachstumspolitisch Vertretbaren hinausgegangen, so hat sie den Ausbau der wettbewerbspolitisch erforderlichen Vorkehrungen zur Beschränkung der Konzentration und zur Verhinderung des Mißbrauchs der damit verbundenen wirtschaftlichen Macht bisher vernachlässigt.

Damit soll keineswegs verkannt werden, daß die Kommission ausdrücklich die Notwendigkeit der Aufrechterhaltung eines „wirksamen" Wettbewerbs und sich daraus ergebende Grenzen für das Ausmaß

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wünschenswerter Konzentration anerkennt. Sie hat sich bei der Behandlung dieses Themas bisher jedoch in den wesentlichen programmatischen Dokumenten über ihre konzentrationspolitische Konzeption auffallende Zurückhaltung auferlegt. In der einzigen ausführlichen Erörterung über die Anwendbarkeit von Art. 85 und 86 EWGV auf Unternehmenszusammenschlüsse wird das Bemühen deutlich, nicht die dadurch gesetzten Grenzen, sondern die kaum eingeschränkten Möglichkeiten für Zusammenschlüsse in den Vordergrund zu stellen. Entsprechend großzügig ist denn auch die Interpretation der durch diese Wettbewerbsregeln gezogenen Grenzen zulässiger Konzentration ausgefallen. Im Zweiten Programm zur mittelfristigen Wirtschaftspolitik aber und vor allem im Memorandum zur Industriepolitik der Gemeinschaft von 1970 spielen Fragen dieser Art eine völlig untergeordnete Rolle. Die Konzentrationspolitik der Kommission ist bis heute vor allem als Politik der Konzentrationsförderung formuliert und praktiziert worden. Dabei hätte gerade die zuletzt genannte Denkschrift eine ausgezeichnete Gelegenheit geboten, diese einseitige Orientierung zu überwinden und die wettbewerbspolitisch gebotenen Grenzen der Konzentration mit aller Deutlichkeit aufzuzeigen, um in diesem Zusammenhang die Notwendigkeit einer baldigen Novellierung von Art. 86 EWGV zu begründen.

Um so bemerkenswerter ist die Formulierung des strukturpolitischen Leitbilds für die Stahlindustrie. Es ist zwar eine durchaus offene Frage, ob die danach anzustrebende Konzentration des Angebots die zuverlässige Entfaltung eines funktionsfähigen Wettbewerbs dauerhaft gewährleistet. Das setzt in jedem Fall die Auflösung der deutschen Stahlkontore ebenso voraus wie den konsequenten Abbau der finanziellen und personellen Verflechtungen, die vor allem zwischen belgischen und französischen Unternehmensgruppierungen bestehen. Selbst dann jedoch wächst mit zunehmender Verschmelzung des Stahlmarkts die Wahrscheinlichkeit, daß sich die Stahlproduzenten zunehmend auch über die nationalen Grenzen hinweg als eine Gruppe begreifen, die ein gemeinsames Interesse an der Vermeidung des Wettbewerbs verbindet. Dafür spricht auch die Tatsache, daß auf den — letztlich entscheidenden — Märkten einzelner Stahlprodukte verschiedentlich eine weit höhere Konzentration herrscht als es nach dem auf Rohstahlbasis formulierten Leitbild wünschenswert ist. Außerdem vereinigt der größte Produzent schon jetzt 15 % der Rohstahlproduktion auf sich[123] und nach Beitritt Großbritanniens wird das dann größte (britische) Unternehmen einen noch höheren Rohstahl-Produktionsanteil aufweisen, es sei denn, die britische Regierung entschließt sich zu einer Dekonzentration. Immerhin besteht Aussicht, daß es einer an diesem Leitbild orientierten Politik gelingt, eine Konzentration der europäischen Stahlindustrie zu verhin-

[123] Vgl. EG-Kommission, Dritter Gesamtbericht (1969), S. 69.

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dern, die jene Anbieterkontrolle des Marktes ermöglicht, wie sie die amerikanischen Stahlhersteller seit langem praktizieren[124].

Darüber hinaus ist diese Initiative zur Eindämmung des sich beschleunigenden Konzentrationsprozesses in der Stahlindustrie aber vor allem deswegen von Bedeutung, weil sich darin ein Wandel in der Auffassung der Kommission von den wettbewerbspolitisch bedingten Grenzen der Konzentration zu manifestieren scheint. Zwar läßt sich diese Veränderung aus den allgemeinen programmatischen Äußerungen zur Konzentrationspolitik noch kaum entnehmen. Insbesondere hat sie die aus ihrer Denkschrift zum Problem der Unternehmenskonzentration sprechende Ansicht, die durch Art. 86 EWG errichteten Schranken reichten zum Schutze des Wettbewerbs gegenüber Unternehmenszusammenschlüssen aus, bis heute (1970) nicht ausdrücklich korrigiert. Das für die Stahlindustrie formulierte strukturelle Leitbild läßt sich aber als Anzeichen einer Revision dieser Auffassung interpretieren: Wenn zumindest die negativen Implikationen dieses Leitbilds auch in der EWG für die übrige Industrie gelten, so müßte die Kommission auch dort Zusammenschlüssen, die zu einer (markt-)beherrschenden Stellung oder zu einem engen Oligopol führen, als eine Gefährdung der Funktionsfähigkeit des Wettbewerbs ansehen und verhindern — eine Aufgabe, die sie auf der Basis des geltenden Wettbewerbsrechts nicht erfüllen kann.

E. Die Unausgewogenheit der Konzeption und die Notwendigkeit einer Korrektur

Damit wird die wohl größte, weil möglicherweise folgenschwerste Schwäche der Konzentrationspolitik in der EWG deutlich und indirekt von der Kommission selbst anerkannt: ihre Unausgewogenheit. Einer über das wachstumspolitisch vertretbare hinausgehenden Förderung der Konzentration steht eine wettbewerbspolitisch unzureichende Kontrolle gegenüber. Würde die von der Kommission bisher vertretene Konzentrationspolitik in ihrer Einseitigkeit voll wirksam, wäre eine Gefährdung der Funktionsfähigkeit des Wettbewerbs auf zahlreichen EWG-Märkten nicht auszuschließen. Die Konsequenzen einer solchen Entwicklung für die Verwirklichung der Vertragsziele, ja für die gesamte Wirtschaftsordnung in der EWG liegen auf der Hand[125].

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[124] Die Bedeutung dieser privaten Kontrolle der Preisbildung auf einem wichtigen Markt für die Gesamtwirtschaft der USA wird vorzüglich illustriert durch die These von *E. Sohmen*, „Had the [American steel] industry worked at capacity during the early sixties, and had it exported the additional steel at world market prices, the additional export revenue ... would have eliminated the U. S. balance-of-payments deficits during these years ... This comparision is, if anything, likely to understate the contribution of high steel prices to the U. S. balance-of-payments troubles." U. S. Senate Subcommittee on Antitrust and Monopoly: Hearings on Economic Concentration, Part 7, a. a. O., S. 3446.

[125] Sie werden klar angesprochen von *H. von der Groeben*, Unternehmens-

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Die EWG bietet die einmalige Chance, die wachstumspolitisch erwünschten Unternehmensgrößen mit der Aufrechterhaltung eines funktionsfähigen Wettbewerbs zu verbinden. Zur Nutzung dieser Chance ist es erforderlich, daß die Kommission ihre bisherige Konzentrationspolitik korrigiert. Zum einen sollte sie bei der Begründung wie bei der Förderung erwünschter Zusammenschlüsse differenzierter vorgehen und insbesondere von einer ungezielten Ermutigung großer und größter Unternehmen zur Konzentration unter Hinweis auf amerikanische Größendimensionen deutlich Abstand nehmen. Noch dringlicher aber erscheint die Einführung einer Fusionskontrolle im Sinne von Art. 66 EGKS, die es erlaubt, Unternehmenszusammenschlüsse aller Art zu verhindern, soweit sie geeignet sind, die Entfaltung eines funktionsfähigen Wettbewerbs zu gefährden[126]. Eine konsequente Regelung dieser Art würde auch eine wirksame, aber nicht-diskriminierende Kontrolle des Aufkaufs europäischer Firmen durch US-Unternehmen erlauben. Schließlich sollte die Kontrolle wirtschaftlicher Macht dadurch verbessert werden, daß auf den Nachweis einer beherrschenden Stellung verzichtet wird.

Die volle Verwirklichung der genannten Chance setzt voraus, daß diese Korrekturen bald erfolgen. Das gilt insbesondere für die Schaffung der Rechtsgrundlagen für eine wirksame Fusionskontrolle. Die Kommission beabsichtigt, eine entsprechende Novellierung von Art. 86 EWGV erst im Rahmen der Fusion der Verträge. Da diese jedoch bis zum Abschluß der Beitrittsverhandlungen aufgeschoben wurde, erscheint dieser Zeitpunkt reichlich unsicher. So verständlich diese Absicht im Lichte taktischer Erwägungen ist, so problematisch ist sie sachlich. Gerade die zu erwartenden Widerstände lassen es als fraglich erscheinen, ob es angesichts der Vielzahl der Probleme, die bei dieser Gelegenheit zu lösen sind, zu einer befriedigenden Novellierung von Art. 86 EWGV kommt, wenn die Notwendigkeit einer solchen Regelung nicht schon vorher auch öffentlich eingehend begründet wurde. Vor allem aber droht der sich beschleunigende Konzentrationsprozeß in den EWG-Ländern den intendierten Schutz des Wettbewerbs auf einer zunehmenden Zahl von Märkten illusorisch zu machen.

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zusammenschlüsse aus der Sicht der Europäischen Gemeinschaften, in *E. Salin* u. a. (Hrsg.), Notwendigkeit und Gefahr der wirtschaftlichen Konzentration, a. a. O., S. 102 ff. Diese Überlegungen haben sich aber offenbar in der Kommission noch nicht genügend durchsetzen können, um die einseitige Ausrichtung der Konzentrationspolitik in der EWG zu überwinden.

[126] Zur konkreten Ausgestaltung einer solchen Fusionskontrolle vgl. *E. Kantzenbach*, Aufgaben einer gemeinsamen Industriepolitik in der EWG, in: *E. Salin* (Hrsg.), Notwendigkeit und Gefahr der wirtschaftlichen Konzentration, a. a. O., S. 94; sowie *W. Zohlnhöfer*, Vorschläge zur Novellierung des GWB im Lichte der Entwicklung der amerikanischen Antitrustpolitik, ibid., S. 167 ff., bes. S. 187 ff.

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Unter diesen Umständen sollte sich die Kommission der von ihr stets betonten Notwendigkeit einer vorausschauenden Orientierung und Gestaltung der Wirtschaftspolitik erinnern und nötigenfalls die Novellierung von Art. 86 vor Fusion der Verträge in Angriff nehmen[127]. Denn die konsequente Befolgung dieses Prinzips ist im Bereich der Politik gegen wettbewerbsbeschränkende Unternehmenskonzentration noch dringender geboten als auf vielen anderen Gebieten der Wirtschaftspolitik, da hier Versäumnisse nachträglich kaum korrigierbar sind und mit dem Schutz des Wettbewerbs die Leistungsfähigkeit eines zentralen Instruments zur Verwirklichung der Vertragsziele auf dem Spiele steht.[128]

Summary

Concentration Policy in the E.E.C.

This essay portrays the E.E.C.-Commission's policy towards economic concentration in the Common Market and evaluates it critically in the light of relevant (esp. American) empirical evidence. The main finding is that this policy so far has been predominantly a policy of facilitating, fostering, and stimulating mergers. While it has been encouraging the building-up of giant corporations more than is justifiable by the standard mentioned above, it has shown little active concern for preventing the merger movement underway in the E.E.C. from substantially restraining competition and economic freedom. In sum, the Commission's policy on concentration is found to be seriously out of balance. The corrective improvement most essential would be the amending of Art. 86 of the Rome Treaty in order to make it an effective instrument for maintaining competition when threatened by mergers and for controlling the abuse of economic power.

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[127] Ein Impuls dafür könnte von der Einführung einer präventiven Fusionskontrolle in der BRD ausgehen, zumal damit wenigstens ein Grund für die einseitige Politik der Konzentrationsförderung, die vor allem Frankreich und Italien auch in den Organen der EWG verfolgen, an Gewicht verliert, nämlich die Furcht vor weiterer starker Konzentration in der deutschen Industrie. Dabei wäre es am zweckmäßigsten, wenn die Kommission gleichzeitig eine Harmonisierung des nationalen Rechts gegen wettbewerbsbeschränkende Zusammenschlüsse im Sinne der am weitesten entwickelten deutschen Regelung anstreben würde, wie sie das im Konzernrecht tut.

[128] Umso bemerkenswerter ist die Tatsache, daß die Kommission auch in dem nach Abschluß dieses Beitrags veröffentlichten Entwurf des Dritten Programms für die mittelfristige Wirtschaftspolitik (dem Rat vorgelegt, Brüssel, 21. Okt. 1970, KOM [70] 1200), das der wirtschaftspolitischen Orientierung für die Jahre 1971—1975 gewidmet ist, der einseitigen Ausrichtung ihrer Konzentrationspolitik treu bleibt. Sie fordert wiederum nur Maßnahmen, die geeignet sind, „den Produktionsapparat an die tatsächliche Marktdimension anzupassen" (S. 59, Tz. 112). Während sie daher u. a. die „Anpassung der nationalen Wettbewerbsregeln an die Erfordernisse des Gemeinsamen Marktes" für erforderlich hält (ibid.), erwähnt sie die Notwendigkeit einer Anpassung des EWG-Wettbewerbsrechts an die Erfordernisse einer wirksamen Kontrolle von Unternehmenszusammenschlüssen im Interesse der Aufrechterhaltung eines funktionsfähigen Wettbewerbs im Gemeinsamen Markt mit keinem Wort.

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V.

Spezielle Probleme der Konzentration (unter besonderer Berücksichtigung der BRD)

Special Problems of Concentration (with Regard to the Federal Republic of Germany)

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Industrie und Konzentration

Von *Wolfgang Kilger* und *Otfried Karl*, Saarbrücken

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- B. Eisen- und Stahlindustrie
- C. Mineralölindustrie
- D. Chemische Industrie
- E. Schiffbau
- F. Fahrzeugbau
- G. Elektroindustrie
- H. Maschinenbau

I. Die Beziehungen zwischen Konzentration und Zielsetzung in der Industrie

Bei der Analyse der speziellen Gründe, die für die Erscheinungsformen der Konzentration in der Industrie maßgebend sein können, ist es angebracht, zunächst kurz auf die Zielsetzung der industriellen Unternehmung einzugehen. Aus der Explikation der unternehmerischen Ziele und ihrer wichtigsten Teilziele lassen sich dann jene Bereiche isolieren, durch deren besondere Gestaltung das Unternehmensziel am besten zu erreichen ist.

Die ökonomische Zielsetzung der Unternehmung in der Industrie besteht darin, eine Zielgröße unter Berücksichtigung ganz bestimmter Restriktionen, die in verschiedenartigster Weise vorgegeben sein können,

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zu erreichen[1]. Dabei ist stets zu berücksichtigen, daß in der Regel alle Größen, die in den Entscheidungsprozeß eingehen, mit einem mehr oder weniger hohen Erwartungswert der Unsicherheit behaftet sind, wobei mit zunehmender zeitlicher Entfernung die Unsicherheit steigt. Die quantitative Zielgröße der Unternehmung wird dabei im Falle der Marktwirtschaft meist durch die Differenz von Erlösen und Kosten beschrieben.

Die Höhe der Erlöse wird weitgehend durch Gegebenheiten des Marktes bestimmt. Die Kosten werden zwar auch durch Marktgegebenheiten beeinflußt, in besonderem Maße aber durch dispositiv bestimmte Kombinationen betrieblicher Ressourcen. Dabei bleibt der Unternehmung längerfristig meist ein Spielraum, innerhalb des im Zeitablauf veränderlichen Datenkranzes des Entscheidungsfeldes eine optimale Kombination aller Aktionsparameter der betrieblichen Teilbereiche mit den außerbetrieblichen Erwartungsparametern vorzunehmen. Wegen der im gesamten Bereich wirtschaftlichen Handelns vorherrschenden Unsicherheit sind jedoch die Komponenten des Erfolgs ebenfalls mehr oder weniger unsicher, zumindest aber risikobehaftet. Daraus leitet sich das Bestreben der Unternehmung ab, Risikostrukturen nach Möglichkeit abzubauen beziehungsweise sie zu optimieren. Das kann zunächst durch Dispositionen im innerbetrieblichen Bereich geschehen; oft erfolgt eine Änderung nach Ausschöpfen der Möglichkeiten in diesem Bereich auch durch Diversifikation der Risiken in außerbetrieblichen Bereichen.

Ein Großteil der Konzentrationsvorgänge zwischen industriellen Betrieben läßt sich quantitativ dadurch begründen, daß bei den vorgenannten Zielkomponenten Dispositionen getroffen werden, die eine Erlösstabilisierung oder -erhöhung, Kostensenkung, Risikenverringerung oder -umschichtung oder eine Kombination dieser Maßnahmen bewirken.

Alle diese Zielkomponenten sind in einer evolutorischen Wirtschaft mit ständig steigendem Bedarf zu realisieren. Allerdings ist die Stärke des Bedarfswachstums in hohem Maße branchengebunden. Zu den oben erwähnten Zielen tritt daher oft das Wachstumsstreben als weitere explizite Zielgröße. Dabei ist nach der Erscheinungsform des Wachstums zu unterscheiden in internes und externes Wachstum, das sich jeweils in horizontaler Form innerhalb der Branche oder in vertikaler oder diago-

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[1] Zur Problematik der unternehmerischen Zielsetzung vgl. *E. Heinen*, Die Zielfunktion der Unternehmung, in: Zur Theorie der Unternehmung, Festschrift zum 65. Geburtstag von *Erich Gutenberg*, hrsg. v. *H. Koch*, Wiesbaden 1962, S. 9 ff.; *J. Bidlingmaier*, Unternehmerziele und Unternehmerstrategien, Wiesbaden 1964; *U. Schmidt-Sudhoff*, Unternehmerziele und unternehmerisches Zielsystem, Wiesbaden 1967; *E. Heinen*, Das Zielsystem der Unternehmung, Grundlagen betriebswirtschaftlicher Entscheidungen, Wiesbaden 1966; *K. Haberlandt*, Das Wachstum der industriellen Unternehmung, Neuwied—Berlin 1970, S. 120 ff.

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naler Form in andere Branchen hinein vollziehen kann[2]. Eine Besonderheit ergibt sich in diesem Zusammenhang bei schrumpfenden Teilmärkten, wo sich oft konsolidierende horizontale Konzentrationstendenzen ohne allgemeines Branchenwachstum zeigen.

Der industrielle Konzentrationsprozeß ist jedoch keineswegs allein als Ausdruck ökonomischen Mittel-Zweck-Einsatzes zu verstehen, vielmehr gehen gerade in Branchen, in denen der Entscheidungsprozeß und die Zielformulierung sowie die Zielkontrolle wenigen Entscheidungsträgern überlassen ist, oft Zielsetzungen mit ein, die jenseits des ökonomischen Bereiches liegen. Solche Zielvorstellungen spielen sicherlich gelegentlich eine entscheidende Rolle, doch sollen im Rahmen dieser Ausführungen derartige außerökonomisch begründete Bestimmungsgründe nicht weiter behandelt werden, wobei nicht verkannt wird, daß auch sie Konzentrationsvorgänge auslösen können.

Im folgenden soll in teilweise modelltheoretischer Sicht entwickelt werden, welche ökonomischen Bestimmungsgründe der Konzentration als kennzeichnend für die Industrie gelten und welche Implikationen dabei auftreten können. Dabei sollen schwerpunktmäßig nur die Bestimmungsgründe in denjenigen Bereichen der Unternehmung erörtert werden, die besonders für die Industrie als charakteristisch zu bezeichnen sind. Daher bleiben allgemeine beschaffungs- und absatzpolitisch relevante Bestimmungsgründe bei diesen Ausführungen außer Ansatz.

II. Bestimmungsgründe der Konzentration in den Funktionsbereichen industrieller Unternehmungen

Zur Isolierung der ökonomischen Bestimmungsgründe von Konzentrationsvorgängen innerhalb von Branchen und über mehrere Branchen hinweg, kann eine Analyse in der Art vorgenommen werden, rein deskriptiv Erscheinungsformen des Konzentrationsprozesses nach der Häufigkeit ihres Auftretens darzustellen. Hier soll in der Weise vorgegangen werden, Bestimmungsgründe der Konzentration nach ihrem Auftreten in den typisch industriellen Funktionsbereichen der Unternehmung zu analysieren.

A. Die Funktionalstruktur industrieller Unternehmungen

Charakteristikum der industriellen Unternehmung ist die Produktion von Halb- und Fertigerzeugnissen durch Be- und Verarbeitung von

[2] Vgl. hierzu die grundlegende Arbeit von *E. T. Penrose*, The Theory of the Growth of the Firm, Oxford 1959; ferner *J. C. Narver*, Conglomerate Mergers and Market Competition, Berkeley—Los Angeles 1967; *M. Gort*, (ed.), Diversification and Integration in American Industry, Princeton 1962.

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Rohstoffen oder Halbfertigerzeugnissen. Von der amtlichen Statistik wird zum industriellen Sektor aber ebenfalls die reine Rohstoffgewinnung gerechnet, die oft nur in geringem Umfange eine Bearbeitung der gewonnenen Rohstoffe vornimmt. Hierbei treten zwar die erwähnten Charakteristika etwas in den Hintergrund, doch kann man im weiteren Sinne auch bei Gewinnungsbetrieben von industrieller Produktion sprechen.

In der Regel gliedert sich eine industrielle Unternehmung gemäß dem funktionalen Ablauf der Güterproduktion in die Bereiche Einkauf und Beschaffung, Forschung und Entwicklung, Produktion, Vertrieb und kaufmännische Verwaltung.

Der Bereich Einkauf und Beschaffung ist jedoch nicht allein ein Merkmal industrieller Unternehmungen, sondern all jener Wirtschaftszweige, die in irgendeiner Weise an der Distribution von Gütern und Dienstleistungen beteiligt sind. Bestimmungsfaktoren für Konzentration in diesem Unternehmungsbereich lassen sich in verschiedenartiger Weise feststellen, sei es, daß bei der Zielkomponente Kosten durch optimale Gestaltung der Bestellpolitik, durch optimale Lager- und Vorratsplanung oder aber durch Diversifikation der Beschaffungsrisiken durch eine geeignete Konzentrationspolitik Einsparungen erwirtschaftet werden, oder sei es, daß Größenvorteile durch ein geballtes Nachfragepotential kostensenkend oder risikenstabilisierend wirken. Bestimmungsgründe aus diesem Bereich sind aber nicht eine spezielle Problematik der Industrie und sollen deshalb in diesem Rahmen nicht weiter behandelt werden.

Hingegen ist der Bereich Forschung und Entwicklung im Wirtschaftsleben weitgehend ein Spezifikum der Industrie. Zwar wird nicht in allen industriellen Zweigen gleichermaßen Forschung und Entwicklung betrieben, doch sind es oft gerade jene Branchen, deren Technologie weitgehend auf naturwissenschaftlichen Kenntnissen beruht, die das größte Wachstum aufweisen. Welchen Einfluß die Produktion technischen Wissens, des „know how" im Grundlagenbereich und insbesondere im Bereich der Entwicklung von Produkten und Produktionsverfahren auf den Konzentrationsprozeß der Industrie hat, soll in den weiteren Ausführungen untersucht werden.

Auch der Funktionsbereich der Produktion, also der Rohstoffumformung und Bearbeitung von Einsatzstoffen, ist als Besonderheit der industriellen Unternehmung anzusehen und dürfte im ökonomischen Bereich die am ehesten zu isolierenden Bestimmungsgründe für Konzentrationsvorgänge aufweisen. Zwar kann man nicht sagen, daß generell für alle Branchen gelten muß, was bei einer Betrachtung allein der Produktionsseite an Gründen für eine Konzentration zu größeren Einheiten

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anzuführen ist, vielmehr muß man bei der Übertragung der typischen Bestimmungsgründe auf einzelne Branchen davon ausgehen, welche Besonderheiten speziell durch die Produktionsstruktur dieser Branche entgegenstehen. Die wichtigsten Aspekte, die im Produktionsbereich Bestimmungsgründe für Konzentration sind, insbesondere die kostensenkenden Wirkungen von mutativen Betriebsgrößenvariationen, Kapazitätsharmonisierungen und Maßnahmen der Sortenbeschränkung sollen im folgenden daher erörtert werden.

Als weiterer Funktionsbereich der Industrieunternehmung ist der Absatzsektor anzuführen, in dem ebenfalls eine Reihe von Ansatzpunkten für eine positive Beeinflussung der Zielgröße Gewinn durch Konzentrationsprozesse aufzuzeigen wäre. Insbesondere bietet der Teilbereich Absatzorganisation mit seinen vielfältigen Gestaltungsmöglichkeiten für vertikale und horizontale Konzentrationsvorgänge ein weites Möglichkeitsfeld an, das je nach Branchen- und Marktgegebenheiten differiert. Bei den weiteren Ausführungen soll aber dieser Bereich außer Betracht bleiben, weil er kein Spezifikum der Industrie ist, sondern ganz allgemein Charakteristikum der distributierenden Wirtschaft.

Als letzter Teilbereich der Industrieunternehmung, der insbesondere durch die modernen Methoden der Entscheidungsvorbereitung und der Informationsverarbeitung ständig an Gewicht zunimmt, werden die kaufmännische Verwaltung und Organisation in ihrer industriespezifischen Ausgestaltungsform auf ihre Bestimmungsgründe für Konzentrationsvorgänge hin untersucht, obwohl sich Bestimmungsgründe hier nur schwer isolieren lassen.

B. Bestimmungsgründe der Konzentration im Forschungs- und Entwicklungsbereich

Forschungs- und Entwicklungstätigkeit wird im Rahmen der Wirtschaft überwiegend von der Industrie betrieben. Doch ist es keineswegs ein Charakteristikum jeder industriellen Branche, eigene Forschungs- und Entwicklungstätigkeiten auszuführen. Der Bereich der Grundlagenforschung ist sogar, soweit sie im industriellen Rahmen betrieben wird, auf wenige Branchen beschränkt. Nach der absoluten und relativen Höhe ihrer Aufwendungen zu schließen, sind forschungsintensive Branchen insbesondere die sog. naturwissenschaftlichen Industriezweige wie Chemie und Elektrotechnik und die sog. ingenieurmäßigen Industriezweige wie Automobil-, Flugzeug- und Maschinenbau, Feinmechanik und optische Industrie[3]. Als Gründe hierfür werden angeführt, weite

[3] Vgl. hierzu insbesondere: *G. Schätzle*, Forschung und Entwicklung als unternehmerische Aufgabe, Köln und Opladen 1965, S. 154 ff. und die dort angegebene Literatur.

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Möglichkeiten, unbekanntes technisches Wissen zu erschließen, demzufolge Wettbewerbsdruck, der zu Produktinnovationen zwingt, geringe Länge der Lebenszykluskurven von Erzeugnissen und die Breite der technischen Basis.

Zunächst hängt die Notwendigkeit der Forschungs- und Entwicklungstätigkeit also vom Charakter der Branche ab und darüber hinaus vom Stand des technischen Wissens. Unter technischem Wissen werden alle Aspekte der Technologie verstanden, Produkte mit bestimmten Qualitätsanforderungen herzustellen. Aufgabe der Forschung und Entwicklung ist daher die Produktion und Erweiterung neuen bzw. bekannten technischen Wissens. Auf den konkreten Fall der einzelnen Unternehmung bezogen bedeutet dies, Grundlagenforschung zu betreiben, neue Produkte zu entwickeln und zu erproben und die Voraussetzungen für eine wirtschaftliche Produktion der produktionsreifen Produkte zu schaffen. Dabei ist es nicht in jedem Falle Aufgabe der Unternehmung, selbst neue Produktionsverfahren zu entwickeln und herzustellen, sondern oft besteht die Möglichkeit, Verfahren von der Maschinenindustrie entwickeln zu lassen oder zu übernehmen.

Empirische Erhebungen über den Umfang der Aufwendungen für Forschung und Entwicklung haben ergeben, daß sich diese Aufwendungen fast ausschließlich auf Unternehmungen verteilen, die als Großunternehmungen zu bezeichnen sind[4]. Jedoch zeigte sich hierbei sehr deutlich, daß sich die Aufwendungen keineswegs proportional zu den Umsätzen verhalten, sondern die relativ höchsten Aufwendungen im Mittelbereich der Großunternehmen nachgewiesen werden konnten. Eine gleichgerichtete Beziehung zwischen Unternehmensgröße und Aufwendungen für Forschung und Entwicklung besteht demnach nicht, was jedoch nicht bedeutet, daß Bestimmungsgründe für Konzentration im Forschungs- und Entwicklungsbereich zu verneinen sind oder nur für bestimmte Größenklassen zutreffen. Nachzuweisen ist jedoch, daß Großunternehmen relativ mehr Forschung und Entwicklung betreiben als kleine Unternehmungen. Bislang konnten jedoch empirisch begründete Untersuchungen nicht zu eindeutigen Ergebnissen für die Gründe führen, weshalb Großunternehmen in nennenswertem Umfang mehr For-

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[4] *G. Schätzle*, a. a. O., S. 159 ff. sowie National Science Foundation, Funds for Research and Development in Industry 1959, Washington 1962, S. 74; *M. A. Adelman*, The Measurement of Industrial Concentration, R. Ec. Stat., Vol. 33 (1951), S. 269 ff.; *H. Echterhoff-Severitt*, in: Notwendigkeit und Gefahr der wirtschaftlichen Konzentration in nationaler und internationaler Sicht. Frankfurter Gespräche der List Gesellschaft, 10.—12. März 1969, Protokolle und Gutachten, hrsg. v. *E. Salin, J. Stohler* mit *P. Pawlowski*, Basel—Tübingen 1969, S. 294 f.; *H. Grüter*, Konzentration und technischer Fortschritt, Die Aussprache, 1968, S. 126 ff.; *L. A. Hildebrand*, Einfluß der Unternehmensgröße auf den technischen Fortschritt (Diss.), Mainz 1970.

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schung und Entwicklung betreiben als kleine[5]. Als hypothetische Gründe lassen sich anführen insbesondere die Möglichkeiten, nach Überschreiten einer Mindestgröße von Labor- und Forschungseinrichtungen Größendegressionen im Bereich der Kosten zu erzielen, durch Möglichkeiten der Nutzung von Forschungs- und Entwicklungsergebnissen im eigenen Unternehmen auch deren Erträge selbst zu erwirtschaften und durch bessere Risikoverteilung der Forschungs- und Entwicklungsprojekte Vorteile zu erwirtschaften[6]. Im folgenden sollen diese Argumente im Hinblick auf die oben ausgeführte ökonomische Zielsetzung hin erläutert werden.

Wie es für den Bereich der Produktion nachzuweisen ist, kann angenommen werden, daß im Forschungs- und Entwicklungssektor ebenfalls, innerhalb generell jedoch nicht zu fixierender Grenzen, Beziehungen zwischen Betriebsgröße und Durchschnittskosten bestehen. So wie im Produktionsbereich economies-of-scale, das sind Kostendegressionen, sowohl bei den variablen als auch den fixen Kosten mit wachsender Betriebs- oder Verfahrensgröße festzustellen sind, die u. a. daraus resultieren, daß bestimmte Faktoren nicht teilbar und als Spezialapparaturen erforderlich sind, so kann im Einzelfall nachgewiesen werden, daß auch bei der Gestaltung des Forschungs- und Entwicklungsbereiches derartige Kostendegressionen wirksam werden. Zunächst sind in diesem Zusammenhang Apparaturen und Laboreinrichtungen zu erwähnen, die in zunehmendem Maße komplizierter und aufwendiger werden. Zur Bedienung dieser Apparaturen ist eine Anzahl von Spezialisten erforderlich, deren optimale Auslastung erst von einem bestimmten Forschungsvolumen an möglich wird. Hierbei spielt eine große Rolle die nicht beliebige Teilbarkeit der Abteilung Forschung und Entwicklung. Als weitere Gründe, die für eine große Forschungsabteilung und die mit ihr verbundenen Kostenvorteile sprechen, lassen sich die wechselseitige Ergänzung zwischen mehreren gleichzeitig laufenden Forschungsprojekten und die Möglichkeiten von Parallelforschung sowie von systematischen Experimenten durch ausgebaute Forschungsabteilungen anführen[7].

Eine weitere Beziehung zwischen Unternehmungsgröße und Forschung und Entwicklung besteht darin, daß die Zielgröße Gewinn durch die bei einer ausgebauten Forschungs- und Entwicklungsabteilung mit Wahrscheinlichkeit anfallenden „Nebenprodukte" und der Möglichkeit

[5] Insbesondere konnte der Nachweis der höheren Forschungseffizienz von Größtunternehmungen nicht nachgewiesen werden; vgl. hierzu *H. Grüter*, Konzentration . . ., a. a. O., S. 130 f.

[6] Vgl. hierzu die Untersuchungen von *F. M. Scherer*, Firm Size, Market Structure, Opportunity, and the Output of Patented Inventions, AER, Vol. LV (1965), S. 1097—1125, sowie *ders.*: Unternehmensgröße und technischer Fortschritt, Die Aussprache, 1969, S. 172 ff.

[7] Vgl. hierzu *G. Schätzle*, Forschung . . ., a. a. O., S. 167 ff.

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der Verwertung im eigenen Unternehmensbereich nachhaltig positiv beeinflußt werden kann. Für Unternehmungen kleineren Formats besitzen derartige „Nebenprodukte" mangels Verwertungsmöglichkeit oft nur den Charakter von Abfallprodukten im Sinne der Kuppelproduktion. Je breiter und tiefer gefächert das Produktionsprogramm einer Unternehmung ist, desto eher wird sich eine wirtschaftlich gerechtfertigte Verwendungsmöglichkeit der eigenen Forschungs- und Entwicklungsergebnisse ergeben.

Ein weiterer Bestimmungsgrund der Konzentration besteht im Zusammenhang mit der Zielkomponente Risikominimierung darin, daß Großunternehmungen eher als kleinere in der Lage sind, Forschungsbudgets zu finanzieren, die zur laufenden Durchführung bestimmter Projekte erforderlich sind. Mit der Durchführung mehrerer Projekte wird gleichzeitig die Risikostruktur der Forschungstätigkeit verbessert. Die Risikostruktur ist vergleichsweise besser, da der völlige Ausfall infolge Fehlschlagens aller Projekte mit zunehmender Diversifikation der Forschungs- und Entwicklungstätigkeit unwahrscheinlicher wird. Als weiterer Grund ist die geringere Risikoempfindlichkeit der Großunternehmungen zu nennen, die darauf beruht, daß sie meist breitere Produktionsprogramme als kleinere Unternehmungen aufweisen und in der Regel auch in finanzieller Hinsicht bei Forschungsprojekten elastischer reagieren können.

Die Ausführungen zeigen deutlich mögliche Bestimmungsgründe für in erster Linie horizontale Konzentration, die sich aus dem Forschungsbereich ergeben. Diese Gründe können aber mit wachsender Unternehmensgröße zunehmend an Bedeutung verlieren, so daß sie nur innerhalb bestimmter Unternehmungsgrößenklassen, die von Branche zu Branche verschieden sind, vorrangige Bedeutung besitzen[8].

Deutlicher als in der Forschung zeichnen sich die Bestimmungsgründe der Konzentration im Bereich der Produktentwicklung ab, der dadurch gekennzeichnet ist, daß eine Reihe von Produkten zunächst entwickelt, im Anschluß daran fertigungstechnisch zur Serienreife verbessert und während dieser Zeit laufend auf ihre geplante Funktionsfähigkeit hin getestet werden. Branchen mit hohem Konkurrenzdruck sind oft gezwungen, in kurzen Abständen technisch ausgereifte Produkte zur Serienreife zu führen, was besonders dann, wenn es sich um technologisch aufwendige Produkte handelt, mit außerordentlich hohen Entwicklungskosten verbunden ist. Entwicklungsabteilungen, wie sie in der

[8] Vgl. hierzu die Ausführungen *M. F. Scherers*, Unternehmensgröße ..., a. a. O., S. 174, der für Industrieunternehmungen verschiedener Branchen „Schwellenwerte" für Unternehmensgrößen ermitteln konnte, innerhalb derer die größte Forschungs-Effizienz lag.

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Automobilindustrie oder in der Datenverarbeitungsindustrie in der Regel erforderlich sind, können vom materiellen und personellen Aufwand her nur noch durch Großunternehmungen eingerichtet und aufrechterhalten werden. In allen anderen Branchen, in denen zur Produktentwicklung ebenfalls hohe finanzielle Aufwendungen erforderlich sind, spielen diese Bestimmungsgründe der Konzentration eine ähnlich wichtige Rolle, wenngleich eine isolierende Betrachtung gerade dieses Bereichs die Notwendigkeit zur Bildung größerer Unternehmenseinheiten nicht immer nachweist.

Die Bestimmungsgründe für Konzentration im Forschungs- und Entwicklungsbereich liegen deutlich in jenen Größenbereichen vor, die man als unteroptimal bezeichnen muß. Sobald keine meßbaren Ergebnisse der Zielbeeinflussung durch Zusammenfassung der Forschungs- und Entwicklungstätigkeit zu größeren Einheiten mehr auftreten, scheinen diese Gründe als Bestimmungsfaktoren den empirischen Ergebnissen zufolge wegzufallen. Großunternehmungen vergrößern tatsächlich oft auch nicht mehr eine einzige Forschungs- und Entwicklungsabteilung, sondern gehen zu einer multiplen Gestaltung ihres Forschungs- und Entwicklungsbereiches über, wobei allerdings ein enger Erfahrungsaustausch zwischen den einzelnen Forschungs- und Entwicklungsabteilungen synergistische Effekte zeigen soll.

C. Bestimmungsgründe der Konzentration im Produktionsbereich

Der kostenmäßig wichtigste Funktionsbereich der industriellen Unternehmung ist die Produktion. Hier zeigen sich am augenfälligsten jene Ansatzpunkte, die durch Konzentrationsvorgänge eine Verringerung der Durchschnittskosten bewirken. Derartige Wirkungen gehen meist davon aus, durch horizontales Wachstum zu steigenden Produktmengen und Einsatz kostengünstigerer Verfahren in den Bereich niedrigerer Durchschnittskosten zu gelangen. Inwieweit und ob hierbei in langfristiger Betrachtung die Durchschnittskosten monoton sinken oder aber ein Minimum erreicht wird, ist seit langem Gegenstand der betriebswirtschaftlichen Diskussion[9].

Weiterhin werden die Kosten dadurch beeinflußt, daß vertikale Konzentrationsprozesse zu kostensenkenden Effekten bei der Kapazitätsharmonisierung der Produktionsstufen führen. Endlich treten als dritter

[9] Vgl. hierzu *E. Gutenberg*, Grundlagen der Betriebswirtschaftslehre, Erster Band, Die Produktion, Berlin—Heidelberg—New York 1967[13], S. 409 ff.; *W. Lücke*, Betriebs- und Unternehmensgröße, Stuttgart 1967, S. 81 ff.; *H. Ludwig*, Die Größendegression der technischen Produktionsmittel, Köln und Opladen 1962; *W. Kilger*, Produktions- und Kostentheorie, Wiesbaden 1958, S. 106 ff.; *L. Pack*, Die Elastizität der Kosten, Wiesbaden 1966, S. 256 sowie die dort angegebene Literatur.

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Hauptgesichtspunkt Rationalisierungsmöglichkeiten bei der Neugestaltung des Gesamtsortiments infolge von Unternehmenszusammenschlüssen auf, die sowohl Kostensenkungstendenzen bei der Produktion, als auch erlössteigernde und -stabilisierende Effekte mit sich bringen können.

1. Mutative Betriebsgrößenvariationen bei horizontaler Konzentration

Das bereits zu Beginn dieses Jahrhunderts formulierte „Gesetz der Massenproduktion"[10] besagt, daß mit steigenden Produktionsmengen die Stückkosten sinken. Ausgangspunkt ist hierbei der Gedanke, daß in langfristiger Sicht variable und fixe Kosten eines Produktionsmittels auf die Produkte insgesamt bezogen werden. Beim Vergleich von 2 Verfahren, die in unterschiedlicher Weise mechanisiert sind und demzufolge unterschiedliche Kostenstrukturen aufweisen — mechanisiertere Verfahren weisen in der Regel geringere variable Stückkosten auf, dafür aber einen höheren Fixkostenanteil — besteht eine kritische Menge, bei der beide Verfahren gleiche Durchschnittskosten aufweisen. Bei mehreren zur Auswahl stehenden Verfahren unterschiedlichen Mechanisierungsgrades ergibt sich daher eine mit steigender Produktion degressiv sinkende Abfolge solcher kritischer Mengen, die sich durch die Enveloppe als degressiver Kostenverlauf der einzelnen Verfahrensgrößen darstellen läßt.

Innerhalb der durch jeweils zwei kritische Mengen begrenzten Intervalle gelten die durch die Produktionsfunktionen der Verfahren bestimmten Kostenverläufe, die sich im industriellen Bereich mit der Möglichkeit intensitätsmäßiger Anpassungsprozesse an Beschäftigungsschwankungen dadurch auszeichnen können, daß sie zunächst bei steigender Beschäftigung sinkende Durchschnittskosten aufweisen und jenseits des durch nichtlineare Grenzkostenverläufe gekennzeichneten Mengenintervalls steigende Durchschnittskosten zeigen[11]. Unter der Voraussetzung rationalen Handelns wird daher eine Unternehmung bei nachhaltig steigender Beschäftigung jeweils kostengünstigere Verfahren einzusetzen bestrebt sein. Sind die Aktionsparameter der Unternehmung in idealtypischer Sicht nur die Kosten, dann wird die Unternehmung jeweils zu den nächstniedrigeren Kostenfunktionen übergehen. Dies ist jedoch zwangsläufig mit steigenden Produktionsmengen verbunden,

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[10] *K. Bücher*, Das Gesetz der Massenproduktion, Z. f. g. St., Bd. 66 (1910), H. 3, S. 1; sowie die kritische Würdigung von *W. Lücke*, Das „Gesetz der Massenproduktion" in betriebswirtschaftlicher Sicht, in: Zur Theorie der Unternehmung, Festschrift zum 65. Geburtstag von *Erich Gutenberg*, hrsg. v. *H. Koch*, Wiesbaden 1962, S. 313 ff.

[11] Dieser sich mit steigender Ausbringung stark verflachende oder wieder ansteigende Stückkostenverlauf läßt sich für industrielle Betriebe mit Hilfe der Theorie der Verbrauchsfunktionen erklären; vgl. hierzu: *E. Gutenberg*, Grundlagen . . ., a. a. O., 1962[6], S. 218 ff.

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die, um Gewinne zu erzielen, am Markt abgesetzt werden müssen. In den meisten Fällen, in denen Unternehmungen der gleichen Industriebranche ähnliche Produkte herstellen und einen bestimmten Marktanteil besitzen, läßt sich durch eine Zusammenlegung der Unternehmungen in kapazitativer Sicht nicht nur die Kapitalausstattung addieren, sondern auch häufig das Nachfragepotential. Bestimmungsgrund für ein derartiges Zusammenlegen artverwandter Betriebe ist unter diesen Voraussetzungen die Aussicht auf höhere Gewinne durch sinkende Durchschnittskosten der Produkte. Die Kostenstruktur verändert sich hierbei dahingehend, daß durch Einsatz höher mechanisierter Verfahren mit größeren Produktionskapazitäten auch höhere Fixkosten anfallen, dagegen tendenziell geringere variable Kosten.

Bei der Analyse des Geltungsbereiches dieses Bestimmungsfaktors für primär horizontale Konzentrationsvorgänge erhebt sich die Frage, ob bei der Abfolge höher mechanisierter Verfahren ein stetig sinkender Stückkostenverlauf entsteht, oder ob ab einer gewissen Menge wieder ein Stückkostenanstieg zu verzeichnen ist. In einem solchen Falle dürfte mit steigender Verfahrensgröße, das heißt mit steigender Betriebsgröße, der ökonomische Anreiz, durch Realisierung abnehmender Stückkostendifferenzen den Betriebsgewinn zu steigern, stetig abnehmen und mit Erreichen des Stückkostenminimums aufhören. Der Bestimmungsgrund, durch mutative Betriebsgrößenerweiterungen die Zielgröße zu maximieren, würde dann wegfallen. Gilt die Hypothese eines long-run Stückkostenminimums nicht, dann müßte theoretisch dieser Bestimmungsgrund ad infinitum Gültigkeit besitzen. Untersuchungen zu diesem Problemkreis, der unter dem Begriff der optimalen Betriebsgröße bekannt ist, haben jedoch ergeben, daß die Annahme wieder ansteigender Stückkosten mit wachsender Produktionsmenge nicht haltbar ist[12]. Andererseits konnte jedoch auch nachgewiesen werden, daß im Bereich sehr großer Produktiveinheiten die durch Einsatz noch größerer Verfahren erzielbaren Kostenvorteile minimal waren[13].

Zwischen dem Verfahren, dessen Stückkosten gerade noch durch die erzielbaren Marktpreise gedeckt werden und das deshalb die Mindestverfahrensgröße bestimmt, und jenem Verfahren, welches dem technischen Wissen zufolge das mit den niedrigsten Stückkosten ist und daher die ökonomisch maximale Betriebsgröße bestimmt, liegt ein weiter Spielraum für industrielle Wachstumsprozesse. Sind verfahrenstechno-

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[12] Vgl. hierzu *E. Gutenberg,* Grundlagen . . ., a. a. O., 1967[13], S. 422 ff., sowie *W. Kilger,* Produktions- und Kostentheorie, a. a. O., S. 106 ff.

[13] Vgl. hierzu die Untersuchungen von *G. Maxcy* und *A. Silberston,* The Motor Industry, London 1959, S. 79 ff. und 88, sowie die Untersuchungen von *H. Jürgensen, H. Berg,* Konzentration und Wettbewerb im gemeinsamen Markt — Das Beispiel der Automobilindustrie, Göttingen 1968, S. 33 ff.

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logisch bedingte Kostenverläufe in der erwähnten Idealform zu erwarten, dann dürfte zunächst bei stark sinkenden Stückkosten ein hoher Anreiz bestehen, durch horizontale Unternehmenszusammenschlüsse und Zusammenlegung der Fertigung gleichartiger Produktgruppen auf größere Betriebsmitteleinheiten die Zielgröße Gewinn zu maximieren. Dieser Anreiz nimmt in dem Maße ab, wie sich durch Angliederung weiterer Marktnachfrage und dadurch erforderlicher mutativer Betriebsgrößenvariationen abnehmende Kostenvorteile zeigen, bis im Stückkostenminimum dieser Anreiz verschwindet. Neuere Untersuchungen haben ergeben, daß im Falle der Automobilindustrie unter bestimmten Voraussetzungen gewisse Schwellenwerte als Mindestbetriebsgrößen anzusprechen sind, bei deren Überschreiten die Betriebe in den Bereich „niedriger" langfristiger Stückkosten eintreten[14]. Dieser Bereich ist dadurch gekennzeichnet, daß sich bei starkem Überschreiten dieser Mengen keine „fühlbaren Kostenvorteile erlangen" lassen. Der obere Schwellenwert, der durch „weitgehende" Ausnutzung der Vorteile der Massenproduktion gekennzeichnet ist, liegt der Untersuchung von Jürgensen-Berg zufolge für Montagewerke der Automobilindustrie bei etwa 50 000 Einheiten pro Jahr und für Produktionsbetriebe bei ca. 500 000 Einheiten pro Jahr.

Auch für andere Branchen wird ein Wiederansteigen der Durchschnittskosten bezweifelt und läßt sich auch mit dem Argument der Überbeanspruchung des dispositiven Faktors „Unternehmerleistung" nicht stichhaltig begründen. Die unteren Schwellenwerte für „optimale" Betriebsgrößen unterliegen hierbei, wie die Untersuchungen zu den Hearings vor dem US-Senat ergaben, außerordentlich großen Schwankungen[15].

Bisher wurden die optimalen Betriebsgrößen erörtert, die in vielen Fällen mit „Verfahren" gleichzusetzen sind. Zu fragen bleibt jedoch noch, ob und inwieweit optimale Betriebsgrößen mit Unternehmensgrößen kongruieren. Hierzu ist es erforderlich, Größenvorteile innerhalb der übrigen Funktionsbereiche der Unternehmungen nachzuweisen oder aber ihre Neutralität bezüglich der Gesamtdurchschnittskosten zu zeigen. Für den Bereich Forschung und Entwicklung konnten wir feststellen, daß Kostenvorteile mit wachsender Abteilungsgröße bis zu einer

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[14] Vgl. hierzu insbesondere die Studie von *Jürgensen-Berg*, Konzentration . . ., a. a. O., S. 36, sowie die dort analysierten Untersuchungen von *J. S. Bain* (1962), *G. Maxcy* und *A. Silberston* (1959), *E. F. Kaiser* (1955), *G. Romney* (1958) und *Chrysler Corp.* (1960). *Jürgensen-Berg* ermitteln als unteren Schwellenwert für Produktionsbetriebe 200 000 Einheiten pro Jahr.

[15] Vgl. die Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, United States Senate, Washington 1965—1968, sowie dazu *B. Griesbach*, Konzentrationswelle 1968/69, Die Aussprache, 1969, S. 278.

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als optimal anzusprechenden Mittelausstattung festzustellen sind. Um auch hier die Kreativität der Abteilung und ihre Effizienz sicherzustellen, wird dabei oftmals eine multiple Größenvariation vorgenommen, etwa dadurch, daß jedes Zweigwerk eine gesonderte Forschungs- und Entwicklungsabteilung optimaler Größe zugeordnet bekommt. Auch im Bereich der Produktion widerspricht es rationalem Verhalten, über die erforderliche „kostenminimale" Betriebsgröße hinausgehend noch kapitalintensivere Verfahren einzusetzen, die keine „spürbaren" Kostenvorteile mehr ermöglichen. Unternehmensgrößenvariationen — sei es durch internes oder externes Wachstum — erscheinen vom Standpunkt des Produktionsbereichs nur dann noch rational, wenn sie multipel vorgenommen werden, das heißt durch den Bau identischer Betriebe oder identischer Betriebsmitteleinheiten[16]. Oft können hierbei besondere Standortfaktoren eine entscheidende Rolle für die räumliche Auseinanderlegung spielen, sei es, daß nunmehr durch multiple, dezentrale Unternehmensgrößenerweiterung spezielle Versorgungsbereiche transportkostenoptimal beliefert werden können, wie es das Beispiel der Mineralölraffineriestandorte deutlich macht, oder daß produktionsfaktorseitig Standortvorteile durch Rohstoffnähe, genügend großes Arbeitskräftepotential oder sonstige standortbedingte Möglichkeiten wahrgenommen werden können. Darüberhinaus spielen strukturpolitische Gründe für die räumliche Konzentration von Industriebetrieben eine nicht zu übersehende Rolle.

In vielen Fällen, besonders bei externem Wachstum durch Erwerb von Unternehmungen, ist eine räumliche Dekonzentration der Produktionsbetriebe auch schon deshalb gegeben, weil ursprünglich bei anderer Datenkonstellation andere Standortbestimmungsfaktoren für die Ansiedlung maßgeblich waren.

Probleme der Steuerung und der Organisation, die in Großunternehmen stärker ins Gewicht fallen als bei kleinen Betrieben, sollen auf ihre Auswirkungen hin weiter unten behandelt werden.

2. Kapazitätsharmonisierung bei vertikaler Konzentration

Bestimmungsgründe für eine Konzentration im Fertigungsbereich können nicht nur in den durch die Größe und die Verfahrenstechnik der technischen Produktionsmittel bestimmten Kostenstrukturen liegen, sondern auch in den Möglichkeiten ihrer zeitlichen und organisatorischen Kombination. Horizontale Kostenvorteile treten dann auf, wenn durch Aggregation gleichartiger Produktmengen auf eine Anlage eine Voll-

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[16] Zum Begriff der multiplen Betriebsgrößenvariation vgl. *E. Gutenberg*, Grundlagen . . ., a. a. O., S. 308.

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auslastung möglich wird und zu kostengünstigeren Verfahren übergegangen werden kann. Vertikale Kostenvorteile treten insbesondere dann als Bestimmungsgrund in Erscheinung, wenn durch Zusammenfassung mehrerer aufeinanderfolgender Produktionsstufen zu einer Unternehmung die einzelnen Produktionskapazitäten optimal aufeinander abzustimmen sind.

Einmal besteht die Möglichkeit, durch genaue zeitliche Abstimmung der vertikal im Produktionsprozeß aufeinanderfolgenden Kapazitäten der einzelnen Stufen Lager- und Zinskosten einzusparen, zum anderen besteht die in ihrer Auswirkung auf die Zielgröße nicht unerheblichere Möglichkeit, Produktionsstillstandszeiten zu minimieren. Beide Möglichkeiten besitzen, insbesondere bei unterschiedlichen Produktionsgeschwindigkeiten der Einzelstufen unter Umständen große Relevanz. Gleichzeitig aber zeigt die möglicherweise außerordentlich heterogene Produktionsstruktur der einzelnen Stufen die enge Begrenzung für generelle Aussagen auf. Die Möglichkeit einer vollkommenen zeitlichen Abstimmung der Losfolgen aufeinander besteht jedoch dann, wenn es gelingt, die Produktionsmengen der einzelnen Stufen kontinuierlich in den Produktionsprozeß der folgenden Stufe einzubringen. Bei gleicher Produktionsgeschwindigkeit oder mit Abfolge der Stufen sich verringernden Produktionsgeschwindigkeiten kann, sofern die Möglichkeit besteht, die in den ersten Stufen zu viel produzierten Mengen am Markt unterzubringen, sogar eine vollkommene zeitliche und damit auch auslastungsmäßig optimale Harmonisierung der Stufenkapazitäten erreicht werden, die sich durch Wegfall von Produktionszwischenlägern innerhalb der jeweils folgenden Stufen auszeichnet. Gelingt es der Unternehmung, die Stufen in ihrer Produktionsgeschwindigkeit vollkommen aufeinander abzustimmen, dann entfällt sogar das Beschäftigungsrisiko für die Vorstufen und besteht lediglich für die letzte, die Absatzstufe. Bei ungleicher Produktionsgeschwindigkeit der einzelnen Stufen beschränkt sich dann jedoch das Beschäftigungsrisiko auf die Überschüsse der Produktion oder auf Beschaffungsrisiken lediglich der fremdzubeziehenden Einsatzstoffe bei zu geringer Kapazität der Vorstufe[17].

Ein weiterer Aspekt der Konzentrationstendenz ergibt sich im Zusammenhang mit besonderen technologisch-physikalischen Eigenschaften aufeinanderfolgender Produktionsstufen. Als Beispiel hierfür diene die Wärmeverbundwirtschaft, die Einsparungen insbesondere dann erzielen hilft, wenn physikalische Zustände der bearbeiteten Produkte durch verschiedene Stufen hindurch beibehalten werden können. Solche Beispiele sind insbesondere in der Zusammenfassung von Hochofen-, Stahl-

[17] Vgl. zu den Problemen der Abstimmung von Produktion und Absatz in mehrstufigen Unternehmungen insbesondere *D. Adam*, Produktionsplanung bei Sortenfertigung, Wiesbaden 1969.

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und Walzwerken zu integrierten Einheiten gegeben, wo durch das Arbeiten „in einer Hitze" die zur Vorbereitung der Werkstoffe erforderliche Wärmeenergie im wesentlichen nur einmal zu Beginn zugeführt werden muß. Im Falle der Trennung dieser Stufen voneinander müßten die Werkstücke dreimal durch hohe Energiezufuhr in den erforderlichen Bearbeitungszustand gebracht werden. Probleme der Harmonisierung der Kapazitäten entstehen hierbei naturgemäß ebenfalls, da die kostenoptimalen Verfahren in den einzelnen Stufen kapazitätsmäßig nicht übereinzustimmen brauchen. Durch multiple Betriebsgrößenvariation läßt sich aber in vielen Fällen eine Harmonisierung erzielen, wobei die nicht in den eigenen Verarbeitungsprozeß eingehenden Produktmengen am Markt untergebracht werden müssen.

3. Rationalisierung durch Sortenbeschränkung und Typisierung des Produktionsprogramms

Durch die mit horizontalen Konzentrationsprozessen verbundene Aggregation von Marktnachfrage nach artverwandten oder artgleichen Produkten und ihre Zusammenfassung zu größeren Serien gelangt die Unternehmung bereits kurzfristig in den Bereich höherer Gewinne. Dieser Einfluß kann in zweierlei Weise wirksam werden.

Die Produktion mehrerer Sorten und Typen auf einem Mehrzweckaggregat erfordert infolge des Sortenwechsels sowohl zusätzlichen Zeit- als auch Kostenaufwand. Hierzu kommt in vielen Fällen erhöhter Ausschuß während der Anlaufzeiten der Serien. Einricht- und Rüstvorgänge erfordern beispielsweise in der stahlerzeugenden Industrie erhebliche Stillstandszeiten einer Walzstraße, sofern noch nicht mit hydraulischen Wechselgestellen gearbeitet wird. Während dieser zur Umrüstung verwendeten Zeiten muß die gesamte Produktion der Straße ruhen. Unter der Voraussetzung der Vollbeschäftigung entstehen daher durch solche Produktionsstillstände Opportunitätskosten in Form entgangener Dekkungsbeiträge. Durch Reduzierung von Produktionsstillstandszeiten und durch Serienabfolgen, die infolge größerer und günstiger Reihung der Lose Rüstvorgänge verkürzen, lassen sich diese Opportunitätskosten erheblich einschränken.

Zum Vorteil erhöhter erfolgswirksamer Produktionszeiten kommt die nicht unerhebliche auch kurzfristig zu realisierende Einsparung von Rüstkosten, die in erster Linie Personalaufwand darstellen, darüber hinaus aber auch Kosten für Probeläufe und Vorläufe bei Serienneuauflagen. Durch die Auflage größerer Lose fallen losfixe Rüstkosten und Kosten des Probelaufs in dem Maße weg, wie die Auflagehäufigkeit sinkt. Durch diese beiden Effekte der Produktmengenkonzentration auf einzelne Aggregate wird die Zielgröße der Unternehmung sowohl auf

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der Erlös- als auch der Kostenseite positiv beeinflußt. Darüber hinaus besteht die Möglichkeit, durch horizontale Nachfrageaggregation auch langfristig eine Anlage mit sehr eng verwandten Produkten auszulasten, wodurch die Unternehmung in die Lage versetzt wird, auf kostspielige Universalmaschinen zugunsten billigerer Einzweckmaschinen zu verzichten. Diese Maschinen erfordern im übrigen auch meist geringere laufende Aufwendungen, da nicht so hochqualifiziertes Bedienungspersonal erforderlich ist.

Vielfach ist zu beobachten, daß durch die vorgenannten Gründe und durch das Bestreben, Kostenvorteile durch hohe Stückzahlen zu erwirtschaften, zwangsläufig eine Sortimentsüberprüfung und Sortimentsbereinigung induziert wird. Sie wird dadurch erforderlich, daß gewisse Teile des Sortiments infolge zu geringer nachgefragter Mengen und zu hoher losfixer Rüstkosten unrentabel werden. Bis zu einem gewissen Maße wird eine derartige Sortimentsbereinigung oft durch den Markt hingenommen und durch Nachfrage nach Substitutionsgütern kompensiert. Eine allzu starke Reduzierung des Produktangebotes würde aber trotz hoher Auflage der verbleibenden Massengüter und infolge nicht vollkommener Substitutionsfähigkeit eine allzu starke Risikokonzentration und Nachfrageverringerung mit sich bringen.

Möglichkeiten, diese ihrem Charakter nach konzentrationshemmenden Nachteile der Massenproduktion zu umgehen und weitgehend auszuräumen, bestehen darin, mit Hilfe der Forschungs- und Entwicklungsabteilung Produktsysteme zu entwerfen und zu erproben, die es ermöglichen, einerseits die Vorteile der Massenproduktion mit ihren Kostenvorteilen im Bereich der Kapital- und der Lohnkosten sowie der Rüstkosteneinsparungen wahrzunehmen, die sich durch geringere Auflagehäufigkeiten im Bereich der Einrichtung und Umrüstung auf andere Serien erzielen lassen, und andererseits den Erfordernissen der Marktnachfrage nach differenzierten Produkten zu genügen.

Durch Entwicklung eines innerbetrieblichen Normungs- und Typungssystems und eines Produktionsprogramms, das auf einem durchdachten Baukastenprinzip beruht, werden Großunternehmungen wegen der kostspieligen Entwicklung derartiger Systeme in noch weitergehendem Maße als kleine Unternehmungen in die Lage versetzt, die Vorteile der Massenproduktion auszuschöpfen. Durch Kombination der genormten und getypten Einzelteile wird es möglich, stark differenzierten Käuferwünschen entgegenzukommen und gleichzeitig Kostenvorteile der Großserienfertigung zu realisieren. Beim Einsatz von Baukastensystemen ist es darüber hinaus meist möglich, die Lebenszyklen der Produkteinzelteile im Vergleich zum montierten Endprodukt wesentlich zu verlängern, was einerseits zu einer hohen Ausnutzung der Aggregat-

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fixkosten führt, andererseits aber dem insbesondere in Wachstumsbranchen vorherrschenden Zwang zu häufigen Produktinnovationen und -variationen insofern entgegenkommt, als hierbei oft nur die Form oder wenige Einzelteile geändert werden brauchen. Das Absatzprogramm kann in diesem Falle, insbesondere bei artverwandten Produkten, stufenweise außerordentlich weit aufgefächert werden, so daß die Größenvorteile bei der Produktion der Einzelteile wahrgenommen werden können. In den nachgelagerten Montagestufen, deren Größenvorteile infolge lohnintensiverer Kostenstruktur weitaus weniger ins Gewicht fallen, und die deshalb auch kostenmäßig geringere Mindestbetriebsgrößen aufweisen, kann dann eine Zusammensetzung der Endprodukte in relativ differenzierter Sortimentsbreite und -tiefe erfolgen.

Ein typisches Beispiel hierfür liefert die Automobilindustrie, die heute in zunehmendem Maße durch Baukastensysteme und genormte Einzelteile eine breitgefächerte Angebotspalette aufweisen kann, ohne dadurch gezwungen zu sein, auf die Kostenvorteile, welche die typische Massenproduktion mit wenigen Rüstprozessen bietet, verzichten zu müssen. Außerdem spielt hierbei eine wesentliche Rolle, daß gerade die hochmechanisierten Fertigungsstraßen für Zylinderblöcke oder die Preßstraßen durch hohe Stückzahlen im Bereich niedriger Stückkosten bleiben, während weniger hoch mechanisierte und durch relativ höheren Anteil an Lohnkosten charakterisierte Montagestraßen bereits bei einer weitaus geringeren Anzahl von produzierten Einheiten im Bereich „niedriger" Stückkosten operieren. Hierdurch gelingt eine vergleichsweise gute Harmonisierung der Kapazitäten der einzelnen Fertigungsstufen durch die Möglichkeit multipler Anpassung bei Erreichen kostengünstiger Verfahrensgrößen.

Der Nachteil, den Großunternehmen mit hochmechanisierten Verfahren dafür hinnehmen müssen, daß sie in den niedrigsten Stückkostenbereichen operieren können, besteht in der Regel in einer geringeren Anpassungsflexibilität gegenüber Beschäftigungsschwankungen. Der Grund dafür liegt bei Verfahren, die infolge hohen Kapitaleinsatzes und relativ geringer mittelfristig variabler Kosten einen großen Block absolut fixer Kosten aufweisen, während weniger hoch mechanisierte Verfahren durch die mittelfristige Abbaufähigkeit der fixen Gemeinkosten des Personalbereichs in der Regel einen geringeren Grad an Kostenremanenz aufweisen.

Durch die Belegung der hochmechanisierten Aggregate mit Produkten des breiten Massenbedarfs entsteht wegen der relativ hohen Konjunkturanfälligkeit dieses Bedarfs naturgemäß ein höheres Beschäftigungsrisiko, das sich jedoch durch große Anpassungsflexibilität des absatzpolitischen Instrumentariums der Unternehmung mindern läßt[18].

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D. Bestimmungsgründe der Konzentration im Bereich der industriellen Planung und Organisation

Vielfach wurde geäußert, das Wachstum einer Unternehmung komme dann zum Ende, wenn die Anpassungsmöglichkeiten des dispositiven Faktors ausgeschöpft seien. Ähnliche Überlegungen haben auch bei der Annahme eines Betriebsgrößenoptimums eine Rolle gespielt, konnten jedoch bislang nicht nachgewiesen werden und lassen sich auch modelltheoretisch bei Annahme von rationalem Handeln nicht vertreten. Dies gilt insbesondere, wenn man die organisatorischen Möglichkeiten berücksichtigt, die in den letzten Jahrzehnten durch die Entwicklung der elektronischen Datenverarbeitung geschaffen wurden.

Im letzten hier zu untersuchenden industriespezifischen Bereich der Unternehmung, der kaufmännischen Verwaltung, und hier insbesondere der Planung und Organisation, dürfte es wegen Fehlens empirischer Untersuchungen gewisse Schwierigkeiten bereiten, Bestimmungsgründe nachzuweisen, die in isolierter Betrachtung bereits für Konzentrationsvorgänge verantwortlich gemacht werden können. Insbesondere sind die Verfahrensweisen, derer sich große und konzentrierte Unternehmungen hierbei bedienen, häufig auch für kleinere Unternehmungen zugänglich. Die hier anzuführenden Bestimmungsgründe sind daher fast immer in Verbindung mit den Gründen zu sehen, die in den übrigen Teilbereichen der Unternehmung konzentrationsfördernd wirken und tendenziell gleichgerichtet verlaufen. An dieser Stelle soll daher gezeigt werden, daß Hinderungsgründe, die einer Konzentration entgegenstehen können, im Bereich der Planung und Organisation unter Berücksichtigung der Erkenntnisse der Organisationstheorie, der betrieblichen Planungsmodelle und der hierfür bereitstehenden technischen Hilfsmittel nicht nachzuweisen sind.

Im Planungsbereich dürften jedoch bei der kostenmäßigen Betrachtung ähnliche Überlegungen gelten wie zur kostengünstigsten Betriebsgröße im Produktionsbereich. In gewissem Sinne können Planungssysteme, die sich mit wachsender Betriebsgröße den jeweiligen Erfordernissen anpassen müssen, mit Verfahren verglichen werden, die für bestimmte Größenintervalle gelten sollen. Zweifellos sind Planungssysteme der Art, wie sie in überschaubaren Kleinunternehmungen optimal sind, in anderen Größenbereichen weniger gut brauchbar. Die Schwierigkeit gegenüber den in Kosten meßbaren Verfahren der Produktion besteht aber darin, daß sich der Planungserfolg eines bestimmten Systems außerordentlich schwer isolieren läßt. Im übrigen ist ein

[18] Hierbei sei insbesondere auf die Möglichkeiten der Preispolitik und der Produktgestaltung verwiesen. Ein gutes Beispiel der Anpassung an Nachfragerückgang infolge von Konjunkturschwankungen war die Neuauflage des sog. „Sparkäfers" durch das Volkswagenwerk; vgl. hierzu auch *H. Jürgensen, H. Berg,* Konzentration . . ., a. a. O., S. 122.

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einer bestimmten Unternehmungsgröße angepaßtes Planungssystem nicht ohne weiteres mit einem einer anderen Größe entsprechenden System vergleichbar.

Unabhängig davon läßt sich aber feststellen, daß gewisse, heute als unabdingbar erachtete Hilfsmittel zur Erfüllung der Erfordernisse der Planung und Organisation erst ab von Branche zu Branche verschiedenen Unternehmensgrößen rentabel eingesetzt werden können, so daß sich bestimmte Mindestbetriebsgrößen festlegen lassen.

Eine ausgebaute Planungsabteilung, die die Vorteile der Arbeitsteilung durch Beschäftigung von Spezialisten voll ausschöpfen will, setzt einen gewissen Mindestumfang an Planungsaufgaben voraus, die erst von bestimmten Mindestunternehmensgrößen an erfüllt werden. So erfordern etwa die Planungsaufgaben der Kapazitätsharmonisierung und Arbeitsablaufplanung hochqualifiziertes Personal. Auch die abgestimmte Produktions- und Absatzplanung mit Hilfe der mathematischen Programmierung und Programmsteuerung erfordert einen ebenso geschulten Personalstamm. Auch der Einsatz moderner kostenrechnerischer Verfahren wie der Grenzplankosten -und Deckungsbeitragsrechnung ist erst von bestimmten Mindestbetriebsgrößen an wirtschaftlich vertretbar. Die höchste Effizienz ergibt sich dabei naturgemäß durch Einsatz von Spezialisten und technischen Hilfsmitteln, wie elektronischen Datenverarbeitungssystemen mit hohen Personal- und Kapitalaufwendungen. Die höchste Kosteneffizienz wird hierbei jedoch infolge der beträchtlichen fixen Kosten erst bei Vollauslastung erreicht. Insbesondere sind solche Abteilungen im Industriebetrieb mit außerordentlich komplizierten Aufgaben der Entscheidungsvorbereitung und numerischen Programmsteuerung betraut, die erfahrungsgemäß eine im Vergleich zur effektiven Rechenzeit sehr hohe Vorbereitungszeit erfordern. Eine Erfolgsanalyse dieser Abteilungen ist nur in bestimmten Fällen möglich, etwa durch Vergleich der für eine Investitionssimulation erforderlichen Personalkosten bei traditionellem Verfahren mit den Kosten der EDV-Anlage zuzüglich der Kosten des Projekt-Teams. Strenggenommen sind diese Vergleiche jedoch wenig aussagefähig, weil sich mit den Planungsmethoden sehr häufig auch die Aufgabenstellungen der Planungsabteilungen verändert haben. Eine dem Vollständigkeitsgrundsatz der Planung entsprechende integrierte Unternehmensplanung ist ohne Einsatz der Datenverarbeitungsabteilungen nicht durchführbar. Die Effizienz derartiger Planungssysteme ist aber nur mittelbar durch den Erfolg der getroffenen Planentscheidungen feststellbar, der durch die Zielgröße bewertet wird.

Ein weiteres Problem der konzentrierenden, insbesondere der vertikal wachsenden Unternehmung liegt darin, daß Organisationsstrukturen

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der traditionellen Art in bestimmten Unternehmensgrößenbereichen ihre Effizienz verlieren[19]. Gründe dafür sind lange und unsichere Informationswege für die entscheidungsrelevanten Daten, Kapazitätsbeschränkungen des Planungsbereiches, mangelhafte Sachkenntnis des Planungspersonals.

Die Organisationstheorie entwickelte für diese Problemstellung verschiedene Modelle, die in ihren vielfältigen und modifizierten Ausgestaltungsformen den Anforderungen an Planung und Steuerung komplizierter mehrstufiger Unternehmensstrukturen oft vollauf genügen[20]. Insbesondere sind es modifizierte Verfahren der Zentralisation, die auf dem Prinzip der Entscheidungsdekomponierung beruhen, um einerseits die Schwächen der reinen Zentralisation bei Informationsaufnahme, -verarbeitung und Entscheidungsreagibilität zu umgehen, andererseits aber auch die Gefahren der reinen Dezentralisation zu neutralisieren, wie sie aus multiplen Zielsetzungen oder Außerachtlassen der Planinterdependenzen und aus dem Fehlen von Verrechnungspreissystemen zur dezentralen Steuerung resultieren. Durch Einsatz leistungsfähiger Informationsverarbeitungssysteme unter Zuhilfenahme von Algorithmen, die die technischen Restriktionen der Apparate weitgehend nach außen verschieben, ist eine schnelle und alle Teilbereiche der Unternehmung berücksichtigende Programmoptimierung möglich.

Es läßt sich feststellen, daß wachsende Unternehmensgrößen durch den Verwaltungs- und Planungsbereich der Unternehmung nicht behindert werden, sondern daß dieser Bereich ungünstigstenfalls gegenüber Größenwachstum neutral ist.

III. Der Konzentrationsprozeß in den wichtigsten Industriegruppen

A. Bergbau

Im Bergbausektor ist der Konzentrationsprozeß in der Bundesrepublik Deutschland weit fortgeschritten und dürfte nach Gründung der Ruhrkohle AG und nach den Zechenschließungen im Ruhr- und Saarrevier im Teilbereich Steinkohlenbergbau zunächst weitgehend abgeschlossen sein. Seit der Gründung der BRD und der Überwindung der Maßnahmen zur Entflechtung der Montanindustrie, die eine starke Dekonzentration

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[19] Vgl. hierzu auch *O. H. Poensgen,* Zentralisation und Dezentralisation im Lichte dreier moderner Entwicklungen, ZfB, 1967, S. 377.

[20] Vgl. hierzu die Arbeiten des *Arbeitskreis Dr. Krähe der Schmalenbach-Gesellschaft,* Unternehmensorganisation, Aufgaben- und Abteilungsgliederung in der industriellen Unternehmung, Köln und Opladen 1963[4]; *J. S. Bain,* Industrial Organisation, Chichester 1968[2]; *K. Bleicher,* Zentralisation und Dezentralisation von Aufgaben in der Organisation der Unternehmungen, Berlin 1966; *F. Nordsiek, H. Schröder,* Organisationslehren, Stuttgart 1968[3]; *D. Adam,* Koordinationsprobleme bei dezentralen Entscheidungen, ZfB, 1969, S. 618.

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des vor dem Kriege stark konzentrierten Steinkohlenbergbaus mit sich brachte[21], setzte ein stetiger Rekonzentrationsprozeß im Steinkohlenbergbau ein. Als Kriterium des Maßes der Konzentration diene im folgenden der Umsatzanteil der 10 größten Unternehmungen am Branchenumsatz. Danach erreichten die 10 größten Bergbauunternehmungen im Jahre 1954 bereits einen Umsatzanteil von fast 35 %, der sich bis 1960 auf 42 % vergrößerte[22]. Im Jahre 1968 hatten allein die ersten 8 Unternehmungen einen Anteil von 65 % erreicht[23]. Infolge der zunehmenden Substitution der Steinkohle als Haupt-Primärenergieträger durch Mineralöl schrumpfte der Steinkohlenmarkt seit Mitte der sechziger Jahre deutlich. Zur besseren zentralgesteuerten Anpassung an die Kohlenkrise wurde deshalb im Herbst 1968 die Ruhrkohlen-Bergbau AG gegründet. Nach ihrer Gründung konzentrierten sich bereits 94 % der Förderung im Steinkohlenbergbau des Ruhrreviers und etwa drei Viertel der Gesamtförderung der BRD[24] auf diese eine Unternehmung. Ein Viertel entfiel auf nur noch fünf weitere Gesellschaften.

Im Bergbaubereich, in dem allein der Kohlenbergbau über 80 % der Umsätze erzielte[25], waren es in der letzten Konzentrationswelle überwiegend horizontale Unternehmenszusammenschlüsse zur Rationalisierung des Abbaus und zur Zusammenfassung der Förderanlagen. Dadurch ließen sich wesentlich vergrößerte Betriebsgrößen und Schachtleistungen erzielen, die eine bessere Nutzung der Gemeinkosten ermöglichten. Durch Konzentration der Abbaubetriebe auf die besten Lagerstätten konnten weitere Kostenvorteile hinsichtlich der einzusetzenden Verfahren wahrgenommen werden.

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[21] Vgl. hierzu *H. Hennig*, Entflechtung und Neuordnung der westdeutschen Montanindustrie unter besonderer Berücksichtigung der Verbundwirtschaft zwischen Kohle und Eisen, Bd. 10 der Beiträge zur praktischen Nationalökonomie, hrsg. von *F. Marbach*, Bern 1952, und *G. Sieber*, Die Rekonzentration der eisenschaffenden Industrie in Westdeutschland, WWI-Mitteilungen, Jg. 11 (1958), S. 46 ff.

[22] Die für die folgenden Industriezweige erwähnten Umsatzanteile der 10 größten Unternehmen der Branche für die Jahre 1954 und 1960 beruhen auf den Ergebnissen des „Bericht über eine Untersuchung der Konzentration in der Wirtschaft" erstattet vom Bundesamt für gewerbliche Wirtschaft in Frankfurt, veröffentlicht als Bundestagsdrucksache IV/2320 und Anlagenband zu Drucksache IV/2320. Eine Fortschreibung der bis 1960 vorliegenden Ergebnisse versucht *F. Knauss*, Konzentrationsbewegung in der Bundesrepublik, in: *F. Knauss, O. Vogel, F. Hermanns*, Unternehmenskonzentration in der westlichen Welt, Stand, Entwicklungstendenzen und Vergleiche, Köln u. a. 1967, S. 9 ff.

[23] Vgl. *R. Hofmann*, Entwicklung der Bilanz-, Aufwand- und Ertragsstruktur in der westdeutschen Wirtschaft, Sonderdruck aus: Der Betrieb, Hefte 16/17 (1970), S. 5 sowie *ders.*: Bilanzkennzahlen, industrielle Bilanzanalyse und Bilanzkritik, Köln und Opladen 1969.

[24] *R. Hofmann*, Entwicklung . . ., a. a. O., S. 5.

[25] Vgl. Statistisches Jahrbuch für die Bundesrepublik Deutschland 1969, Stuttgart—Mainz 1969, S. 195.

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Wegen des fehlenden allgemeinen Branchenwachstums ist im Bergbau in zunehmendem Maße die Tendenz zur allgemeinen Minderung des Unternehmensrisikos sichtbar geworden. Seit längerer Zeit kann eine verstärkte vertikale und diagonale Konzentrationsbereitschaft beobachtet werden, die dadurch zum Ausdruck kommt, daß durch Angliederung von oder an nachgelagerte Stufen die Vorteile der Verbundwirtschaft im fertigungstechnischen, organisatorischen und kostenmäßigen Bereich genutzt werden. Die stärkste Verbundwirkung zeigt sich mit dem eisen- und stahlerzeugenden Bereich, aber auch zum Energieerzeugungssektor bestehen enge Beziehungen. Zur Verteilung des Unternehmensrisikos auf mehrere Branchen expandieren Unternehmungen des Kohlensektors auch in andere Branchen wie etwa Chemie und Mineralölindustrie.

B. Eisen- und Stahlindustrie

Die Eisen- und Stahlindustrie weist eine sehr unterschiedliche Struktur auf. Zu diesem Industriebereich zählen neben der eisenschaffenden Industrie mit Hochofen-, Stahl- und Warmwalzwerken, Schneide-, Preß- und Hammerwerken, die Eisen-, Stahl- und Tempergießereien und als dritte Gruppe Ziehereien und Kaltwalzwerke. In 1968 wies die Eisen- und Stahlindustrie die folgende Struktur auf[26], wobei der Umsatzanteil der 9 größten Gesellschaften in diesem Jahre bereits 68 % des gesamten Branchenumsatzes betrug[27].

	Anzahl der Betriebe	Beschäftige in 1000	Umsatz in Mio. DM o. MWSt
Eisenschaffende Industrie	148	322	21.289
Eisen-, Stahl- und Tempergießereien	456	114	3.775
Ziehereien und Kaltwalzwerke	415	67	4.359

Eine Zusammenfassung des Gesamtbereichs Eisen- und Stahlindustrie erscheint jedoch zur Klärung der Konzentrationsbestimmungsgründe nicht sehr sinnvoll, da sich diese drei Teilbereiche in ihrer Unternehmensstruktur wesentlich unterscheiden. So weisen Ziehereien und Kaltwalzwerke und die Eisenschaffende Industrie gegenüber den Gießereien eine sich nur auf etwa die Hälfte belaufende Lohnintensität auf (18,8 % und 19,9 % gegenüber 36,5 % vom Umsatz)[28].

[26] Quelle: Statistisches Jahrbuch . . ., a. a. O., S. 201 und 208.
[27] *R. Hofmann*, Entwicklung . . ., a. a. O., S. 5.
[28] Quelle: Statistisches Jahrbuch . . ., a. a. O., S. 209.

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Hinsichtlich der Produktionsverfahren und der Produktion aber treten die weitaus gravierendsten Unterschiede innerhalb der drei Teilbereiche auf. Das Charakteristikum der eisenschaffenden Industrie zeigt sich darin, daß als Produkte im wesentlichen Knüppel, Blöcke, Stabstahl und Flachstahl in großen Mengen hergestellt werden. Dadurch sind die typischen Voraussetzungen der Massenproduktion erfüllt, die durch Ausnutzen der Seriengrößenvorteile erhebliche Kosteneinsparungen ermöglichen. Einer horizontalen Konzentration entgegen kommt weiterhin die verfahrenstechnologisch bedingte Möglichkeit, langfristig in Größenklassen von technischen Produktionsmitteln vorzudringen, die eine stetige Durchschnittskostensenkung ermöglichen. So sind Hochöfen mit einem Gestelldurchmesser von 14,5 m, was eine Jahreskapazität von 3,4 Mio. jato bedeutet, keine Utopie mehr und wesentlich größere Einheiten sind verfahrenstechnologisch möglich. Bei einer Roheisenerzeugung von 1969 annähernd 33,8 Mio. jato könnten theoretisch 10 Einheiten dieser bislang kostengünstigsten Verfahren voll ausgelastet arbeiten[29]. In Betrieb waren jedoch noch über 90 Hochöfen.

Bei der Erzeugung von Stahl aus Roheisen und Schrott ergeben sich ähnliche Größenvorteile durch wachsende Verfahrenseinheiten, doch wirken bereits hier die Spezifikationserfordernisse der unterschiedlichen Stahlsorten restriktiv und können nur durch horizontale Nachfragekonzentration ausgeglichen werden. Die Diversifikation der Produkte nimmt jedoch mit Durchlaufen weiterer Produktionsstufen ständig zu, so daß die Größenvorteile immer stärker als Konzentrationsbestimmungsfaktor an Gewicht gewinnen. Insbesondere die große Zahl möglicher Erzeugnisse im Walzwerkbereich erfordert eine hohe Nachfragekonzentration auf wenige Walzstahlsorten, um durch Einsparung bei den Sortenwechselkosten erhebliche Kostenvorteile zu erwirtschaften.

Bestimmungsgründe für die vertikale Konzentration des eisenschaffenden Sektors zeigen sich darin, daß man außerordentlich gewichtige Kosteneinsparungen durch Integration der einzelnen Produktionsstufen Hochofen-, Stahl-, Walz- und Schmiedebetrieb erzielen kann.

Einerseits liegen die Vorteile darin begründet, daß auf allen Stufen die Werkstoffe unter hoher Wärmeenergiezufuhr in den optimalen Bearbeitungszustand gebracht werden müssen und daher durch Arbeiten „in einer Hitze" hohe Energieeinsparungen erwirtschaftet werden können. Zum anderen bestehen Möglichkeiten des Energieverbundes durch Verwendung des Abfallproduktes Gichtgas im Hochofenbetrieb in den Betrieben Kokerei und Energieerzeugung.

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[29] Zu Konzentrationsproblemen der Stahlindustrie vgl. *F. Grote*, Unternehmensgröße und -konzentration in der Stahlindustrie, in: Notwendigkeit und Gefahr der wirtschaftlichen Konzentration in nationaler und internationaler Sicht, a. a. O., S. 4 ff.

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Weiterhin gibt es nicht unerhebliche Kosteneinsparungsmöglichkeiten durch Reduzierung der Transportwege bei räumlicher Integration der aufeinanderfolgenden Bearbeitungsstufen. Der Vorteil großer Verfahrenseinheiten macht sich dadurch bemerkbar, daß in zunehmendem Maße sehr kapitalintensive, weitgehend automatisierte Walzanlagen Verwendung finden, die zwar infolge ihrer Kapitalintensität eine hohe Auslastung erfordern[30], jedoch gegenüber Veränderungen im Lohnkostensektor relativ wenig anfällig sind.

Als optimalen Betriebsgrößenbereich für gemischte Hüttenwerke mit Produktionsschwerpunkt Profil- und Flachstahlerzeugnisse ermittelte die Wirtschaftsvereinigung Eisen- und Stahlindustrie eine Rohstahlkapazität von derzeit 2—8 Mio. jato[31]. Die meisten Rohstahlerzeuger der Bundesrepublik waren von diesen Größeneinheiten aber noch weit entfernt, wie die folgende Übersicht (für 1967) zeigt[32].

	Mio. jato Rohstahlerzeugung	Anteil an der Rohstahlerzeugung der BRD	
		%	% kum.
1. Thyssen	10,6	28,9	28,9
2. Hoesch	5,6	15,4	44,3
3. Krupp	3,5	9,8	54,1
4. Klöckner	3,0	8,3	62,4
5. Mannesmann	2,7	7,6	70,0
6. Salzgitter	1,7	4,9	74,9
7. Röchling — Völklingen	1,2	3,4	78,3
8. Ilseder Hütte	1,1	3,0	81,3
9. Flick	1,0	2,8	84,1
10. Neunkircher Eisenwerke	1,0	2,7	86,8

Die beiden anderen Teilbereiche der Eisen- und Stahlindustrie, die Gießereiindustrie und Zieherei-, Kaltwalz- und Stahlverformungsindustrie zeichnen sich durch wesentlich verschiedene Produktionsstrukturen gegenüber der eisenschaffenden Industrie aus. In der Gießereiindustrie wurde zwar von 1954 bis 1960 ein Rückgang des Konzentrationsgrades von 25 % auf 22 % ermittelt, auch jetzt deutet wenig auf eine sich verstärkende Konzentrationstendenz hin. Seit 1958 konnte

[30] Diese hohe Auslastung erfolgte in vielen Fällen auch durch die zwischenbetriebliche Kooperationsform der langfristigen sog. Lohnwalzverträge, die es den einzelnen Vertragspartnern erlauben, temporär auf Investitionen in bestimmten Stufen zu verzichten.

[31] *Wirtschaftsvereinigung Eisen- und Stahlindustrie,* Bericht an das Bundesamt für gewerbliche Wirtschaft im Rahmen der Untersuchung über Konzentration in der Wirtschaft, Düsseldorf 1963, S. 26.

[32] Vgl. *F. Grote,* Unternehmensgröße . . ., a. a. O., S. 287.

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bei Gießereierzeugnissen lediglich ein einziger größerer nach § 23 GWB meldepflichtiger Unternehmenszusammenschluß verzeichnet werden[33]. Ähnlich liegen die Verhältnisse im Sektor Ziehereien und Kaltwalzwerke, wo bis 1969 lediglich 2 derartige Zusammenschlüsse nachzuweisen waren. Der Umsatzanteil der 10 größten Unternehmungen dieses Sektors, der vergleichsweise niedrig liegt, sank im Zeitraum 1954 bis 1960 sogar geringfügig von 17,8 % auf 17,5 % ab.

C. Mineralölindustrie

Auch in der Mineralölverarbeitung und Kohlenwertstoffindustrie führen die technischen und natürlichen Produktionsbedingungen fast zwangsläufig zu einer hochgradigen horizontalen Konzentration. Zwar gehören die 6 größten Mineralölverarbeiter zu den 40 größten deutschen Unternehmungen, jedoch nehmen sie bei weitem keine ähnlich hervorragende Position ein wie die Ölgesellschaften in den USA.

In den Jahren 1954—1960 nahm der Umsatzanteil der 10 größten Mineralölverarbeiter von 72,6 % auf 91,5 % zu, jedoch veränderte sich die Wettbewerbssituation seither in der Hinsicht, daß eine Reihe neuer Unternehmungen mit eigenen Produktionsstätten in den deutschen Erdölmarkt eindrangen. Dennoch vereinigten im Jahre 1968 allein die vier größten Mineralölverarbeiter bereits 87 % des Branchenumsatzes auf sich[34]. Damit wies die Mineralölindustrie nach dem Bergbau den höchsten Konzentrationsgrad auf. Der Mineralöldurchsatz betrug im Jahre 1968 90,7 Mio. jato bei einer Raffinerieanzahl von 35 (1969) Einheiten[35].

Gründe für die außerordentlich hohe horizontale Konzentration in der Mineralölindustrie sind zunächst damit zu erklären, daß fast alle großen Mineralölverarbeiter Tochtergesellschaften internationaler Ölkonzerne sind, die über eigene Rohölförderungen verfügen und insofern Vorteile einer langfristig gesicherten Rohölbasis vorzuweisen haben. Die Rohölförderung in Deutschland selbst spielt dabei mit nur etwa 8,5 % der eingesetzten Rohölmengen eine untergeordnete Rolle.

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[33] *B. Griesbach*, Konzentrationswelle 1968/69, a. a. O., S. 274 f. § 23 des Gesetzes gegen Wettbewerbsbeschränkungen (GWB) ermöglicht es seit 1958 wegen der Anzeigepflicht von Unternehmenszusammenschlüssen, alle Zusammenschlüsse zu erfassen, die Marktanteile von mehr als 20 % ergeben oder an denen ein Unternehmen beteiligt ist, das bereits mehr als 20 % Marktanteil besitzt. Seit 1966 werden darüber hinaus ohne Rücksicht auf Marktanteile alle Zusammenschlüsse erfaßt, die Betriebe mit mehr als 10 000 Beschäftigten betreffen oder mit mehr als 500 Mio. DM Umsatz oder mehr als 1000 Mio. DM Bilanzsumme.

[34] *R. Hofmann*, Entwicklung . . ., a. a. O., S. 5.

[35] Vgl. Zahlen aus der Mineralölwirtschaft, Hrsg. BP Benzin und Petroleum AG Hamburg, Ausgabe Frühjahr 1969, S. 35 f.

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Im Bereich der Produktion kann man bei der Mineralölverarbeitung infolge der außergewöhnlich hoch automatisierten Verfahrenstechnologie vom technischen Standpunkt her bislang keine Obergrenzen der Aggregatgrößen ziehen. Hingegen kann als kostenmäßig bestimmte Mindestgröße einer Erdölraffinerie gegenwärtig ein Rohöldurchsatz von 2—3 Mio. jato angenommen werden. Wie bei kaum einem anderen Produktionsverfahren kommen bei Raffinerien die Größenvorteile der technischen Produktionsmittel zur Geltung. Zudem arbeiten sie mit vergleichsweise sehr geringen Personalaufwendungen von nur 3,3 % des Gesamtumsatzes[36].

Neben den produktions- und verfahrenstechnologischen Strukturmerkmalen der Mineralölindustrie, die mit wachsender Betriebsmittelgröße kontinuierlich sinkende Durchschnittskosten bedingen, lassen sich weitere Bestimmungsgründe zur horizontalen und vertikalen Konzentration insbesondere durch die Notwendigkeit einer exakten Prozeßsteuerung erklären. In der Mineralölverarbeitung werden durch Destillation, Crackprozesse und Hydrofinierung die eingesetzten Rohöle in bis zu 500 Spezifikationen zerlegt. Durch nichtlineare Abhängigkeiten einzelner Spezifikationsmerkmale von den Prozeßbedingungen und durch vielfältige komplizierte Kuppelprozesse werden an eine optimale Prozeßsteuerung bereits im Produktionsbereich außerordentlich hohe Planungsanforderungen gestellt.

Unter Einbeziehung des Absatzbereichs ergeben sich weitere simultan mitzuberücksichtigende Erfordernisse der abgestimmten Prozeßsteuerung. Diese Aufgaben lassen sich ebenfalls nur mit Hilfe einer gut ausgebauten Planungsabteilung lösen, die über die notwendigen Datenverarbeitungsanlagen und über entsprechend hochqualifiziertes Personal verfügen muß. Derartige Abteilungen erfordern aber einen Mindestumfang, der jedoch je nach Umfang des zu planenden Produktionsprogramms variieren kann. Fast alle Unternehmungen der Mineralölverarbeitung verfügen heute über simultane Planungsmodelle (lineare Programmansätze), mit denen Probleme der Prozeßsteuerung und des Transportmitteleinsatzes unter Berücksichtigung aller relevanten Plandaten und Restriktionen optimal gelöst werden können.

Auch im Bereich der Angliederung nachgelagerter Stufen, hierbei jedoch fast ausschließlich der Verteilungsstufen der eigenen Massenprodukte bis an die Endverbraucher, besteht im Mineralölbereich eine hohe vertikale Verflechtung. Von den 46 684 Verteilerstellen für Vergaserkraftstoffe waren Anfang 1969 fast 80 % mit den 10 größten Mineralölverarbeitern durch Pachtverträge oder Ausschließlichkeits-

[36] Quelle: Statistisches Jahrbuch . . ., a. a. O., S. 209.

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klauseln verbunden, während nur 3,5 % als freie Tankstellen zu bezeichnen waren[37].

D. Chemische Industrie

Die Fertigungsverfahren der chemischen Industrie, insbesondere der Grundchemie, zeichnen sich dadurch aus, daß zum großen Teil Großanlagen eingesetzt werden müssen, deren Betriebsmittelkapazitäten dazu ausreichen, relativ große Anteile des gesamten Marktbedarfs zu erzeugen. Hieraus folgt, daß in vielen Bereichen der chemischen Industrie die horizontale Konzentration stärker sein muß als in anderen Industriezweigen. War der Umsatzanteil der 10 größten Gesellschaften der Branche seit 1954 von 37 % auf 40 % in 1960 gestiegen, so belief er sich im Jahre 1969 bereits auf 41 % allein für die ersten 6 Gesellschaften[38]. Von allen Industriezweigen wies der chemische neben dem elektrotechnischen Bereich mit 64 Unternehmenszusammenschlüssen nach § 23 GWB seit 1958 die quantitativ höchste Veränderungsquote auf[39]. Insbesondere konnten die drei großen Farbennachfolger ein erhebliches internes und externes Wachstum verzeichnen. Vier der zehn umsatzstärksten Unternehmungen der BRD produzierten in 1969 ganz oder teilweise im Chemiesektor.

Die Gründe für diese hohe Konzentrationstätigkeit liegen erstens darin, daß fast alle Unternehmungen der chemischen Industrie in erheblichem Umfang Forschungs- und Entwicklungsarbeit leisten müssen, um konkurrenzfähig zu bleiben. Im weitgehend auf naturwissenschaftlichen Erkenntnissen basierenden Chemiesektor lassen sich durch eigene Forschungstätigkeit temporäre Vorteile gegenüber der Konkurrenz erzielen. In der Regel wird aufgrund der außerordentlich vielfältigen Entwicklungsmöglichkeiten des technischen Wissens im Chemiebereich die Patentschutzdauer von 18 Jahren nicht ausgenutzt. Erfindungen sichern daher meist nur für einen relativ kurzen Zeitraum die Produktion konkurrenzarmer Produkte. Gelingt die Entwicklung eines neuen chemischen Verfahrens, das zur verbilligten Produktion bereits bekannter oder zur Erstellung neuer Produkte führt, so konzentriert sich oft die Produktion des betreffenden Erzeugnisses oder Grundstoffes ganz oder teilweise auf eine einzige Unternehmung.

Die Forschungs- und Entwicklungsarbeiten der Chemie-Unternehmungen erfordern einen sehr hohen laufenden Finanzbedarf, der in vielen Firmen ca. 5 % und mehr vom Umsatz ausmacht. Allein etwa 8 % des in der Chemie beschäftigten Personals sind im Forschungs- und

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[37] Zahlen aus der Mineralölwirtschaft, a. a. O., S. 46.
[38] *R. Hofmann*, Entwicklung . . ., a. a. O., S. 5.
[39] *B. Griesbach*, Konzentrationswelle 1968/69, a. a. O., S. 275.

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Entwicklungsbereich tätig[40], eine Quote, die in keinem anderen Sektor auch nur annähernd erreicht wird. Auch absolut entfällt etwa ein Drittel aller Forschungs- und Entwicklungsaufwendungen der gesamten Industrie auf den Chemiebereich. Es ist hierbei zu berücksichtigen, daß bei jedem einzelnen Forschungsauftrag das Risiko des Fehlschlagens besteht. Erst ein breites Forschungsprogramm mit der Möglichkeit zur Parallelforschung verändert die Risikostruktur nachhaltig. Der außerordentlich hohe Aufwand für Forschungs- und Entwicklungsarbeiten bildet daher neben den technischen Produktionsbedingungen einen weiteren Faktor, der tendenziell zum Großbetrieb in horizontaler und vertikaler Form führt.

Auch die durch komplizierte Steuerungs- und Planungsaufgaben erforderlichen hohen Aufwendungen können durch Großbetriebe effizienter genutzt und leichter aufgebracht werden.

Neben der Tendenz zur horizontalen Konzentration der chemischen Industrie mit außerordentlich breitem Sortiment bestehen eine Reihe vertikaler Verflechtungen, die sowohl vorgelagerte Stufen, wie die der Grundchemie des Kohlewasserstoff- und Kalisektors, aber auch nachgelagerte Stufen bis zum Enderzeugnis umfassen. Beispiele hierfür zeigen sich im großen Expansionsdrang der chemischen Großunternehmungen in den Pharma- und Kosmetiksektor, aber auch in den Foto- und Kalisektor hinein.

E. Schiffbau

Der Bau seegehender Wasserfahrzeuge ist durch außerordentlich große Unterschiede hinsichtlich der Mindestbetriebsgrößen gekennzeichnet. Während Werften für Fischereifahrzeuge und Schlepper mit vergleichsweise geringen Betriebsgrößen auskommen, ist die Mindestbetriebsgröße etwa für den Großtankerbau in den letzten 15 Jahren um ein Vielfaches gestiegen. Allein von der Größenordnung der zu erstellenden Produkte hängt damit schon die Mindestbetriebsgröße ab. Kleinere Betriebe, die sich auf die Fertigung von kleineren Spezialeinheiten beschränken und damit zu vergleichsweise großen Serien kommen, zeigen für horizontale Konzentrationen wenig Tendenzen auf. Große Werften, die sich auf den Bau größter Frachtschiff- und Tankereinheiten spezialisieren, konnten aber den schnell steigenden Schiffsgrößen weder mit der Erstellung der benötigten Produktionsstätten, noch mit der Bereitstellung einer den technischen Erfordernissen solcher Großeinheiten entsprechenden Forschungs- und Entwicklungsabteilung genügend schnell folgen.

[40] *H. Echterhoff-Severitt*, a. a. O., S. 295; die Angaben beziehen sich auf das Jahr 1964.

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Infolge des scharfen internationalen Wettbewerbs im Schiffbau und der oft durch nationale Schutzmaßnahmen beeinflußten Marktsituation ist es in der Werftindustrie in zunehmendem Maße notwendig geworden, auch im Großschiffbau von der großhandwerklichen zur industriellen Fertigung überzugehen. Insbesondere sind es die Vorteile der Serienfertigung und einer funktionierenden Arbeitsablaufplanung, die zu Kosteneinsparungen führen. Trotz der stark differenzierten Käuferwünsche ist eine Fertigung von Einzelteilen in größeren Serien möglich, wenn ein gut durchdachtes Baukastensystem eine große Typenvielfalt ermöglicht.

Darüberhinaus erfordern die wachsenden Schiffsgrößen, insbesondere im Tankerbau, außerordentlich hohe Investitionen für den Bau von Dockanlagen. Derartige Projekte sind nur von Unternehmungen zu realisieren, die über die erforderlichen hohen Kapitalmittel verfügen.

Der Übergang zu neuen Verfahren des Schiffbaus, insbesondere zur Segmentbauweise, die keine der Schiffsgröße entsprechenden Anlagen mehr erfordern, hat jedoch gezeigt, daß durch neue Konstruktionsverfahren weitere Rationalisierungserfolge erzielbar sind.

Die zunehmende Technisierung und Automatisierung auch im Schiffsverkehr erfordert seitens der Konstruktion und Entwicklung derartiger Projekte außerordentlich erhöhte Aufwendungen im Forschungs- und Entwicklungsbereich der Werften.

Auch der Bereich der Arbeitsablaufplanung, -steuerung und -überwachung erfordert beim Großschiffbau wesentlich höheren Einsatz von Personal und technischen Hilfsmitteln, als dies beim Bau von kleineren Einheiten der Fall ist. Durch eine optimale Arbeitsablauf- und Terminplanung derartiger Großprojekte lassen sich jedoch hohe Kosteneinsparungen infolge verkürzter Dockliegezeiten erwirtschaften, die um so mehr ins Gewicht fallen, als sie zu wesentlichen Teilen Lohnkosten betreffen. Darüber hinaus kann eine schnellere Abfolge der Kiellegungen erfolgen, was durch Sinken der Opportunitätskosten erlöswirksam wird[41].

Wegen der vorgenannten Gründe zeichnete sich seit der 1960 vorgenommenen Messung der Konzentration im Schiffbau, die bereits einen Branchenumsatzanteil der 10 größten Schiffbauunternehmen von 70 % ergab, eine deutliche Konzentrationstendenz beim Großschiffbau ab. 1968 wiesen die drei größten Unternehmungen der Branche bereits einen Umsatzanteil von über 50 % auf[42], nachdem H. C. Stülcken Sohn mit

[41] Durch Einsatz moderner Planungsverfahren für Großprojekte, etwa der Netzplantechnik, lassen sich beachtliche Zeiteinsparungen erzielen, die eine schnellere Kiellegung weiterer Schiffseinheiten ermöglicht.

[42] *R. Hofmann,* Entwicklung . . ., a. a. O., S. 5.

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Blohm + Voss, und die Hamburger und Kieler Howaldtswerke mit der Deutschen Werft fusionierten. Während im Klein- und Spezialschiffbau keine deutliche Konzentrationstendenz spürbar wird, scheint im Großschiffbau der Konzentrationsprozeß noch nicht abgeschlossen zu sein.

F. Fahrzeugbau

Eine besonders hohe horizontale Konzentration weisen der Bereich des Fahrzeugbaus mit seinen wichtigsten Teilbereichen Automobil- und Nutzfahrzeugbau auf.

Während in der Gruppe Automobilbau im Jahre 1960 noch mehr als 10 größere Hersteller produzieren konnten, verringerte sich bis zum Jahre 1970 durch Liquidation, Produktionsaufgabe oder Fusion die Zahl auf sechs größere Hersteller. Sie konnten 1969 ca. 98 % der Umsätze auf sich vereinigen.

Auch im Nutzfahrzeugbau vollzog sich in den letzten Jahren eine beschleunigte horizontale Konzentration, die im wesentlichen darauf zurückzuführen ist, daß die Vorteile der Großserienfertigung gerade in diesem Teilbereich mit seinen relativ kleinen Serien besonders stark in Erscheinung treten. Im Jahre 1967 betrug der Produktionsanteil der vier größten Nutzfahrzeughersteller des Jahres 1969 bereits 87 %, während er im Jahre 1958 nicht ganz 70 % betragen hatte, und stieg im Bereich der Fahrzeuge von über 3 t zulässigem Gesamtgewicht von fast 77 % sogar auf über 92 %[43].

Die gesamte Branche Fahrzeugbau wies 1954 einen Gesamtumsatzanteil der 10 größten Unternehmungen von 58 % auf und 1960 von 67 %. Seither waren im Bereich Landfahrzeuge 41 größere Fusionen nach § 23 GWB zu verzeichnen, die auf eine sehr beachtliche Konzentrationstätigkeit hinweisen[44].

Die Gründe für horizontale Konzentrationen im Automobilbau sind in erster Linie damit zu erklären, daß sich durch Großserienfertigung einerseits bedeutende längerfristige Kostenvorteile erwirtschaften lassen, andererseits durch sinnvolle Verwendung getypter Teile ein breit gefächertes Sortiment angeboten werden kann. Allerdings konnten nicht alle Automobilproduzenten die oben[45] erwähnte Mindestbetriebsgröße für Produktionsbetriebe von ca. 200 000 Einheiten erreichen, doch zeichnen sich gerade diese Hersteller dadurch aus, daß sie Güter des gehobenen Massenbedarfs herstellen. Eine Kostenüberwälzung der infolge

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[43] Vgl. *H. Albach*, Notwendigkeit der Konzentration in der Nutzfahrzeugindustrie?, in: Notwendigkeit und Gefahr der wirtschaftlichen Konzentration in nationaler und internationaler Sicht, a. a. O., S. 33 ff., hier S. 35.

[44] *B. Griesbach*, Konzentrationswelle 1968/69, a. a. O., S. 275.

[45] Siehe oben Fußnote 14.

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kleiner Serien nicht wahrzunehmenden Degressionsvorteile auf den Abnehmer war hierbei möglich.

Auch die hohen Aufwendungen, die zur Entwicklung eines neuen Kraftfahrzeugtyps bis zur Serienreife erforderlich sind, können in zunehmendem Maße nur noch von Großunternehmungen getragen werden. Ein dritter Grund, der für die Automobilindustrie ganz besonders konzentrationsbestimmend ist, besteht darin, daß ein weitverzweigtes Netz von Reparaturwerkstätten und Servicestationen aufzubauen und zu unterhalten ist. Auch wenn eine kapitalmäßige Verflechtung der Reparaturwerkstätten und Händler mit dem Hersteller nicht erforderlich ist, so entstehen doch bedeutende zusätzliche laufende Aufwendungen für spezielle Schulung und Ausbildung des Reparaturpersonals sowie für die Bereitstellung der Ersatzteilläger und notwendigen Spezialeinrichtungen.

In ähnlicher Art und Weise dürften im Nutzfahrzeugbau Gründe für die hohe Konzentrationstätigkeit bestimmend sein. Insbesondere herrschen hier wegen der vom Markt geforderten großen Typenvielfalt und des relativ begrenzten Marktes im Vergleich zur Automobilindustrie sehr kleine Serien vor, so daß entscheidende Kosteneinsparungen von etwa 3—4 % des Umsatzes je Fahrzeug bereits bei der fünffachen Seriengröße eintreten[46].

Durch Verwendung getypter Einzelteile und des Baukastenprinzips läßt sich auch hier eine relativ hohe Typenvielfalt produzieren, ohne daß auf die Vorteile von großen Serien und längerer Lebenszyklen bei der Teilefertigung verzichtet werden muß.

Auch der nachgelagerte Bereich der Servicestationen bildet einen bedeutenden Faktor zur Konzentration in der Nutzfahrzeugindustrie, da gerade beim Aufbau oder der Erweiterung des Servicenetzes hohe Investitionen seitens der Hersteller erforderlich sind.

G. Elektroindustrie

Mit an der Spitze hinsichtlich der seit 1960 zu verzeichnenden großen Fusionen liegt die Wachstumsbranche Elektroindustrie mit 62 Unternehmenszusammenschlüssen[47]. Von 1954 bis 1960 stieg der Anteil der

[46] *H. Albach,* Notwendigkeit der Konzentration in der Nutzfahrzeugindustrie?, a. a. O., S. 39. Während die durchschnittliche Seriengröße je Typ in Deutschland bis 1968 bei ca. 1500 Stück lag, konnten japanische Firmen mit 5—7000 Stück je Typ und Jahr und General Motors in USA mit Seriengrößen von 14—15 000 Stück produzieren. Inzwischen ist durch die Neugruppierung im deutschen Nutzfahrzeugsektor durch die Verschmelzung der Produktion von Hanomag-Henschel mit Daimler eine international gewichtige Gruppierung entstanden, die mit ca. 110 000 Einheiten pro Jahr in einer Umsatzgrößenordnung von 3 Mrd. DM operiert.

[47] *B. Griesbach,* Konzentrationswelle 1968/69, a. a. O., S. 275.

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10 größten Unternehmungen am Branchenumsatz geringfügig von 37,8 % auf 38,4 %. 1969 konnten die beiden größten Unternehmungen der Branche jedoch schon 40 % der Umsätze auf sich vereinigen. Weitere sieben gehörten darüber hinaus zu den 100 größten deutschen Unternehmungen[48].

Unter den Großunternehmungen zeichnet sich eine sehr deutliche Konzentrationsbewegung ab. Insbesondere sind es die Produktionssektoren mit Gütern des Massenbedarfs wie etwa bei Fernsehern, Tonmöbeln und Haushaltsgeräten. Gerade in diesem Bereich ist es auch wegen der scharfen internationalen Konkurrenz erforderlich geworden, zu immer größeren Serien überzugehen. Die außerordentlich große Vielfalt des Angebots der Elektroindustrie erlaubt es jedoch nicht, hieraus generelle Schlußfolgerungen für die Branche zu ziehen, da die Vorteile der Großserienfertigung nur Produktionsbereiche begünstigt, die über Massenbedarf verfügen. Andere Produktionsprogramme, die sich auf Spezialanfertigungen oder typische Kleinserien beschränken, bieten kleineren Unternehmensgrößen gute Marktchancen.

Ein sehr wesentlicher Bestimmungsgrund für die hohe Konzentrationstätigkeit im Elektrobereich ist jedoch damit zu erklären, daß infolge der breiten technischen und naturwissenschaftlichen Basis die Entwicklung neuen technischen Wissens sehr hohe Aufwendungen im Forschungs- und Entwicklungsbereich erfordert. So entfielen allein auf den elektrotechnischen Bereich im Jahre 1964 etwa ein Viertel aller Forschungs- und Entwicklungsaufwendungen der gesamten Industrie[49]. Für ein breiteres und tiefes Sortiment sind diese Aufwendungen am ökonomischsten von großen Unternehmungen aufzubringen. Bei der Entwicklung neuer Produkte fallen meist eine Großzahl industriell verwertbarer Nebenergebnisse an, die durch Großunternehmungen selbst genutzt werden können.

Auch bei der Erstellung von Großprojekten, wie z. B. Turbinenbau, Reaktorbau oder der Datenverarbeitungssysteme liegen klare Größenvorteile auf seiten der Großindustrie sowohl in der Entwicklung, als auch in der Planung und Erstellung.

H. Maschinenbau

Wie die Zählung der größeren Fusionen nach § 23 GWB von 1960 bis 1969 anzeigt, konnten insgesamt 39 Zusammenschlüsse registriert werden[50]. Dadurch wird der Hinweis auf eine deutlich ansteigende Konzen-

[48] *W. Müller-Haesler*, Die 100 größten Unternehmen der Bundesrepublik, in: Die Zeit, Nr. 30 (1970).
[49] *H. Echterhoff-Severitt*, a. a. O., S. 295.
[50] *B. Griesbach*, Konzentrationswelle 1968/69, a. a. O., S. 275.

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trationstendenz gegeben, nachdem von 1954 bis 1960 ein nur geringfügig von 14 % auf 13 % rückläufiger Konzentrationsgrad nachzuweisen war. Insgesamt gesehen, weist der Maschinenbau infolge seiner stark differenzierten Produktionsstruktur einen vergleichsweise geringen Konzentrationsgrad auf. Da es andererseits aber sehr große Maschinenfabriken gibt, und auch mehrere Maschinenfabriken entweder als Konzernbetriebe anderer Branchen oder als selbständige Unternehmungen zu den 100 größten deutschen Unternehmungen gehören, kann gefolgert werden, daß im Bereich der Maschinenindustrie eine horizontale relative Konzentration vorliegt.

Im Gegensatz zur Montanindustrie und zur chemischen Industrie wird die Produktion des Maschinenbaus meist nicht mit Großanlagen, sondern vorwiegend mit einer großen Zahl meist spanabhebender oder verformender Einzelaggregate erstellt. Eine Teilbarkeit der Betriebsmittel ist hierbei in viel stärkerem Maße möglich als in den erwähnten Branchen. Aus dem Fertigungsverfahren resultiert daher im Maschinenbausektor meist keine Tendenz zu horizontalen Konzentrationsvorgängen. Organisatorische Maßnahmen wie Fließstraßenverbund bei Produkten, für die ein großer Bedarf vorliegt, können jedoch konzentrationsfördernd wirken. Weiter besteht in Unternehmen des Großmaschinenbaus wie von technischen Großanlagen, Hochöfen, Walzwerken, Krananlagen, eine Tendenz zum Großbetrieb. Kleinere Unternehmungen sind nicht in der Lage, die mit der längerfristigen Einzelfertigung verbundenen Entwicklungskosten und Risiken zu tragen. Großunternehmen des Maschinenbaus gehören deshalb vorwiegend der Gruppe mit dem zuletzt genannten Produktionsprogramm an.

Zur vertikalen Konzentration des Maschinenbaus ist zu bemerken, daß viele größere Firmen dieses Bereichs zu Konzernen der eisenschaffenden Industrie gehören. Viele Maschinenfabriken verfügen außerdem über vorgelagerte Stufen wie eigene Eisengießereien. Eine Angliederung von nachgelagerten Abnehmerfirmen ist hingegen relativ selten, da nur wenige Betriebe einen größeren Dauerbedarf für Erzeugnisse des Maschinenbaus aufweisen.

Summary

Industry and Concentration

(I) Motives and impulses of economic concentration in industry both stem from non-economic and economic spheres of the firm. This paper deals with economic reasons for concentration only.

(II) The authors discuss motives for concentration in research and development, production, organization and planning, divisions which are regarded as typical and representative for an industrial corporation. They show the

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influence of concentration processes on a firm's objective function, of which it is assumed that it can be expressed in monetary terms.

Similarly as in the production sector there are especially the economies of large laboratories and research centers which encourage concentration in R&D—in the long run and within certain limits—. This is in addition to the short-run effects of harmonizing the capacities of subsequent stages and in addition to the advantages of increased lot-sizes and improved lot-sequences.

Further arguments for concentration in the planning and organization sector result from the economies of new and better methods and procedures, which are appropriate for special problems and a specified size of the subdivision concerned.

A summary of today's situation and the progress of economic concentration in some important industries of the Federal Republic of Germany is given in (III).

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Konzentration im Warenhandel

Von *Karl Banse* und *Rudolf Gümbel*, Frankfurt/M.

I. Begriffe und methodische Vorbemerkung
II. Historischer Abriß der Konzentration im Warenhandel
III. Konzentration im Einzelhandel
IV. Konzentration im Großhandel
V. Zusammenfassung

I. Begriffe und methodische Vorbemerkung

Das Wort „Warenhandel" wird wie das Wort „Handel", mit dem der Sprachgebrauch es häufig gleichsetzt, in verschiedenem Sinne verstanden. Waren sind bewegliche Sachgüter. Warenhandel ist demnach der Handel mit beweglichen Sachgütern. Im *weitesten funktionellen Sinne* umfaßt der Begriff Warenhandel jede Beschaffungs- und/oder Absatztätigkeit, die es mit beweglichen Sachgütern zu tun hat. Auch der private Haushalt betreibt danach bei der Beschaffung beweglicher Sachgüter Warenhandel, ebenso der Industriebetrieb, etwa beim Absatz der von ihm erzeugten Waren. Im *engeren funktionellen Sinne* versteht man unter Warenhandel jede Beschaffungs- und Absatztätigkeit ohne dazwischenliegende Be- oder Verarbeitung in abgeleiteten Betrieben (z. B. in Produktions-, Warenhandels- oder Dienstleistungsbetrieben), die sich auf bewegliche Sachgüter richtet. Warenhandelstätigkeit dieser Art liegt also z. B. vor, wenn ein Industriebetrieb Waren kauft, um sie unverändert weiterzuveräußern, und auf diese Weise sein Verkaufsprogramm gegenüber dem engeren Produktionsprogramm erweitert.

Unter Warenhandel *im institutionellen Sinne* ist demgegenüber *die Gesamtheit der rechtlich und wirtschaftlich selbständigen Betriebe* zu verstehen, die ausschließlich oder überwiegend Waren beschaffen, um sie, grundsätzlich ohne Be- oder Verarbeitung, weiterzuveräußern (einschließlich Vermietung). In der Wirklichkeit kann allerdings eine branchenübliche Manipulationstätigkeit stattfinden (Reinigen, Mischen, Sortieren, Verpacken), die gegebenenfalls neue Verkehrsgüter entstehen läßt, ebenso wie im Rahmen des entgeltlichen oder unentgeltlichen Kundendienstes Zusatzarbeiten vor allem handwerklicher Art durchgeführt werden mögen (z. B. Änderungen, Montage, Wartung, Repara-

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turen). Der Charakter des Warenhandelsbetriebes als Teil des institutionellen Warenhandels ändert sich dadurch nicht, solange der Umfang dieser Tätigkeiten im Rahmen des Branchen- und Geschäftsüblichen bleibt; nicht entscheidend ist ebenfalls eine gewisse Einengung der wirtschaftlichen Selbständigkeit, wie sei bei Kooperationsformen zu beobachten ist[1]. Andererseits zählen etwa Fabrikfilialgeschäfte nicht zum institutionellen Warenhandel, selbst wenn sie rechtlich verselbständigt sind, da ihnen das Merkmal der wirtschaftlichen Selbständigkeit fehlt.

Sind private Haushalte die ausschließlichen oder doch überwiegenden Absatzmarktpartner, so spricht man von *Einzelhandel*. Dagegen ist *Großhandel* der ausschließliche oder überwiegende Absatz an alle Nicht-Letztverbraucher. Auch die Worte Einzelhandel und Großhandel können funktionell oder institutionell verstanden werden. Wenn man von *dem* Warenhandel im Gegensatz etwa zu *der* Industrie, *dem* Handwerk usw. spricht, ebenso vom Einzelhandel im Gegensatz zum Großhandel, sind die Bezeichnungen in der Regel institutionell zu verstehen.

Im Vordergrund unserer Betrachtung soll der institutionelle Warenhandel stehen. Allerdings muß die Analyse von Konzentrationserscheinungen weiter ausgreifen, wenn das Phänomen in seiner Vielschichtigkeit richtig erkannt werden soll.

Auch aus einem anderen Grunde ist das nötig. Da für den Handelszensus 1968 bislang nicht nach Umsatzgrößenklassen differenzierende Vorberichte existieren, mußte als wesentliche Quelle für unsere Untersuchung die Umsatzsteuerstatistik des Statistischen Bundesamtes herangezogen werden. Sie erfaßt als Kern die Umsätze des institutionellen Warenhandels im oben dargestellten Sinne, nimmt aber beim Einzelhandel sowohl die Konsumgenossenschaften wie die Handwerksbetriebe hinzu, letztere dann, wenn der wirtschaftliche Schwerpunkt der Betriebe auf dem Ein- und Verkauf nicht be- oder verarbeiteter Waren liegt. Dabei werden dann Umsätze, die solche Handwerksbetriebe mit gewerblichen Abnehmern tätigen, als Einzelhandelsabsatz ausgewiesen. (Dies gilt auch entsprechend für den institutionellen Einzel- und Großhandel, bei denen der einzelne Betrieb ebenfalls nach dem Absatzschwerpunkt eingeordnet ist.) Ferner wird der *industrielle Absatz an Konsumenten* (sowohl Fabrikläden wie „Haus zu Haus-Vertrieb") dann ausgewiesen, wenn diese Funktion in rechtlich selbständige, aber wirtschaftlich abhängige Unternehmen ausgegliedert ist.

Im Bereich des Großhandels wird neben dem institutionellen Großhandel grundsätzlich der *„gemeinschaftliche Ein- und Verkauf"* sowie

[1] *K. Banse*, Strukturwandlungen in der Warendistribution unter besonderer Berücksichtigung des institutionellen Warenhandels, in: Strukturwandlungen einer wachsenden Wirtschaft, Schr.VfSp. (NF), Bd. 30 I, Berlin 1964, S. 465.

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der in rechtlich selbständige Unternehmen ausgegliederte Absatz von Industrieunternehmen an Nicht-Letztverbraucher erfaßt[2].

Von den verschiedenen Arten der Konzentration[3] (Unternehmens-, Betriebs-, Einkommens- und Vermögenskonzentration sowie Konzentration von Verfügungsmacht) wurde die Unternehmenskonzentration in den Mittelpunkt dieser Untersuchung gestellt.

Es wird zu zeigen versucht, wie das Größenwachstum von Unternehmungen — gemessen am Jahresabsatz — den Grad der Konzentration im Warenhandel verändert hat. Die Messung der Unternehmungsgröße am Absatz allein hat naturgemäß Mängel. Die sind aber nicht vermeidbar, wenn man quantitative Angaben umfassender Art machen will, weil statistische Unterlagen in ausreichendem Umfang nur von der Umsatzsteuerstatistik geliefert werden. Aus der Verwendung dieses Quellenmaterials der Umsatzsteuerstatistik erklärt sich auch die Beschränkung der Untersuchung auf die Unternehmungskonzentration.

Im folgenden wird der *Stand der absoluten Unternehmungskonzentration* durch den Anteil der Großunternehmen (ihrer Anzahl sowie der Höhe ihres Absatzes nach) an den entsprechenden Gesamtwerten charakterisiert.

Allgemein betrachtet kann sich der *Prozeß der absoluten Unternehmungskonzentration* durch folgende Veränderungen innerhalb der Gruppe der Großunternehmen im Zeitablauf vollziehen:

1. Die Zahl der Großunternehmen nimmt relativ stärker ab als der Absatz dieser Gruppe von Unternehmen.
2. Die Zahl der Großunternehmen nimmt absolut ab, der Absatz der Gruppe bleibt konstant.
3. Bei steigendem Absatz der Gruppe als ganzes nimmt
   a) die Zahl der Unternehmen ab oder
   b) die Zahl der Unternehmen bleibt konstant oder
   c) die Zahl der Unternehmen steigt relativ geringer als der Absatz der Gruppe.

Die Problematik der Messung einer absoluten Konzentration im vorstehend bezeichneten Sinne liegt vor allem in der Fixierung des Begriffes „Großunternehmen". Ohne damit eine generelle und quantitative Begriffsbestimmung geben zu wollen, werden im folgenden, nach

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[2] Zum einzelnen wird auf die einschlägigen Veröffentlichungen des Statistischen Bundesamtes hingewiesen (z. B. Fach-Serie L, Finanzen und Steuern, Reihe 7, Umsatzsteuer, und die dort genannten Quellen).

[3] Vgl. dazu und zu den folgenden begrifflichen Ausführungen den Beitrag von *H. Arndt* und *G. Ollenburg* in diesem Werk.

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Groß- und Einzelhandel differenziert, die Großunternehmen durch die Annahme eines Mindestjahresabsatzes abgegrenzt. Dieser muß außerdem aus methodischen Gründen mit der Untergrenze einer Absatzgrößenklasse übereinstimmen. Dem haftet ein gewisses Maß von Willkür an, das nach Anlage und Aufgabe der Untersuchung schlechterdings nicht vermeidbar ist.

Die *relative Unternehmungskonzentration* wird nachstehend an dem Ausmaß der Umverteilung sowohl der Absatzwerte wie der Zahl der Unternehmen auf die einzelnen Absatzgrößenklassen gemessen[4].

Von einer Zunahme der relativen Unternehmungskonzentration sprechen wir dann, wenn der Anteil der höheren Absatzgrößenklassen am Gesamtabsatz steigt.

Häufig wird von einer Zunahme der Konzentration auf eine Verminderung der Konkurrenz geschlossen. Daher muß die Darstellung durch die Einbeziehung des durchschnittlichen Anteils der Mitglieder dieser oberen bzw. höchsten Absatzgrößenklasse am Absatz ihrer Größenklasse ergänzt werden. Der durchschnittliche Anteil errechnet sich aus dem Kehrwert der Anzahl der Unternehmen in der einzelnen Größenklasse. Deshalb bedeutet ein Steigen der Zahl der Großunternehmen gleichzeitig, daß bei einer Durchschnittsbetrachtung der Anteil des einzelnen Großunternehmens am Absatz aller Großunternehmen der gleichen Größenklasse kleiner wird. Dies soll als *Verminderung des durchschnittlichen Absatzgewichtes* bezeichnet werden.

Daraus kann gefolgert werden, daß der Konkurrenzgrad steigt, soweit sich nicht durch Veränderung in Art und Umfang der Koalitionen und/oder Kapitalverpflechtungen gegenläufige Tendenzen ergeben. Einer Erhöhung des Konkurrenzgrades kann weiterhin entgegenstehen, daß etwa der Zunahme in der Zahl der Unternehmen einer Größenklasse eine Abnahme in der nächstniederen gegenübersteht, so daß sich ein anderes Bild ergeben würde, wenn man diese einbezieht. Noch wesentlicher scheint uns ein anderer Einwand. Die Besetzung einer oder mehrerer Größenklassen sagt nichts über den standortmäßigen Absatzbereich (den Absatzmarktbereich) der in den einzelnen Klassen erfaßten Unternehmen aus. Gerade im institutionellen Warenhandel, speziell im Einzelhandel mit Ausnahme der Versandgeschäfte, ist jedoch der Absatzmarktbereich geographisch begrenzt. Selbst wenn man demgegenüber wieder erwägt, daß diese Märkte vielfältig und teilweise intensiv „verkettet" sind (etwa durch die Versandgeschäfte und deren Preisangebote in ihren Katalogen, die meist recht einheitliche Preispolitik im einzelnen Massenfilialsystem, die gleiche Erscheinung bei den

[4] Vgl. dazu den Beitrag von *H. Arndt* und *G. Ollenburg*, a. a. O.

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Warenhausketten usw.), muß darauf hingewiesen werden, die späteren Folgerungen hinsichtlich einer Erhöhung des Konkurrenzgrades als Ausfluß einer Verminderung des durchschnittlichen Absatzgewichtes vorsichtig zu interpretieren.

Eine unmittelbare Fortschreibung des in der ersten Auflage veröffentlichten Materials war aus mehreren Gründen nicht möglich. Für den Zeitraum vom 1. 1. 1950 bis 31. 12. 1957 war die Erhebung geographisch auf das Gebiet der BRD einschließlich Berlin (West) begrenzt, das Saarland also noch nicht berücksichtigt. Durch Erhöhung der Umsatzsteuerfreigrenzen auf 8000,— DM im Jahre 1956 und auf 12 000,— DM im Jahre 1961 wird gerade in jenen Größenklassen, die von der Anzahl der Steuerpflichtigen her als stark besetzt zu bezeichnen sind, mit Fortschreibungsmethoden auf exakte Erhebung verzichtet. Der gravierendste Störungsfaktor ist schließlich die Einführung der Mehrwertsteuer (1968). Insofern kommt den Zahlen, die hier verwendet werden, allenfalls eine Indikatorfunktion zu[5]. Auf detailliertere Auflösung (z. B. nach Branchen und Umsatzgrößenklassen) wurde deshalb verzichtet. Dennoch wird man unter diesen Vorbehalten folgern können, daß die für den ersten Untersuchungszeitraum festgestellten Tendenzen keine radikalen Veränderungen erfahren haben.

Die Umsatzsteuerstatistik spricht in allgemeiner Formulierung von Steuerpflichtigen. Dieser Terminus ist von uns durch den Ausdruck „Unternehmen" (Unternehmung) ersetzt, der im übrigen, dem weithin üblichen Sprachgebrauch in der Betriebswirtschaftslehre des Warenhandels folgend, mit dem Ausdruck „Warenhandelsbetrieb" synonym verwendet wird.

Ebenso ist an Stelle des Ausdrucks „Umsatz" der Umsatzsteuerstatistik das Wort „Absatz" gebraucht, weil es auch einen Umsatz nach der Beschaffungsseite und im Inneren des Betriebes gibt. Unter Absatz ist streng genommen nur die entgeltliche Abgabe der eigentlichen Betriebsleistungen an Dritte zu verstehen. Das wäre im institutionellen Warenhandel die der Waren, ferner sonstiger damit in Verbindung stehender Leistungen, wenn sie dem Abnehmer in Rechnung gestellt werden. Das Umsatzsteuerrecht kennt demgegenüber einen weiteren Begriff: die Lieferungen und Leistungen, die ein Unternehmer im Inland gegen Entgelt im Rahmen seines Unternehmens ausführt, sowie

[5] Die Störung der Vergleichbarkeit von Absatzziffern durch die Preisbewegungen ist dem Leser zu bekannt, als daß sie mehr als erwähnt werden muß. Eine Bereinigung des Preiseinflusses mit Hilfe von Indexzahlen scheitert an der Verschiedenheit der Verhältnisse im Groß- und Einzelhandel, den Verschiebungen des Absatzanteils der einzelnen Branchen und — damit in gewissem Zusammenhang — der Umstrukturierung der Sortimente sowohl im Zuge der allgemeinen Wirtschaftsentwicklung als auch der zunehmenden Branchenvermischung im Warenhandel.

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den Eigenverbrauch (§ 1 Abs. 1 und 2 UStG). Danach gehört z. B. der Verkauf von Gegenständen des Anlagevermögens ebenfalls zum Umsatz im Sinne des UStG. Die Umsatzsteuerstatistik erfaßt den „Umsatz" im Sinne des UStG. Den weitaus größten Teil des Umsatzes macht jedoch der Absatz im vorerwähnten Sinne aus. So scheint die Verwendung des betriebswirtschaftlich eindeutigeren Ausdrucks „Absatz" berechtigt.

II. Historischer Abriß der Konzentration im Warenhandel

Obwohl hinsichtlich der statistischen Materialgrundlage schon beträchtliche Einschränkungen hinsichtlich der Aussagemöglichkeiten gemacht werden mußten, kann man unter Berücksichtigung aller auch sonst verfügbaren Informationen feststellen, daß die Größe der Unternehmungen im institutionellen Warenhandel keine fallende, sondern eine steigende Tendenz aufweist, gleichviel was man als Maßgröße heranzieht. Dabei gewinnen die höheren „Umsatzgrößenklassen" eindeutig an Gewicht, wenn auch in unterschiedlichem Umfang. Damit hat nach der hier verwendeten Definition für den *Prozeß der absoluten Konzentration* diese eine Steigerung erfahren. Indessen hat sich vor allem in den höchsten Umsatzgrößenklassen in den beiden Untersuchungsperioden (1950—1957; 1961—1968) eine Zunahme des *durchschnittlichen Absatzgewichtes* nicht feststellen lassen. Das ist für die Beurteilung von Monopolisierungsgraden nicht unwesentlich. Im übrigen muß darauf hingewiesen werden, daß die Messung von Monopolisierungsgraden unter Verwendung von Grenzkosten, Grenzerlösen und Absatzpreisen in eine weiterführende betriebswirtschaftliche Diskussion erst dann einbezogen werden kann, wenn in der mikrotheoretischen Ausgangsbasis für eine solche Auseinandersetzung die Erkenntnisse aus der Diskussion um die Voll- und Teilkostenrechnung hinreichend eingearbeitet und die kapitaltheoretischen Aspekte in einer empirisch falsifizierbaren Form erfaßt sind.

Das mit dem terminus technicus belegte Phänomen des Prozesses einer absoluten Konzentration im institutionellen Warenhandel hat vor allem drei Wurzeln:

1. Auf der Konsumentenseite haben sowohl Ballungserscheinungen in räumlicher Hinsicht (Verstädterung) als auch die Verkehrserschließung des flachen Landes die Konzentration gefördert.
2. Das Größenwachstum im Bereich der Sachgütererzeugung hat zur Folge, daß der um ein Machtgleichgewicht im Beschaffungssektor bemühte Warenhandel seine spezifischen Konzentrationsformen entwickelte[6].

[6] Vgl. dazu *A. Sölter*, Nachfragemacht und Wettbewerbsordnung, Düsseldorf 1960², S. 5 und 7 ff.

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3. Schließlich hat der konkurrenzwirtschaftliche Prozeß im Warenhandel selber Machtzusammenballungen vor allem bei den jeweils betroffenen Gruppen ausgelöst, die, ursprünglich eine Reaktion, nicht selten ein Eigengewicht erhielten.

Diese drei Ursachen bedingen sich zum Teil gegenseitig, bei den Interdependenzen im Wirtschaftsgeschehen eine Selbstverständlichkeit. Es sind aber drei verschiedene Wurzeln. Die Verfasser haben nie etwa nur eine von ihnen als allein wesentlich für den Prozeß einer Zunahme der absoluten Konzentration angesehen, anders als *Lenel*[7] ihnen das hinsichtlich der zweiten Wurzel auch in der 2. Auflage seines Werkes unterstellt.

Im Einzelhandel wird im vergangenen Jahrhundert der Prozeß der Konzentration durch die Entstehung des Warenhauses blickfällig demonstriert. Neben diese *Durchbrechung der Branchengrenzen* beim Sortiment des Warenhauses, verstärkt durch andere präferentiell wirkende betriebspolitische Teilmaximen, tritt das *Filialprinzip* als Instrument der Konzentration sowohl im institutionellen Einzelhandel (Massenfilialbetriebe, Warenhaus„ketten") als auch bei den um Direktabsatz an Letztverbraucher bemühten Herstellern (z. B. Singer-Nähmaschinen) und Großhändlern (z. B. Kaffeegroßhändler) auf. Die Konsumgenossenschaften, deren Entstehungsgründe nicht näher dargelegt werden müssen, haben sich ebenfalls das Filialprinzip in großem Maße nutzbar gemacht. Die Anwendung des *Postversandes* durchbricht schließlich auch die räumlichen Schranken eines durch Einkaufsgewohnheiten und Verkehrsbeziehungen determinierten Absatzgebietes und hebt die Begrenzung des Absatzradius einer offenen Verkaufsstelle für „Versandbetriebe" praktisch auf. Diese Unternehmenskonzentration, die auf einer Verviel-

[7] *H. O. Lenel*, Ursachen der Konzentration unter besonderer Berücksichtigung der deutschen Verhältnisse, Tübingen (1962) 1968², S. 255. Im übrigen muß der Lenelschen These: „Ein Zusammenhang zwischen Industrie- und Handelskonzentration ist nur gegeben, soweit die Konzentration der Industrie über die Konsumentenreklame ... durch den Markenartikel ausgelöst wird" (a. a. O., S. 255) entschieden entgegengetreten werden. Das Bemühen der insgesamt stärker wachsenden Großbetriebsformen des Einzelhandels um die Aufnahme von Markenartikeln — preisgebundenen, preisempfohlenen und anderen — macht weiterhin Schlagzeilen in der Tagespresse, weil die Industrie dieses Instrument als einzelwirtschaftliches Mittel der Mittelstandspolitik auch heute noch gebraucht. Die Entstehung von Einkaufsgenossenschaften zur Ausschaltung selbständiger Großhandlungen gerade in den zwanziger Jahren widerspricht ebenfalls der Lenelschen These auch für jene Bereiche, in denen schon damals Markenartikel eine größere Rolle spielten (Kosmetika, Textilien etc.). Auf die Kritik von Lenel's den betreffenden Abschnitt einleitenden Ausführungen über die Zigarettenreklame und die Beratungsfunktion im Handel, die Darlegung über die Ausgleichsfunktion (S. 253) und die Dynamik der Betriebsformen (S. 256), sowie nicht zuletzt über die Einkaufsgenossenschaften und freiwilligen Ketten (S. 256) muß verzichtet werden. Sie würde den Rahmen des Beitrags sprengen.

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fachung der Absatzkanäle und der daraus resultierenden Einkaufsmacht aufbaut, führte neben anderen Maßnahmen, auch solchen der Industrie, partiell zur Ausschaltung des institutionellen Großhandels und verlangte sowohl von ihm wie vom „traditionellen Einzelhandel" besondere Anpassungsformen. Bei letzterem geschah das vor allem durch den genossenschaftlichen Zusammenschluß im Einkauf, wodurch sich die Ausschaltungstendenz für den institutionellen Großhandel weiter verstärkte. Die Ausschaltungstendenz wurde, bisher vorzugsweise im Bereich des Lebensmittelgroßhandels, seit etwa 1950 durch die Bildung freiwilliger Ketten[8] gemildert. Jedoch bedeutet diese in der Bundesrepublik neuartige Kooperation von Groß- und Einzelhändlern ihrerseits ebenfalls eine Machtzusammenballung.

Auch innerhalb des genossenschaftlichen Großhandels[9], vor allem beim Landwarenhandel, haben sich insbesondere durch Bildung von Zentralgenossenschaften starke Machtzentren herausgebildet.

Als Ergebnis können wir festhalten, daß die Unternehmenskonzentration im Warenhandel im ganzen gesehen seit langem ständig fortgeschritten ist, nicht zuletzt infolge des Bemühens, den Machtzuwachs des Konkurrenten mindestens zu neutralisieren. Dies führt

1. zur Konzentration durch absolute oder relative Verdrängung der Konkurrenten (Großhändler und Einzelhändler), etwa auch durch ein Abgehen von bisher durchgehaltenen Prinzipien der Standortpolitik (z. B. Niederlassungen von Warenhauskonzernen, auch in Mittelstädten, der Entwicklung neuer Geschäftstypen, etwa der Selbstbedienungswarenhäuser, das Angebot eines „Vollsortiments" an Dienstleistungen durch freie Großhandlungen für ihre Abnehmer) und sonstige Wandlungen im Rahmen der so außerordentlich dynamischen Warenhandelsbetriebe [etwa Einkaufszentren und Verbrauchermärkte sowie die Verstärkung zentralisierter Macht gegenüber den angeschlossenen Betrieben (etwa durch die Zentrale der Einkaufsgenossenschaften, der freiwilligen Ketten, der Konsumgenossenschaften. Das letztere ergibt sich z. T. „zwangsläufig" durch die Ausprägung eines neuen Betriebstyps, etwa in der Form von Sortimentsrichtlinien oder gemeinschaftlicher Werbung bei Einkaufszentren)].

2. Zum Vordringen in vor- oder nachgelagerte Handelsstufen, u. U. sogar in den Erzeugungsbereich (z. B. bei den Konsumgenossenschaften). In diesem Zusammenhang sind auch die „Lohnfertigungsverträge" zu erwähnen, die seitens des Handels sowohl zur Fertigung von Handelsmarken (Nahrungsmittel) als auch von gemeinsamen Handels- und Industriemarken (Neckermann—Körting, Neckermann—Streiff) entwickelt wurden oder in Entwicklung befindlich sind.

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[8] Vgl. dazu *C. Ruberg*, u. a., Zwei Partner — ein Ziel, Bd. 1, Köln 1958, S. 20—22.

[9] Vgl. dazu *R. Henzler*, Die Genossenschaft, eine fördernde Betriebswirtschaft, Essen 1957.

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III. Konzentration im Einzelhandel

Die folgenden Ausführungen sollen einen Überblick über die beiden Entwicklungsperioden (1950/57; 1961/68) geben. Für den Zeitraum 1950/57 wird auf die Wiedergabe der in der ersten Auflage dargebotenen Tabellen verzichtet[10]. Sie werden nachstehend lediglich in den Verfassern wichtig erscheinenden Punkten ausgewertet. Das freilich war für eine Beurteilung der Gesamtentwicklung nötig.

Auf die unterschiedlichen Erhebungsbereiche wurde bereits hingewiesen. Dennoch ist u. E. vor allem durch die Auswertung der relativen Veränderungen ein Informationsgewinn zu verzeichnen. Allerdings ist zu bemerken, daß die Spannweiten der einzelnen Absatzgrößenklassen verschieden groß sind, sowohl absolut wie relativ. Der Einfall der Gruppengrenzen ist „zufallsbestimmt". Im ganzen nimmt die Zahl der Unternehmen mit steigenden Absatzwerten ständig ab. Es sind also keine Häufungsstellen vorhanden, nach denen man sich bei der Bemessung der Spannweiten richten kann bzw. auf die man Rücksicht nehmen muß. Infolgedessen ist die *Tendenz* aus den Tabellen u. E. richtig zu erkennen, wenn auch außer Frage steht, daß sich bei einem anderen Einfall der Gruppengrenzen im einzelnen erhebliche Verschiebungen in den Zahlenreihen ergeben würden.

Bei einer von 1950 bis 1957 um 4,1 % gestiegenen Zahl der Unternehmen sowie einer Zunahme des Absatzwertes um insgesamt 108,9 % zeigt sich im Einzelhandel eine absolute Unternehmenskonzentration in den höheren Absatzgrößenklassen (5 Mill. DM Jahresabsatz und mehr: Fall 3 c). Einer Abnahme der Zahl der Unternehmen in den Größenklassen bis unter 50 000 DM Jahresabsatz von insgesamt 72 376 Unternehmen steht ein Zuwachs in den Größenklassen mit 50 000 DM und mehr Jahresabsatz von insgesamt 93 553 Unternehmen gegenüber. Der Nettozuwachs beträgt also 21 177 Unternehmen. Die starke Abnahme der Unternehmen mit einem Absatz bis unter 50 000 DM, eine Abnahme um 19,8 % des Bestandes von 1950, d. h. um ein knappes Fünftel in sieben Jahren, läßt sich nur zum Teil auf ein Hineinwachsen in höhere Größenklassen zurückführen. Zwar sind keine „Mortalitätsziffern" für die einzelnen Größenklassen vorhanden, doch zeigt die Insolvenzstatistik, daß es im Einzelhandel im wesentlichen kleine Unternehmen sind, die aus dem Wirtschaftsprozeß ausscheiden. Das gilt verstärkt für Unternehmen, die nicht insolvent werden, sondern durch stille Liquidation erlöschen. Es wäre freilich verfehlt, das Ausscheiden *allein* auf die fraglos mitwirkende Konkurrenz der „Großen" zurückzuführen. Dazu sind die Gründe für

[10] *K. Banse* und *R. Gümbel*, Konzentration im Warenhandel, in: *H. Arndt* (Hrsg.), Die Konzentration in der Wirtschaft, Schr.VfSp. (NF), Bd. 20/I, (1960), S. 333—387.

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eine Geschäftsaufgabe in der Realität zu vielgestaltig. Es mag, zumal die Entwicklung weitergegangen ist, exemplarisch nur auf die Entwicklung der Beschäftigung in der Wirtschaft hingewiesen werden, die eine Tätigkeit als Arbeitnehmer gegenüber der als Geschäftsinhaber einer Warenhandlung reizvoller erscheinen läßt, ferner auf die Erhöhung der Renten, die den Hinzuverdienst durch den kleinen Laden erübrigt, auf die Erhöhung der Mieten für Geschäftsräume, die speziell für Ladeneinzelhandlungen mit ihrem begrenzten Absatzpotential die Weiterführung der Betriebe als unmöglich erscheinen lassen kann. Viele dieser beispielhaft genannten Gründe führen sowohl im Groß- wie im Einzelhandel dazu, daß Erben nicht zur Geschäftsnachfolge bereit sind und Käufer sich nicht finden lassen. Bei der Überalterung eines großen Teiles der Geschäftsinhaber wirkt sich dies naturgemäß stark aus, speziell bei den Kleinbetrieben im Ladeneinzelhandel, wie wir nachfolgend noch zeigen werden. (S. dazu auch die Ausführungen am Schluß von Teil III.)

Die mit Abstand gegenüber den anderen Klassen absolut größten Zunahmen in der Zahl der Unternehmen zeigen sich in den drei Größenklassen, die auf die Klassen folgen, welche Abnahmen aufweisen. Dabei hebt sich die Klasse 100 000 bis unter 250 000 DM Jahresabsatz mit einer Zunahme von 46 676 Einheiten besonders heraus, doch ist dabei ihre gegenüber der vorhergehenden Klasse (50 000 bis unter 100 000 DM Absatz) erheblich größere Spannweite zu beachten. Ein wesentlich anderes Bild weist die relative Vermehrung der Unternehmen auf (1950 = 100). Von der ersten Größenklasse ab, die überhaupt absolute Vermehrungen zeigt, bis zur höchsten findet sich beinahe durchgängig eine um so stärkere relative Vermehrung, je höher die Absatzgrößenklasse ist, bis hin zu einer Vermehrung um 316,7 % bei der Größenklasse 25 Millionen DM und mehr Jahresabsatz.

Die Unternehmen mit einem Jahresabsatz bis unter 50 000 DM verzeichnen einen Absatzrückgang von zusammen 807,9 Millionen DM. Dem steht eine Absatzzunahme von 36 064,8 Millionen DM bei den höheren Klassen gegenüber.

Am Absatzzuwachs der oberen Größenklassen wiederum sind sowohl absolut wie relativ die Unternehmen mit mehr als 25 Mill. DM Jahresabsatz (Zuwachs: 9 035,7 Mill. DM; 485,3 %) weitaus am stärksten beteiligt. Jedoch ist hierbei zu bedenken, daß die Ausgangsbasis 1950 einen Störungsfaktor enthält. Bedingt durch Kriegszerstörungen sowie durch Vermögensverluste in der DDR sowie durch die Nachwirkungen der Bewirtschaftung lagen die Ausgangswerte gerade für zahlreiche frühere Großunternehmen verhältnismäßig niedrig.

Setzt man den Mindestjahresabsatz für Großunternehmen des Einzelhandels — für den untersuchten Zeitraum eher zu hoch als zu niedrig —

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mit 5 Mill. DM an, so zeigt sich eine starke *absolute Unternehmenskonzentration* (vom Typ [3 c]) erst in der höchsten Größenklasse (25 Mill. DM und mehr), während in der unmittelbar darunter liegenden Klasse die prozentuale Zunahme in der Anzahl der Unternehmen (253,6 %) annähernd dem prozentualen Absatzzuwachs entspricht. Nur in der drithöchsten Größenklasse (5 bis 10 Mill. DM) ist nochmals ein deutlich erkennbares Auseinanderfallen von prozentualem Unternehmens- (177,4 %) und Absatzzuwachs (192,9 %) und damit eine absolute Unternehmenskonzentration vom Typ (3 c) zu beobachten. Die Zunahme der absoluten Unternehmenskonzentration ist dabei von *einer Abnahme des durchschnittlichen Absatzgewichtes* begleitet.

Auch die *relative Unternehmenskonzentration* hat im Einzelhandel insgesamt zugenommen. Bei steigendem Gesamtabsatz des Einzelhandels beginnt eine klar erkennbare Zunahme der relativen Unternehmenskonzentration nach der Größenklasse 100 000 bis unter 250 000 DM mit dem Maximum in der höchsten Größenklasse. Innerhalb der Größenklassen 100 000 bis unter 25 Mill. DM bestehen zwischen prozentualem Unternehmens- und Absatzzuwachs mit wenigen Ausnahmen kaum nennenswerte Diskrepanzen. Daraus folgt, daß bei annähernd gleichem Durchschnittsjahresabsatz innerhalb der Größenklasse der Absatzanstieg vor allem auf zuwachsende Unternehmen zurückgeht, möglicherweise mit der Konsequenz einer Verstärkung der Konkurrenz zwischen diesen Unternehmen. Man wird die Wirkung aber nicht überschätzen dürfen, weil die Unternehmen größtenteils zum *Laden*einzelhandel gehören und die Streuung über die Gemeindegrößenklassen wie die Verteilung regionaler Art nicht bekannt sind.

Die folgenden Tabellen 1 und 2 vergleichen die nach Absatzgrößenklassen aufgegliederten Einzelhandelsunternehmen für die Jahre 1961 und 1968 aufgrund der Umsatzsteuerstatistik. Sie führen insofern das in der ersten Auflage des Beitrages dargebotene Zahlenmaterial weiter.

Bei einer von 428 564 (1961) auf 402 530 (1968) um rd. 6 % (26 034) *verminderten* Anzahl der Unternehmen sowie einer *Zunahme* des Absatzwertes von insgesamt 93 183 Mill. DM auf 137 620 Mill. DM (1968) ergibt sich eine *Zunahme der absoluten Unternehmenskonzentration* in den höheren Absatzklassen. Gegenüber dem ersten Untersuchungszeitraum (1950/57), in dem diese von Typ (3 c) war, handelt es sich innerhalb des zweiten (1961/68) insgesamt um den Typ (3 a), wobei jedoch auf die ungenaue Information über die Umsatzgrößenklasse bis unter 12 000 DM hingewiesen werden muß. Einer Abnahme von rd. 61 000 Unternehmen in den drei untersten Größenklassen („bis unter 100 000") steht eine Erhöhung der Anzahl der Unternehmen um rd. 29 000 in den darauf folgenden drei Größenklassen („bis unter 1 Mill.") gegenüber. Dabei ver-

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Tabelle 1

Einzelhandelsunternehmen in der Bundesrepublik einschließlich West-Berlin nach Absatzgrößenklassen für 1961 und 1968

Absatzgrößenklassen in DM	1961					
	Zahl der Unternehmen		Absatz		kumulierte %-Werte	
	absolut	%	Mill. DM	%	Unternehmen	Absatz
(1)	(2)	(3)	(4)	(5)	(6)	(7)
12 500 bis unter 20 000	32 686	7,627	527	0,6	7,627	0,6
20 000 bis unter 50 000	100 110	23,359	3 420	3,7	30,986	4,3
50 000 bis unter 100 000	113 302	26,438	8 252	8,8	57,424	13,1
100 000 bis unter 250 000	123 537	28,826	19 290	20,7	86,250	33,8
250 000 bis unter 500 000	38 977	9,095	13 211	14,2	95,345	48,0
500 000 bis unter 1 Mio.	12 317	2,874	8 324	8,9	98,219	56,9
1 Mio. bis unter 2 Mio.	4 449	1,038	6 097	6,5	99,257	63,4
2 Mio. bis unter 5 Mio.	2 148	0,501	6 463	6,9	99,758	70,3
5 Mio. bis unter 10 Mio.	588	0,137	4 028	4,3	99,895	74,6
10 Mio. bis unter 25 Mio.	292	0,068	4 423	4,7	99,963	79,3
25 Mio. bis unter 50 Mio.	92	0,022	3 237	3,5	99,985	82,8
50 Mio. bis unter 100 Mio.	33	0,008	2 233	2,4	99,993	85,2
100 Mio. bis unter 250 Mio.	22	0,005	2 904	3,2	99,998	88,4
250 Mio. und mehr ...	11	0,002	10 774	11,6	100,000	100,0
Einzelhandel insgesamt	428 564	100,000	93 183	100,0		

Quelle: Statistisches Bundesamt (Hrsg.), Fach-Serie L, Reihe 7, Umsatzsteuer 1961, Stuttgart, Mainz 1963, S. 18.

schiebt sich jene Größenklasse, in der die Zahl der Unternehmen anzusteigen beginnt, von „50 000 bis unter 100 000" auf die nächstfolgende „100 000 bis unter 250 000" im Zeitraum 1961/68. Die Absatzgrößenklasse mit dem absolut höchsten Zuwachs in der Anzahl der Unternehmen „250 000 bis unter 500 000" ist in beiden Berichtszeiträumen die gleiche und auch der absolute Zuwachs ist fast gleich geblieben: 15 085 gegenüber 1961/68 (1950/57: 15 322). In der unmittelbar darauf folgenden höheren Größenklasse ist indessen der Zuwachs erheblich auf fast 1/3 desjenigen im Zeitraum 1950/57 zurückgegangen. In den Größenklassen „25 Mill. und mehr" ist der Zuwachs von 76 (1950/57) auf 97 (1961/68) angestiegen, hat sich aber relativ von 317 % (1950/57) auf 63,5 % (1961/68) vermindert. Nur in den Größenklassen „50 Mill. bis unter 100 Mill." und „über 250 Mill." liegt der relative Absatzzuwachs im Zeitraum 1961/68 erheblich über jenem der Anzahl der Unternehmen, und zwar im ersten Fall rd. 10,6 Prozentpunkte und im zweiten 31 Prozentpunkte. In allen

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Tabelle 1 (Fortsetzung)

Einzelhandelsunternehmen in der Bundesrepublik einschließlich West-Berlin nach Absatzgrößenklassen für 1961 und 1968

Absatzgrößenklassen in DM	1968					
	Zahl der Unternehmen		Absatz		kumulierte %-Werte	
	absolut	%	Mill. DM	%	Unternehmen	Absatz
(1)	(2)	(3)	(4)	(5)	(6)	(7)
12 500 bis unter 20 000	22 066	5,482	349	0,3	5,482	0,3
20 000 bis unter 50 000	71 978	17,882	2 483	1,8	23,364	2,1
50 000 bis unter 100 000	91 228	22 664	6 709	4,8	46,028	6,9
100 000 bis unter 250 000	126 796	31,500	20 201	14,7	77,528	21,6
250 000 bis unter 500 000	54 299	13,489	18 801	13,7	91,017	35,3
500 000 bis unter 1 Mio.	23 031	5,722	15 604	11,3	96,739	46,6
1 Mio. bis unter 2 Mio.	7 718	1,917	10 519	7,6	98,656	54,2
2 Mio. bis unter 5 Mio.	3 639	0,904	10 942	8,0	99,560	62,2
5 Mio. bis unter 10 Mio.	1 024	0,254	7 001	5,1	99,814	67,3
10 Mio. bis unter 25 Mio.	496	0,123	7 602	5,5	99,937	72,8
25 Mio. bis unter 50 Mio.	146	0,036	5 101	3,7	99,973	76,5
50 Mio. bis unter 100 Mio.	59	0,015	4 229	3,1	99,988	79,6
100 Mio. bis unter 250 Mio.	29	0,007	4 166	3,0	99,995	82,6
250 Mio. und mehr ...	21	0,005	23 915	17,4	100,000	100,0
Einzelhandel insgesamt	402 530	100,000	137 620	100,0		

Quelle: Statistisches Bundesamt (Hrsg.), Fach-Serie L, Reihe 7, Umsatzsteuer 1968, Stuttgart, Mainz 1970, S. 19.

anderen Klassen wird die Zunahme der absoluten Unternehmenskonzentration von einer *Abnahme des durchschnittlichen Absatzgewichtes* begleitet.

Die *Verminderung des durchschnittlichen Absatzgewichtes* ist dabei im zweiten Berichtszeitraum (1961/68) relativ stärker, und der Anstieg des Niveaus, auf dem dies geschieht (Durchschnittsabsatz), nimmt ab. Dabei sind freilich Kapitalverflechtungen nicht berücksichtigt, was etwa im Warenhausbereich zu anderen Ergebnissen führt, von den Entwicklungen im Bereich der Lebensmittelfilialeinzelhandelsbetriebe und der freiwilligen Ketten bzw. Einkaufsgenossenschaften ganz abgesehen.

Im zweiten Berichtszeitraum (1961/68) hat die *relative Unternehmenskonzentration* gegenüber dem ersten (1950/57) abgenommen. Während 1957 auf die kleineren und mittleren Umsatzgrößenklassen „... bis unter 500 000" 97,5 % der Unternehmen entfielen, hat sich dieser Wert für 1968 erheblich auf 81 % vermindert, d. h. die in diese Klasse hineinwachsen-

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Tabelle 2

Die Veränderungen in der Zahl der Unternehmen und des Absatzes in den Absatzgrößenklassen des Einzelhandels für 1968 gegenüber 1961

Absatzgrößenklassen in DM	Veränderungen in der			
	Zahl der Unternehmen		Absatzhöhe	
	absolut	in % von 1961	absolut in Mill. DM	in % von 1961
(1)	(2)	(3)	(4)	(5)
12 000 bis unter 20 000	(— 10 620	— 32,3	— 178	— 33,8)*
20 000 bis unter 50 000	— 28 132	— 28,1	— 937	— 27,4
50 000 bis unter 100 000	— 22 074	— 19,5	— 1 543	— 18,6
100 000 bis unter 250 000	+ 3 259	+ 2,6	+ 911	+ 4,7
250 000 bis unter 500 000	+ 15 322	+ 39,3	+ 5 590	+ 42,3
500 000 bis unter 1 Mio.	+ 10 714	+ 94,7	+ 7 280	+ 87,4
1 Mio. bis unter 2 Mio.	+ 3 269	+ 73,4	+ 4 422	+ 72,5
2 Mio. bis unter 5 Mio.	+ 1 491	+ 69,4	+ 4 479	+ 69,3
5 Mio. bis unter 10 Mio.	+ 436	+ 74,1	+ 2 973	+ 73,8
10 Mio. bis unter 25 Mio.	+ 204	+ 69,9	+ 3 179	+ 71,8
25 Mio. bis unter 50 Mio.	+ 54	+ 58,7	+ 1 864	+ 57,6
50 Mio. bis unter 100 Mio.	+ 26	+ 78,8	+ 1 996	+ 89,4
100 Mio. bis unter 250 Mio.	+ 7	+ 31,8	+ 1 262	+ 43,5
250 Mio. und mehr ...	+ 10	+ 90,9	+ 13 141	+ 122,0

* nur bedingt vergleichbar, da infolge der Änderung des Steuersystems eine Größenklassenänderung erfolgte.

den Mittelstandsunternehmen haben in den über dem genannten Grenzwert liegenden Größenklassen an Bedeutung gewonnen. Dabei muß allerdings berücksichtigt werden, daß 1957 die Unternehmen in den höchsten Größenklassen („25 Mill. und mehr") mit 0,017 % der Anzahl der Unternehmen rd. 16 % des Absatzwertes auf sich vereinigen konnten, während 1968 (ausgehend von der gleichen Mindestgrößenklasse) auf einen mehr als doppelt so hohen Anteil an der Zahl der Unternehmen (0,036 %) *nur* ein Absatzanteil von 23,5 % entfällt. Die Anteilsvermehrung in der Zahl der Unternehmen liegt also *relativ* weit über derjenigen des Absatzwertanteils. Bei der Bewertung der aus diesen Relationen gewonnenen Aussagen muß freilich berücksichtigt werden, daß die Ungenauigkeiten hinsichtlich der Erfassung in der untersten Größenklasse (Umsatzsteuerfreigrenze) von kaum zu relativierender Bedeutung sind, jedoch bei den Unternehmensanteilen stärker zu Buche schlagen als bei den Absatzwertanteilen.

Wertvolles Material für die hier zu untersuchenden Probleme bietet ferner der Handelszensus für 1960 und der für 1968. Für 1968 ist bisher

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nur ein Vorbericht erschienen, doch ist der Erfahrung nach nicht zu erwarten, daß die Zahlen wesentlich von den endgültigen Ergebnissen abweichen werden. Tabelle 3 vergleicht die Unternehmen im Einzelhandel nach Branchen und gestattet, wenn auch recht global, die Entwicklung derselben zu verfolgen. Ein Vergleich mit den Tabellen für den Berichtszeitraum 1950/57 aus der ersten Auflage des Beitrages ist, wie in den einleitenden methodischen Ausführungen schon gesagt wurde, nicht möglich, da die Differenzierung des Handelszensus nicht mit der Umsatzsteuerstatistik für 1950/57 abstimmbar ist.

Eine zunehmende Verwischung der Branchengrenzen als des neben dem Filialisierungsprinzip bedeutendsten Expansionsinstrumentes zeigt die Entwicklung der Unternehmen mit „Waren verschiedener Art". Die Zahl der Unternehmen hat um 97 % zugenommen, der Absatzwert — mit der zweithöchsten Steigerungsrate — ist um 168,1 % gewachsen. Die Zahl wird nur noch von der Gruppe „Sonstige Waren" (171 %) übertroffen. Diese Entwicklung dürfte maßgeblich durch die Expansion der Lebensmitteleinzelhandelsbetriebe in Richtung „Non food" und die Ausdehnung der Verbrauchermärkte bestimmt worden sein, von der in Branchenkreisen behauptet wird, sie habe die Verkaufsfläche des großbetrieblichen Mehrbranchengeschäftes in etwa verdoppelt. Die Hauptgemeinschaft des Deutschen Einzelhandels ist in ihrem Jahresbericht 1969 hinsichtlich der bekannten Zahlen allerdings skeptisch[11].

Eine branchenspezifische absolute Unternehmenskonzentration vom Typ (3a) läßt sich in den folgenden Branchen beobachten: Bei „Nahrungs- und Genußmittel" hat die Zahl der Unternehmen im zweiten Berichtszeitraum (1961/68) um 20,5 % abgenommen und der Absatzwert ist um 70,3 % gestiegen. Die Steigerung ist deshalb bemerkenswert, weil wegen der Expansion in den „Non-food"-Bereich hinein ein Teil der Unternehmen in eine andere Klasse umgesetzt worden sein kann, wenn auch nach dem Schwerpunktprinzip derartige radikale Umstrukturierungen kaum zu erwarten sein werden. Trifft der letztgenannte Fall zu, erklärt sich die Steigerung des Absatzwertes fraglos auch aus der Absatzvermehrung im „Non-food"-Bereich, ein weiteres Beispiel für die ständig zunehmende Verwischung früher doch recht streng beachteter Branchengrenzen. Auch bei „Bekleidung, Wäsche, Ausstattung, Sport, Schuhe" hat sich die Anzahl der Unternehmen um 16 % vermindert, der Absatzwert ist aber um 64,4 % gestiegen.

Der Bereich „Kohle, Brennstoffe, Mineralöle" hat demgegenüber eine wesentlich höhere relative Steigerung des Absatzwertes zu verzeichnen (124,9 %), während der Anteil an der Gesamtzahl der Unternehmen um

[11] *Hauptgemeinschaft des Deutschen Einzelhandels*, 22. Arbeitsbericht (1969), Köln 1970, S. 23.

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Tabelle 3

Zahl der Unternehmen, der Beschäftigten und des Umsatzes im Einzelhandel der Bundesrepublik einschließlich West-Berlin gegliedert nach Branchen in den Jahren 1960 und 1968

Branche	Unternehmen		Beschäftigte		Umsatz in Mio. DM		Veränderungen in % von 1960		
Handel mit	30. 9. 60	30. 9. 68	30. 9. 60	30. 9. 68	1960	1967	Unternehmen	Beschäftigte	Umsatz
Waren verschiedener Art	1 614	3 189	175 466	295 073	7 225,9	19 374,0	+ 97,5	+ 68,1	+ 168,1
Nahrungs- u. Genußmitteln	251 441	200 127	731 888	716 410	28 258,7	48 589,5	— 20,5	— 2,1	+ 70,3
Bekleidung. Wäsche, Ausstattung, Sport, Schuhen	81 978	68 926	414 191	441 405	14 624,4	24 050,4	— 16,0	+ 6,6	+ 64,4
Eisen, Metall, Hausrat, Glas, Wohnbedarf	27 621	27 226	126 686	143 121	5 189,9	9 226,2	— 1,5	+ 12,9	+ 77,7
Elektro-, opt. Erzeugnisse, Schmuck, Leder, Spielwaren, Musikinstrumenten	30 682	31 550	136 519	156 315	4 361,0	7 721,5	+ 2,8	+ 14,7	+ 77,0
Papier-, Druckerzeugnissen	16 119	16 388	54 911	62 454	1 537,3	2 981,3	+ 1,6	+ 13,7	+ 93,9
Pharmazeut.-med.-kosmetischen Artikeln, Putz- u. Reinigungsmitteln	26 801	28 156	112 881	144 261	3 877,5	8 394,4	+ 5,0	+ 27,8	+ 116,4
Kohle, Brennstoffen Mineralöl	14 929	14 041	49 396	53 271	2 003,4	4 505,6	— 6,0	+ 7,8	+ 124,9
Fahrzeugen, Maschinen, Büroeinrichtungen	15 213	15 765	133 325	206 858	6 297,9	14 551,8	+ 3,6	+ 55,1	+ 131,0
sonstigen Waren	15 214	21 148	47 278	70 395	1 271,8	3 447,3	+ 39,0	+ 48,9	+ 171,0

Quellen: Handels- u. Gaststättenzählung 1960, I. Einzelhandel, Heft 1, Fach-Serie F, Stuttgart, Mainz 1960, S. 7, 8.
Handels- u. Gaststättenzählung 1968, II. Einzelhandel, Vorbericht, Fach-Serie F, Stuttgart, Mainz 1970, S. 4, 5.

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6 % gesunken ist. Man geht nicht fehl, hierin die Auswirkungen der zunehmenden Verwendung von Heizöl zu sehen, mit der Konsequenz einer wesentlichen Erhöhung des Anlagevermögens der Warenhandlungen dieser Branche und den Restriktionswirkungen daraus. Lediglich für „Papierwaren und Druckerzeugnisse" kann branchenspezifisch der Typ (3 c) einer absoluten Unternehmenskonzentration festgestellt werden, wobei die relative Steigerung hinsichtlich der Anzahl der Unternehmen 1,6 % beträgt, bei einer relativen Steigerung des Absatzwertes um 93,9 %.

Insgesamt kann man mit aller Vorsicht und manchen Vorbehalten prognostizieren, daß die relative Konzentration im Einzelhandel tendenziell abnehmen wird, obwohl diese Entwicklung in den einzelnen Branchen unterschiedlich verlaufen wird.

Im Bereich „Nahrungs- und Genußmittel" bestehen nach Informationen aus Branchenkreisen Tendenzen, auf Operationseinheiten nicht unter 500 Mill. DM Jahresumsatz vorzustoßen. Dies führt bei Freiwilligen Ketten und Einkaufsgenossenschaften nicht unbedingt zu jeweils einer „Unternehmenseinheit", die Steuersubjekt im Sinne der Umsatzsteuerstatistik ist, aber auch nicht als ein Unternehmen im Sinne des Handelszensus zu bezeichnen sein wird. Die Konzentrationstendenz im Bereich der Konsumgenossenschaften geht in ähnlicher Richtung; dort möchte man das Gebiet der BRD in ca. 10—12 Regionen zusammenfassen.

Bei den nicht stärker filialisierenden Unternehmen des Ladeneinzelhandels wird die Expansion durch wachsenden Kapitalbedarf (wegen steigender Bodenpreise[12] und Ausstattungskosten) zunehmend erschwert. Ferner bietet das geringe Absatzpotential keine Einkommensbasis, die einen Vergleich mit entsprechenden „Angestelltenpositionen" (z. B. Marktleiter, Filialleiter, deren Einkommen um 24 000,— DM je Jahr liegt) aushält. Bemerkenswert in diesem Zusammenhang sind die Untersuchungen der Hauptgemeinschaft des Deutschen Einzelhandels. Folgende Gründe für die Geschäftsaufgabe werden von ihr genannt:

„— der rigorose Preiswettbewerb, der sich insbesondere bei den nicht kooperationsfähigen Kleinstbetrieben ausgewirkt hat,

— der durch die Rezessionsjahre erzwungene Rückgriff auf die Betriebssubstanz, auch als Folge der rapide gesunkenen Erträge,

— Betriebsaufgabe infolge städtebaulicher Maßnahmen ...

— persönliche Gründe ..."[13].

Unter Hinweis auf eine repräsentative Verbandsstatistik weist die Hauptgemeinschaft darauf hin, daß die „persönlichen Gründe" bei jeder zweiten Betriebsaufgabe eine entscheidende Rolle gespielt haben.

[12] Vgl. dazu Hauptgemeinschaft ..., a. a. O., S. 27 f.
[13] Hauptgemeinschaft ..., a. a. O., S. 20.

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Die weitere Entwicklung dürfte also insgesamt dadurch gekennzeichnet sein, daß sich die Umsätze auf relativ größere Betriebseinheiten verteilen werden und daß damit das absolute Gewicht des *einzelnen* Großbetriebes relativ vermindert werden wird.

IV. Konzentration im Großhandel

Der unter Zugrundelegung der Umsatzsteuerstatistik untersuchte Großhandelsbereich umfaßt neben dem institutionellen auch Teile des funktionellen Großhandels (gemeinschaftlicher Ein- und Verkauf, rechtlich selbständige Vertriebsunternehmen der Industrie) im Bundesgebiet (für den ersten Untersuchungszeitraum [1950/57] ohne Saarland) einschließlich West-Berlin. Seit 1954 werden in der Umsatzsteuerstatistik anders als 1950 sowohl die landwirtschaftlichen Bezugs- und Absatzgenossenschaften wie auch die Spar- und Darlehnskassen mit überwiegendem Warengeschäft nicht mehr in der Kombinationsklasse 6201 beim Großhandel ausgewiesen, sondern innerhalb des Bankwesens bei den Kreditgenossenschaften unter Nr. 6845[14]. Die Zahlen für 1950 enthalten in Klasse 6201 nicht die Warenumsätze von Darlehnskassen, die auch das Warengeschäft betrieben, wenn der Bankumsatz überwog, dagegen sowohl den gesamten Waren- wie auch den Bankumsatz, wenn das Warengeschäft wesentlicher war. 1957 fehlt in Klasse 6201 demgegenüber der gesamte Warenabsatz sowohl der landwirtschaftlichen Bezugs- und Absatzgenossenschaften als auch der der Darlehnskassen mit Warengeschäft. Damit ist die Vergleichbarkeit der Ergebnisse für 1950 und 1957 in gewissem Umfange gestört, wenn Position 6201 mit einbezogen wird. Darauf soll doch hingewiesen werden, wenn auch für den Großhandel ebenso wie für den Einzelhandel die Tabellen für den Zeitraum 1950/57 nicht erneut wiedergegeben werden, sondern ebenfalls auf die erste Auflage (vgl. oben Anm. 10) verwiesen werden muß.

Auch im übrigen sind die nachstehenden Zahlenangaben, soweit sie sich auf den Vergleich der Jahre 1950 und 1957 beziehen, bedauerlicherweise bei weitem nicht so gesichert, wie das wünschenswert gewesen wäre. Nach einer Auskunft des Statistischen Bundesamtes, Referat Umsatzsteuerstatistik, sind aus der Kombinationsklasse 6201 im Laufe der Jahre zunehmend Umgruppierungen von Unternehmen in die anderen Klassen vorgenommen worden. Wie stark die genannten Störungsfaktoren sind, mag an folgenden Zahlen für die Bundesrepublik (ohne West-Berlin) illustriert werden: 1950 entfielen auf Klasse 6201 6573 Unternehmen mit 1 762,0 Mill. DM Jahresabsatz. Für 1957 wurden 2080 Unternehmen mit 3 167,3 Mill. DM Absatz angegeben. Der Durchschnitts-

[14] Vgl. dazu: Ergebnisse der Umsatzsteuerstatistik für 1954, Statistik der BRD, Bd. 161 (1957), S. 24 f.

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absatz je Unternehmen errechnet sich daraus mit 268 100 DM in 1950 und 1 522 700 DM in 1957. Das ist eine Steigerung des durchschnittlichen Absatzes je Unternehmen von 468,0 % gegenüber 105,7 % für den gesamten Großhandel der Bundesrepublik. Die nachstehend für die *einzelnen* Großhandelszweige gezogenen Folgerungen hinsichtlich der Konzentration sind also unter einer gewissen „clausula rebus sic stantibus" zu verstehen.

Der leichte Rückgang in der Zahl der Großhandelsunternehmen von 148 495 in 1950 auf 148 218 in 1957 hat, global betrachtet, seinen Grund in der Umgruppierung der Bezugs- und Absatzgenossenschaften (1957: ohne Hauptgenossenschaften 2 379 Genossenschaften[15] mit 1 529,5 Mill. DM Warenumsatz[16]) sowie der Umgruppierung eines Teiles der Spar- und Darlehnskassen (soweit das Warengeschäft überwog, wie erwähnt bis 1954 unter Großhandel ausgewiesen; 1957: insgesamt 8 856[15] Spar- und Darlehnskassen mit Warenverkehr von 1 370,8 Mill. DM[16]). Berücksichtigt man diesen Störungsfaktor, ist festzustellen, daß die Zahl der Großhandelsunternehmen in einem nicht sehr starken Maße zugenommen hat, dagegen quantitative Aussagen über die Veränderungen in den unteren Größenklassen nicht und für die höheren Größenklassen nur mit einiger Vorsicht möglich sind.

Gegenüber 1950 hat sich der prozentuale Anteil der Unternehmen mit 5 Mill. DM und mehr Absatz (1950: 1 447 und 1957: 3 458 Unternehmen) an der Zahl aller Großhandelsunternehmen von 0,97 % auf 2,33 % (1957) erhöht. Im gleichen Zeitraum stieg ihr Anteil am Gesamtabsatz von 45,4 % (1950) auf 59,2 % (1957). Dabei ist der Absatzanteil der höchsten Größenklasse, 25 Mill. DM und mehr, von 28,1 % (1950) ganz erheblich auf 39,6 %, gestiegen.

Setzt man die Höhe des jährlichen Mindestabsatzes für Großunternehmen mit 10 Mill. DM für den ersten Untersuchungszeitraum (1950/57) eher zu hoch als zu niedrig an, hat die *absolute Unternehmenskonzentration* im Großhandel insgesamt zugenommen (Typ 3 c), ist aber von einer Verminderung des durchschnittlichen *Absatzgewichtes* begleitet.

Die *relative Unternehmenskonzentration* im Großhandel beschränkt sich auf die Größenklassen mit 5 Mill. DM und mehr Jahresabsatz und ist in der höchsten Größenklasse am stärksten (Tabelle 6, Sp. 5 und 11).

Die nach Größenklassen untergliederte Entwicklung der Großhandelsunternehmen (1968 gegenüber 1961) gemäß der Umsatzsteuerstatistik ist in den Tabellen 4 und 5 dargestellt.

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[15] JB des Deutschen Raiffeisen-Verbandes e. V., Jg. 10 (1957), S. 50.
[16] JB des Deutschen Raiffeisen-Verbandes e. V., Jg. 11 (1958), S. 54.

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Tabelle 4

Großhandelsunternehmen in der Bundesrepublik einschließlich West-Berlin nach Absatzgrößenklassen für 1961 und 1968

Absatzgrößenklassen in DM	1961					
	Zahl der Unternehmen		Absatz		kumulierte %-Werte	
	absolut[a]	%	Mio. DM[a]	%	Unternehmen	Absatz
(1)	(2)	(3)	(4)	(5)	(6)	(7)
12 000 bis unter 20 000	5 759	4,334	92,8	0,1	4,334	0,1
20 000 bis unter 50 000	16 420	12,360	557,4	0,3	16,697	0,4
50 000 bis unter 100 000	18 126	13,644	1 326,5	0,7	30,338	1,1
100 000 bis unter 250 000	29 164	21,953	4 800,3	2,7	52,291	3,8
250 000 bis unter 500 000	21 193	15,953	7 577,8	4,3	68,244	8,1
500 000 bis unter 1 Mio.	17 341	13,053	12 290,7	6,9	81,297	15,0
1 Mio. bis unter 2 Mio.	11 956	8,999	16 821,0	9,5	90,296	24,5
2 Mio. bis unter 5 Mio.	8 142	6,129	25 082,0	14,2	96,425	38,7
5 Mio. bis unter 10 Mio.	2 683	2,020	18 510,0	10,4	98,445	49,1
10 Mio. bis unter 25 Mio.	1 415	1,065	21 359,4	12,1	99,510	61,2
25 Mio. bis unter 50 Mio.	375	0,282	12 718,3	7,2	99,792	68,4
50 Mio. bis unter 100 Mio.	144	0,108	9 868,8	5,6	99,900	74,0
100 Mio. bis unter 250 Mio.	88	0,067	13 104,9	7,4	99,967	81,4
250 Mio. bis unter 500 Mio.	31	0,023	13 902,2	7,8	99,990	89,2
500 Mio. und mehr	13	0,010	19 170,9	10,8	100,000	100,0
insgesamt	132 850	100,000	177 183,0	100,0		

[a] Stat. Bundesamt, Finanzen und Steuern, Reihe 7, Umsatzsteuer 1961 (Best. Nr. L7-i61), S. 18.

Während sich im Berichtszeitraum von 1950/57 die Anzahl der Unternehmen um 277 (0,19 %) vergleichsweise gering vermindert hat, setzte sich diese Tendenz im zweiten Berichtszeitraum (1961/68) erheblich stärker fort. Die Zahl der Unternehmen des Großhandels fiel von 132 225 auf 123 225 um 7 %. Gemessen an den Änderungsraten des Einzelhandels ist das zwar relativ wenig. Jedoch wird man davon auszugehen haben, daß die durch die Umsatzsteuerfreigrenzen entstehenden Dunkelziffern im Großhandelsbereich weniger bedeutend sind, weil sich Großhandlungen unterhalb der Freigrenzen nur in einer geringen Zahl finden dürften.

Während 1950/57 der absolute Rückgang in der Besetzung der Umsatzgrößenklassen bei Absatzwerten „... bis unter 100 000" endete, pflanzt sich diese Tendenz im Zeitraum 1961/68 bis auf die Umsatzgrößenklasse „... bis unter 1 Mill." fort, um dann bei steigender Intervallgröße bis

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Tabelle 4 (Fortsetzung)

Großhandelsunternehmen in der Bundesrepublik einschließlich West-Berlin nach Absatzgrößenklassen für 1961 und 1968

Absatzgrößenklassen in DM	1968					
	Zahl der Unternehmen		Absatz		kumulierte %-Werte	
	absolut[a]	%	Mio. DM[a]	%	Unternehmen	Absatz
(1)	(2)	(3)	(4)	(5)	(6)	(7)
12 000 bis unter 20 000	4 549	3,691	69	0,0	3,691	0,0
20 000 bis unter 50 000	12 497	10,142	424	0,1	13,833	0,1
50 000 bis unter 100 000	14 295	11,600	1 049	0,4	25,433	0,5
100 000 bis unter 250 000	24 393	19,795	4 034	1,6	45,228	2,1
250 000 bis unter 500 000	19 770	16,043	7 107	2,9	61,271	5,0
500 000 bis unter 1 Mio.	17 279	14,022	12 283	5,0	75,293	10,0
1 Mio. bis unter 2 Mio.	13 141	10,664	18 595	7,5	85,957	17,5
2 Mio. bis unter 5.Mio.	10 172	8,255	31 549	12,7	94,212	30,2
5 Mio. bis unter 10 Mio.	3 785	3,075	26 239	10,6	97,287	40,8
10 Mio. bis unter 25 Mio.	2 173	1,763	33 036	13,3	99,050	54,1
25 Mio. bis unter 50 Mio.	670	0,544	23 283	9,4	99,594	63,5
50 Mio. bis unter 100 Mio.	297	0,241	20 318	8,2	99,835	71,7
100 Mio. bis unter 250 Mio.	136	0,110	20 515	8,3	99,945	80,0
250 Mio. bis unter 500 Mio.	36	0,029	12 220	4,9	99,974	84,9
500 Mio. und mehr	32	0,026	37 436	15,1	100,000	100,0
insgesamt	123 225	100,000	248 157	100,0		

[a] Stat. Bundesamt, Finanzen und Steuern, Reihe 7, Umsatzsteuer 1968.

zur Umsatzgrößenklasse „... bis unter 100 Mill." in eine Steigerung umzuschlagen, die nach geringfügigem Abfall schließlich in der höchsten Größenklasse ein Maximum (+ 146 %) erreicht.

Legt man die Großbetriebsschwelle im Großhandel mit 10 Mill. eher zu niedrig als zu hoch fest, so kann von einer *Zunahme der absoluten Unternehmenskonzentration* im Großhandel der Tendenz nach kaum die Rede sein. Ohne Berücksichtigung des Saarlandes haben 1957 1 550 Unternehmen 71 536,2 Mill. DM Absatz auf sich vereinigt, während der Vergleichswert des Absatzes für 1968 unter Einschluß des Saarlandes 146 808 Mill. DM beträgt, ein Absatz, der von 3 344 Unternehmen getätigt wurde.

Dem steht nicht entgegen, daß die Zunahme der *relativen Unternehmenskonzentration* im Großhandel sich ständig weiter fortgesetzt hat. Tabelle 6 gibt eine Übersicht über die Entwicklung in den einzelnen Branchen des Großhandels. Es sei erneut daran erinnert, daß dieses aus der Handels- und Gaststättenzählung von 1961 bzw. 1968 gewonnene Material methodisch und systematisch jenem der Umsatzsteuerstatistik

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Tabelle 5

Die Veränderungen in der Zahl der Unternehmen und dem Absatz in den Absatzgrößenklassen des Großhandels für 1968 gegenüber 1961

	Veränderungen in der			
	Zahl der Unternehmungen		Absatzhöhe	
	absolut	in % von 1961	Mio. DM	in % von 1961
(1)	(2)	(3)	(4)	(5)
12 000 bis unter 20 000	— 1 210	⁄. 21,0	— 23,8	⁄. 25,6
20 000 bis unter 50 000	— 3 923	⁄. 23,9	— 133,4	⁄. 23,9
50 000 bis unter 100 000	— 3 831	⁄. 21,7	— 277,5	⁄. 20,9
100 000 bis unter 250 000	— 4 771	⁄. 26,9	— 766,3	⁄. 16,0
250 000 bis unter 500 000	— 1 423	⁄. 6,7	— 470,8	⁄. 6,2
500 000 bis unter 1 Mio.	— 62	0,0	— 7,7	0,0
1 Mio. bis unter 2 Mio.	+ 1 185	+ 9,9	+ 1 774,0	+ 10,5
2 Mio. bis unter 5.Mio.	+ 2 030	+ 24,9	+ 6 467,0	+ 25,8
5 Mio. bis unter 10 Mio.	+ 1 102	+ 41,1	+ 7 729,0	+ 41,8
10 Mio. bis unter 25 Mio.	+ 758	+ 53,6	+ 11 676,6	+ 54,7
25 Mio. bis unter 50 Mio.	+ 295	+ 78,7	+ 10 564,7	+ 83,1
50 Mio. bis unter 100 Mio.	+ 153	+ 105,9	+ 10 449,2	+ 105,9
100 Mio. bis unter 250 Mio.	+ 48	+ 54 5	+ 7 410,1	+ 56,5
250 Mio. bis unter 500 Mio.	+ 5	+ 16,1	— 1 682,2	⁄. 12,1
500 Mio. und mehr	+ 19	+ 146,1	+ 18 265,1	+ 95,3

nicht voll vergleichbar ist. Im einzelnen wird auf die entsprechenden Vorbemerkungen in den zitierten Quellen hingewiesen. Außerdem liegen für die Erhebung von 1968 nach Größenklassen und Branchen differenzierende Zahlen noch nicht vor. Dennoch lassen sich, wenn auch nur grob, gewisse Leitlinien der Entwicklung erkennen, und nur um diese geht es hier.

Mit Ausnahme von zwei Branchen des Großhandels (Zeile 11 und 12) ist generell eine Verminderung in der Anzahl der Unternehmen festzustellen. Damit wird — wegen der anderen Erfassungsgrundlage der Handels- und Gaststättenzählung — die aus der Umsatzsteuerstatistik abgeleitete Aussage in ihrer Tendenz gestützt und in ihrer fast alle Branchen ergreifenden Wirkung gezeigt. Diese Entwicklung wird fast durchweg von einer zum Teil erheblichen Steigerung des Absatzwertes begleitet. Jedoch ist auch festzuhalten, daß im Großhandel wie im Einzelhandel das *durchschnittliche Absatzgewicht der Branche* damit steigt. (Aussagen hinsichtlich einer Abnahme dieser Meßzahl in den höheren Größenklassen, wie sie für den Großhandel insgesamt ermittelt werden konnten, sind branchenspezifisch auf der Grundlage des Handelszensus noch nicht möglich.)

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Tabelle 6

Zahl der Unternehmen und Umsatz im Großhandel der Bundesrepublik einschließlich West-Berlin gegliedert nach Branchen in den Jahren 1968 (1967) und 1960 (1959)

Branche	Unternehmen		Umsatz		Veränderungen in %	
Handel mit	30. 9. 1968[a]	30. 9. 1960[b]	1967[a]	1959[b]	Unternehmen 1968—1960	Umsatz 1967—1959
1. Waren verschiedener Art (ohne ausgeprägten Schwerpunkt)	1 088	1 138	3 655 385	2 769 913	— 4,4	+ 31,9
2. Getreide, Saaten, Pflanzen, Futter- und Düngemitteln sowie mit lebenden Tieren	15 225	17 417	29 391 402	19 646 756	— 12,6	+ 49,6
3. Textilien, Rohstoffen und Halbwaren, Häuten und Fellen	858	1 307	2 319 850	2 670 237	— 34,4	— 13,2
4. techn. Chemikalien und Rohdrogen, Kautschuk und Kunstgummi	650	726	2 621 400	1 601 237	— 10,5	+ 63,7
5. Kohle, sonst. festen Brennstoffen und Mineralölerzeugnissen	2 792	3 652	19 118 428	20 705 217	— 23,6	— 7,7
6. Erzen, Eisen, NE-Metallen und Halberzeugnissen	1 651	1 797	21 856 008	18 773 679	— 8,2	+ 16,4
7. Holz, Holzwaren, Baustoffen und Installationsbedarf	9 240	10 219	16 298 006	9 896 158	— 9,6	+ 64,6
8. Schrott und sonst. Abfallstoffen	6 634	10 765	3 185 298	2 565 487	— 38,4	+ 24,1
9. Nahrungs- und Genußmitteln	28 279	34 044	63 056 087	33 120 861	— 17,0	+ 90,3
10. Bekleidung, Wäsche, Ausstattungs- und Sportartikeln sowie Schuhen	5 681	6 453	7 363 543	4 705 742	— 12,0	+ 56,4

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Tabelle 6 (Fortsetzung)

Zahl der Unternehmen und Umsatz im Großhandel der Bundesrepublik einschließlich West-Berlin gegliedert nach Branchen in den Jahren 1968 (1967) und 1960 (1959)

Branche	Unternehmen		Umsatz		Veränderungen in %	
Handel mit	30. 9. 1968[a]	30. 9. 1960[b]	1967[a]	1959[b]	Unternehmen 1968—1960	Umsatz 1967—1959
11. Eisen- und Metallwaren, Fertigwaren aus Kunststoffen, Glas, Feinkeramik und Holz (a. n. g.)	7 048	7 080	8 169 034	4 767 605	± 0,0	+ 71,3
12. Elektro-, Feinmech.- und opt. Erzeugnissen, Schmuck, Leder, Galanterie, Spielwaren, Musikinstrumenten	6 466	6 267	9 015 956	5 266 986	+ 3,1	+ 71,1
13. Fahrzeugen und Maschinen	8 456	8 820	12 413 077	10 219 271	— 4,2	+ 21,5
14. techn. Bedarf und Spezialbedarf versch. Wirtschaftszweige	6 048	7 358	4 987 773	3 733 945	— 17,9	+ 33,6
15. pharmazeutischen u. kosmetischen Erzeugnissen, Dental-, Labor-, Krankenpflege- u. Friseurbedarf	3 351	3 742	6 559 096	3 412 509	— 10,5	+ 92,2
16. Papier, Papierwaren u. Druckerzeugnissen	4 447	5 117	4 636 151	2 669 693	— 13,1	+ 73,6
17. Großhandel:						
18. ohne Werkhandelsunternehmen	107 950		214 646 494			
19. Werkhandelsunternehmen	2 424		31 482 683			
20. Großhandel insgesamt darunter	110 374	125 902	246 129 177	146 525 290	— 12,4	+ 67,9
21. Ein- u. Verkaufsgenossenschaften und -vereinigungen mit überwiegendem Eigengeschäft	4 669	3 495	22 319 465	12 580 591	+ 33,6	+ 77,4
22. Außerdem aus der Unterabteilung 42 Handelsvermittlung Ein- und Verkaufsgenossenschaften mit überwiegendem Fremdgeschäft	189	112	775 400	289 290	+ 68,7	+ 168,0

[a] Stat. Bundesamt, Fachserie F, Groß- u. Einzelhandel, Gastgewerbe, Fremdenverkehr, Handels- u. Gaststättenzählung 1970. I. Großhandel, Vorbericht (Best. Nr. 2522 10—001), S. 4—7.

[b] Stat. Bundesamt, Handels- u. Gaststättenzählung 1960, II. Großhandel, Heft 1 (Best. Nr. F-HG 1960/II/Heft 1) S. 8—11.

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Die Zunahme des durchschnittlichen Absatzgewichtes ist bei der Branche „Schrott ...“ (Zeile 8: —34%) am stärksten, ihr steht eine Zunahme des Absatzwertes von 24% gegenüber.

Die Branche mit der größten Anzahl der Unternehmen, „Nahrungs- und Genußmittel“ (Zeile 9) hat einen Rückgang von 17% zu verzeichnen, ihr Absatzwert steigt jedoch um 90% und belegt damit den zweiten Platz nach der Branche „Pharmazeutische und kosmetische Erzeugnisse ...“ (92%) in dieser Rangskala (Zeile 15).

V. Zusammenfassung

Die *absolute Unternehmenskonzentration* im Warenhandel hat insgesamt zugenommen. Dabei ist die Zunahme der absoluten Unternehmenskonzentration fast durchweg von einer Abnahme des durchschnittlichen Absatzgewichtes begleitet.

Die *relative Unternehmenskonzentration* ist ebenfalls größer geworden.

Es hätte nahegelegen, die zusammenfassende Darstellung durch Lorenzkurven weiter zu verdeutlichen. Wegen der Strukturunterschiede in den einzelnen Branchen und aus Raumgründen wurde darauf verzichtet. Grundsätzlich neue Erkenntnisse hätten sich nicht gewinnen lassen.

Entsprechend der Aufgabenstellung dieses Beitrages wurde in den vorangehenden Ausführungen weitestgehend auf eine wertende Interpretation der Ballungserscheinungen verzichtet. Abschließend sei daher ein kurzer Hinweis auf die Auswertungsmöglichkeiten gegeben.

Trotz oder teilweise gerade wegen der Ballungserscheinungen hat fast durchweg die Konkurrenz unter den Einzelhandlungen insgesamt an Intensität zugenommen. Äußere Indizien dafür liefert das wachsende Bemühen, den Anforderungen der Nachfrage durch verbesserte Geschäftsausstattung, Sortiment und Kundendienst gerecht zu werden. Diese Aufgaben sind aber vielfach nur mit wachsender Unternehmensgröße — vom heutigen Stand aus betrachtet — zu erfüllen. Ein Zuwachs an Marktmacht gegenüber dem Letztverbraucher kann schon aus den genannten Gründen beim Einzelhandel nicht festgestellt werden. Eher ist das Gegenteil anzunehmen. Demgegenüber dürfte auf den Beschaffungsmärkten mindestens in einzelnen Branchen ein Machtgewinn gegenüber den Lieferanten des Einzelhandels zu verzeichnen sein. Vor vorschnellen Verallgemeinerungen wird man sich freilich zu hüten haben, da im einzelnen die Verhältnisse außerordentlich differenziert sind, beispielsweise der absoluten und relativen Konzentration im Ein-

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zelhandel eine gleich hohe oder größere im Lieferantenbereich gegenüberstehen mag.

Nicht ganz so einheitlich ist das Bild im Großhandel, dessen Marktmacht gegenüber seinen Abnehmern wie seinen Lieferanten teilweise durch verstärkte Ausschaltung abgenommen hat. Demgegenüber findet sich aber — im ganzen freilich (noch?) vereinzelt — ein Machtzuwachs auf dem Absatzmarkt durch verschieden gestaltete vertragliche Bindungen mit den Abnehmern. Dabei tritt die Konkurrenz der Gruppen untereinander an die Stelle des Wettbewerbs zwischen den einzelnen Großhandlungen. Davon ist u. a. wegen des transparenter werdenden Marktes eine zunehmende Intensität der Konkurrenz vor allem dann zu erwarten, wenn keine weiteren Zusammenschlüsse der Gruppen untereinander erfolgen. Eine solche Entwicklung ist aber gerade in den letzten Jahren in Gang gekommen.

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Quellen: Statistisches Bundesamt, Die Umsätze der Umsatzsteuerpflichtigen und deren Besteuerung (Ergebnisse der Statistik über die Umsatzsteuerveranlagung 1950), Statistik der BRD, Bd. 112 (1955). — *Dass.*, Die Umsätze der Umsatzsteuerpflichtigen und deren Besteuerung (Ergebnisse der Statistik über die Umsatzsteuerveranlagung 1950), Statistik der BRD, Bd. 161 (1957). — *Dass.*, Die Umsätze der Umsatzsteuerpflichtigen und deren Besteuerung (Ergebnisse der Statistik über die Umsatzsteuerveranlagung 1955), Statistik der BRD, Bd. 184 (1957). — *Dass.*, Handwerkszählung 1956, Statistik der BRD, Bd. 203, (1958). — *Dass.*, Handwerkszählung 1956, Sonderheft: Strukturquoten, Statistik der BRD, Bd. 203, (1959). — *Dass.*, Die Umsätze der Umsatzsteuerpflichtigen und deren Besteuerung (Ergebnisse der Statistik über die Umsatzsteuerveranlagung 1957), Statistik der BRD, Bd. 219 (1959).

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Summary

Concentration in Wholesaling and Retailing

Main characteristics of status and process of concentration in wholesaling and retailing are an increasing importance of—in terms of revenues—the higher classes. However, in most cases observed, there is an increasing number of firms in those higher classes. This may be regarded as an indicator of an increase of competition in this specific area, a hypothesis which is supported by decreasing rates of profit with respect to the DM—unit of sales. The present stage of this development is a typical step in direction to build up a workable system for "mass—distribution", with tendency of rising level in the managerial area. These changing patterns in wholesaling and retailing are rather activities in diminishing a timelag in progress than milestones on the way into an unsound future.

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Konzentration in der Versicherungswirtschaft

Von *Paul Braeß**, Köln

I. Formale Konzentrationsanalyse
A. Zahlenmäßige Entwicklung
B. Entwicklung nach 1945
C. Marktanteile
II. Zusammenschlüsse im Versicherungswesen
A. Vorbemerkung
B. Formen
C. Gründe
D. Die sechs größten Versicherungsgruppen in der BRD
III. Konzentrationspolitik
A. Privatwirtschaftliche Konzentrationspolitik
B. Staatliche und überstaatliche Konzentrationspolitik
IV. Ausblick

I. Formale Konzentrationsanalyse

A. Zahlenmäßige Entwicklung

1. Einen ersten, wenn auch noch unvollständigen Einblick in die Angebotsstruktur der deutschen Versicherungswirtschaft vermittelt die zahlenmäßige Entwicklung der *rechtlich selbständigen* Unternehmungen nach den Berichten der Aufsichtsbehörden im Zeitraum von 1910 bis 1968 (Tab. 1). Ohne eine Vielzahl von kleinen und kleinsten Versicherungsvereinen auf Gegenseitigkeit (VVaG), deren soziologische Bedeutung nicht zu unterschätzen ist, die aber „marktmäßig" nur eine geringe Rolle spielen, waren Ende 1968 im Gebiet der BRD tätig:

175	inländische Versicherungs-Aktien-Gesellschaften
119	große Versicherungsvereine
59	öffentlich-rechtliche Versicherungsunternehmungen
353	inländische Versicherungsunternehmungen
43	ausländische Versicherungs-Aktiengesellschaften
insges. 396	rechtlich selbständige Unternehmungen[1].

* Für wertvolle Mitarbeit danke ich Herrn Dipl.-Volkswirt *Manfred Lipperheide*.

[1] Darin enthalten 33 Rückversicherungsunternehmungen, die ebenfalls der Aufsicht unterliegen. Aufsichtsfreie Unternehmungen (Transport- und Rückversicherung in aufsichtsfreien Zweigen) sind nicht erfaßt.

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Das ist das Ergebnis eines nahezu 60jährigen Entwicklungsprozesses, der zeitweise recht stürmisch und dramatisch verlaufen ist. Die Zahlenreihen der Tabelle 1 geben nur den „Saldo" aus entstandenen bzw. vorhandenen und zwischenzeitlich wieder verschwundenen Unternehmungen an, wogegen die „Umsätze" sehr viel größer gewesen sind. So hat insbesondere die Inflation nach dem Ersten Weltkriege eine Welle von meist sehr kurzlebigen Neugründungen hervorgerufen. In der Zeit von 1920 bis 1929 wurden insgesamt 461 Versicherungs-Aktiengesellschaften gegründet[2], von denen im Jahre 1958 nur noch 45, also weniger als 10 % übriggeblieben waren. Alle anderen sind durch Fusion, Liquidation oder Konkurs meist sehr schnell wieder verschwunden.

Tabelle 1

Anzahl der unter Aufsicht stehenden Versicherungsunternehmungen

Jahr	Aktien-Gesellschaften inländ.	ausländ.	Größere Versicherungs-vereine[a)]	öffentlich-rechtliche Versiche-rungsunter-nehmungen[b)]	Sonstige Rechtsformen
1910	107		575		8
1920	138		741		11
1924	318		583		20
1930	194		373		17
1938	143		675		9
1953	134	25	237	60	3
1960	153	43	124	62	6
1965	173	45	121	60	3
1966	173	44	122	59	3
1967	173	44	121	59	3
1968	175	43	119	59	3

Quellen: Geschäftsberichte des Reichs- und Bundesaufsichtsamts für das Versicherungs- und Bausparwesen.

a) soweit unter Bundesaufsicht. Die Zuständigkeit ist mehrfach geändert worden. Daher sind die Zahlen nicht voll vergleichbar.

b) unter Bundes- und Länderaufsicht, bis 1938 keine zuverlässigen Angaben.

2. Für die Frage der Konzentration besagt allerdings die Periode der Inflation nur sehr wenig. Es handelt sich um eine zwangsläufige Bereinigung eines erdrückenden Überangebotes, das der phantomhaften Zunahme einer rein nominalen Nachfrage seine Entstehung verdankte und mit ihr in einem schmerzhaften Anpassungsprozeß wieder verschwinden mußte. Wesentlich ernster ist die rückläufige Zahl der Aktiengesellschaften von 1930 bis zum Zweiten Weltkriege zu

[2] Quelle: Statistisches Jahrbuch DR, Jge. 1920 ff.

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beurteilen. Sie ging von 194 Versicherungsunternehmungen im Jahre 1930 auf 143 im Jahre 1938 zurück, wobei im einzelnen 36 Fusionen und 13 Konkurse beteiligt waren[3]. Zweifellos lag hier eine krisenbedingte, echte Konzentrationsbewegung vor, wie sie in noch stärkerem Ausmaße gleichzeitig fast alle Bereiche der deutschen Wirtschaft erfaßt hatte. In der späteren Auswertung werden wir uns mit diesem Kriseneffekt noch näher zu beschäftigen haben.

3. Bei den großen Versicherungsvereinen ist die Entwicklung ähnlich verlaufen. Die Höchstzahl wurde mit 628 im Jahre 1923 erreicht. Sechs Jahre später existierten, obwohl auch hier einige Neugründungen hinzukamen, nur noch 399, die sich bis 1935 auf 338 verminderten.

B. Entwicklung nach 1945

1. Verglichen mit den Folgen des Ersten Weltkrieges und der anschließenden Wirtschaftskrise hat die Versicherungswirtschaft nach der viel größeren Katastrophe des Zweiten Weltkrieges ein erstaunliches Maß an Stabilität bewiesen. Das gilt vor allem für die Aktiengesellschaften. Von 143 Gesellschaften, die im Jahre 1938 vorhanden waren, haben fast alle — die Zahl 134 für 1953 enthält allerdings sechs Neugründungen — in dem kleineren Gebiet der BRD die Tätigkeit als selbständige Unternehmungen nahezu in der gleichen Rangskala wie vorher fortsetzen können. Das trifft sogar für diejenigen zu, die ihren Sitz und das Schwergewicht ihrer Versicherungsbestände außerhalb unserer jetzigen Grenzen hatten. Dieser Erfolg erscheint um so eindrucksvoller, als die gesamte Versicherungswirtschaft nach dem Zusammenbruch unter den schwierigsten Voraussetzungen praktisch wieder von neuem beginnen mußte. Daß es hierbei nicht zu einer ausgesprochenen Konzentrations- und Fusionswelle gekommen ist, läßt sich aus einer besonders günstigen Kombination von subjektiven und objektiven Umständen erklären. Jede Unternehmung besaß offenbar genügend dynamische Kräfte, um das eigene Haus wieder aufzubauen. Sehr wesentlich waren aber auch die Besonderheiten der Umstellungsgesetzgebung für die Versicherungswirtschaft; eine Sanierung von der Passivseite aus bewirkte, daß alle Unternehmungen die Ansprüche der Versicherten, teilweise mit Einsatz öffentlicher Mittel gleichmäßig befriedigen konnten. Diese Maßnahme hatte zweifellos eine stark konservierende Wirkung, so daß für einen längeren Zeitraum eine weitere Konzentration weder erforderlich noch möglich war.

Die Entwicklung nach 1953 ist durch eine leicht ansteigende Zahl von Aktiengesellschaften gekennzeichnet, die jedoch etwa ab 1965 zum

[3] Quellen: Hoppenstedts Versicherungs-Jahrbuch 1959 und Neumanns Jahrbücher 1930 ff.

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Stillstand gekommen zu sein scheint. In neuester Zeit, für die noch keine zahlenmäßigen Unterlagen vorhanden sind, macht sich eine deutliche Fusionstendenz innerhalb der Versicherungskonzerne und -gruppen bemerkbar, über die später noch zu berichten sein wird.

2. Weniger gut haben — erklärlicherweise — die Versicherungsvereine das Ende des Zweiten Weltkrieges überstanden, zumal solche, die nicht nur ihren Sitz, sondern auch fast ihren gesamten Versicherungsbestand außerhalb der heutigen Bundesrepublik hatten, so daß ein Neubeginn von vornherein unmöglich war. Hiergegen haben sich, unabhängig vom früheren Unternehmungssitz diejenigen Vereine, die von jeher im gesamten Reichsgebiet arbeiteten, als ebenso lebenskräftig erwiesen wie die Aktiengesellschaften.

3. Besonderheiten ergeben sich bei den öffentlich-rechtlichen Versicherungsanstalten, die durch Gesetz und Satzung in ihrer Tätigkeit regional begrenzt sind. Sämtliche Anstalten außerhalb des Gebietes der BRD sind inzwischen aufgelöst bzw. in das staatliche Versicherungssystem der DDR überführt worden. Bei den übrigen hat es nur geringfügige Korrekturen durch Neugliederung des Bundesgebietes gegeben.

C. Marktanteile

1. Über die Marktanteile der Unternehmungsformen, gemessen an den Prämieneinnahmen der Erstversicherer, unterrichtet Tabelle 2, wobei große und kleine Versicherungsvereine zusammengefaßt sind[4].

Voll vergleichbar sind nur die Jahre ab 1953. Danach verzeichnen, auf die Gesamtheit der Versicherungszweige bezogen, sowohl Aktiengesellschaften als auch Versicherungsvereine (diese ab 1960) einen leichten Anstieg der Marktanteile, während die öffentlichen Anstalten etwas zurückgefallen sind. Ab 1965 sind die Quoten allseits recht stabil geblieben.

2. Die angegebenen Durchschnittssätze besagen natürlich noch nichts über die Situation in den hauptsächlichen Versicherungszweigen. Hierüber informiert Tabelle 3 nach dem Stande des Jahres 1968.

Danach dominieren die Aktiengesellschaften in der Gruppe der Schaden- und Unfallversicherung mit einem Marktanteil von fast 77 %, während die Versicherungsvereine in der Krankenversicherung mit einem Anteil von reichlich 59 % überwiegen. Die öffentlichen Versicherungsanstalten haben ihre Domäne in der Schaden- und Unfall-

[4] Bis 1937 können die kleineren Vereine nicht gesondert erfaßt werden. Ihr Marktanteil ist ohnehin nur gering (1951 = 6,2 %, 1958 = 4,1 %, also deutlich rückläufig).

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Tabelle 2

Verteilung der Prämieneinnahmen der Erstversicherer (direktes und indirektes Geschäft) auf die verschiedenen Rechtsformen

Jahr	Inländische Aktiengesellschaften	Versicherungsvereine	Öffentlich-rechtliche Versicherungsunternehmungen	Sonstige Rechtsformen und ausländische Versicherungsunternehmungen[a]
	%	%	%	%
1911	58,1	26,3[b]	8,4	7,2
1937	56,8	26,3	13,5	3,4
1953	57,7	28,9	10,6	2,8
1960	60,6	26,8	8,8	3,8
1965	60,5	26,8	9,0	3,7
1966	60,7	26,9	8,9	3,5
1967	60,9	26,8	8,8	3,5
1968	60,6	27,1	8,9	3,4

Quellen: Wie Tab. 1.

a) ohne aufsichtsfreie Transportversicherung, b) einschließlich Ersatzkassen.

Tabelle 3

Inländische Versicherungsunternehmen und Prämienanteile in den wichtigsten Versicherungszweigen bzw. -gruppen Stand 1968[a]

Versicherungszweige	Aktiengesellschaften		Versicherungsvereine		Öffentlich-rechtliche Versicherungsunternehmungen	
	Anzahl	Prämienanteil %	Anzahl	Prämienanteil %	Anzahl	Prämienanteil %
Lebensversicherung	42	68,1	36	24,1	12	7,8
Krankenversicherung	7	39,1	32	59,4	1	1,5
Schaden- und Unfallversicherung	91	76,8	42	13,1	27	10,1
(davon Kraftverkehr)	(63)	(74,0)	(19)	(17,9)	(14)	(8,1)

Quelle: Geschäftsbericht Bundesaufsichtsamt 1968.

a) bezogen auf das Prämienaufkommen (direktes und indirektes Geschäft) der inländischen Versicherungsunternehmungen.

Der Anteil ausländischer Versicherungsunternehmungen am gesamten Prämienaufkommen liegt in der Lebensversicherung (10 Versicherungsunternehmungen) bei 2,7 %, in der Schaden- und Unfallversicherung (32 Versicherungsunternehmungen) bei 5,3 %. In der Krankenversicherung betätigt sich nur ein unbedeutendes ausländisches Versicherungsunternehmen.

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versicherung, kommen aber auch dort über eine Quote von rd. 10 % nicht hinaus[5].

3. Zur Abrundung des Bildes über die Angebotsstruktur in der Versicherungswirtschaft folgt Tab. 4. Sie gibt für die hauptsächlichen Versicherungszweige die Marktanteile der jeweils zehn größten Versicherer an, die als selbständige Unternehmungen auftreten. Der Vollständigkeit halber ist hier auch die Rückversicherung miteinbezogen, die wir bisher in den Übersichten über die Erstversicherungsmärkte nicht berücksichtigt haben. Die Zugehörigkeit von Unternehmungen zu Gruppen und Konzernen ist dabei allerdings noch nicht berücksichtigt.

Tabelle 4 zeigt, daß der absolute Konzentrationsgrad der deutschen Versicherungswirtschaft zur Zeit noch recht gering ist. Sowohl in der Lebens- als auch in der Schaden- und Unfallversicherung erreicht jeweils nur eine einzige Unternehmung (AG) einen Marktanteil von mehr als 10 %, in der Krankenversicherung sind es zwei (ebenfalls Aktiengesellschaften), während alle übrigen erheblich dahinter zurückbleiben. Dem entspricht es, daß in der Lebens- sowie in der Schaden- und Unfallversicherung die zehn größten Gesellschaften insgesamt nur einen

Tabelle 4

Marktanteile der jeweils zehn größten deutschen Versicherungsunternehmen in Prozent des gesamten Prämienaufkommens (direktes und indirektes Geschäft)

Rangnummer	Lebensversicherung Rechtsform	Lebensversicherung Anteil %	Krankenversicherung Rechtsform	Krankenversicherung Anteil %	Schaden- u. Unfallversicherung Rechtsform	Schaden- u. Unfallversicherung Anteil %	Rückversicherung Rechtsform	Rückversicherung Anteil %
1	AG	14,2	AG	19,6	AG	18,5	AG	40,1
2	AG	6,8	AG	11,3	AG	4,0	AG	9,9
3	AG	5,2	VVaG	8,4	AG	3,0	AG	7,9
4	VVaG	4,2	VVaG	8,4	AG	3,0	AG	7,1
5	AG	3,3	VVaG	7,5	AG	2,8	AG	6,6
6	VVaG	3,2	VVaG	5,6	AG	2,6	AG	4,3
7	AG	3,1	AG	4,7	AG	2,6	AG	3,2
8	AG	3,0	VVaG	4,4	AG	2,5	AG	2,6
9	AG	2,6	VVaG	4,2	AG	2,5	AG	2,4
10	VVaG	2,5	VVaG	2,1	AG	2,3	AG	2,2
zusammen		48,1		76,2		43,8		86,3

Quelle: Wie Tab. 3.

[5] Am größten ist ihr Anteil in der Feuerversicherung mit 32,0 %. Hier spielen regionale Zwangs- und Monopolrechte für die Gebäude-Feuerversicherung eine erhebliche Rolle.

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Marktanteil von weniger als 50 % besitzen; anders jedoch in der Kranken- und Rückversicherung, in denen allerdings die Gesamtzahl der Anbieter erheblich geringer ist (vgl. Anm. 1 und Tab. 3).

II. Zusammenschlüsse im Versicherungswesen

A. Vorbemerkung

Die statistischen Angaben im ersten Abschnitt beziehen sich, wie mehrfach bemerkt worden ist, auf die Zahl und die Marktanteile von rechtlich selbständigen Versicherungsunternehmungen. Das besagt aber noch nichts über ihre wirtschaftliche Unabhängigkeit, die durch die mannigfachsten Formen von Zusammenschlüssen eingeengt oder sogar völlig aufgehoben werden kann. Hier stoßen wir auf die vielschichtigen Probleme der Verflechtung und Verschachtelung, die gerade in der modernen Versicherungswirtschaft eine so bedeutsame Rolle spielen, angefangen von verhältnismäßig lockeren Zusammenschlüssen in Gestalt von begrenzten Arbeitsgemeinschaften auf Teilgebieten über die — einseitige oder auch wechselseitige — Kapitalbeteiligung bis zum straff zusammengefaßten Versicherungskonzern unter einheitlicher Leitung. Sämtliche Formen von Unternehmungsverbindungen im Sinne der §§ 15 ff. AktG (1965) sind in der Versicherungswirtschaft zahlreich vertreten. Das Ausmaß der Verflechtung ist 1957 durch eine Untersuchung des Statistischen Bundesamtes[6] und 1964 im Rahmen der Konzentrationsenquête[7] untersucht worden, hier mit dem Ergebnis, daß sich rd. 59 % des Grundkapitals der Versicherungs-Aktiengesellschaften der BRD wieder im Besitz von deutschen Versicherungsunternehmungen befinden, während weitere 9 % von ausländischen Versicherungsunternehmungen gehalten werden. Es handelt sich hier, wie besonders betont werden muß, um Mindestsätze, da nicht alle Beteiligungen nachgewiesen werden können.

Amtliche, neuere Zahlen sind nicht bekanntgeworden. Vermutlich hat sich der Verflechtungsgrad seit der letzten Erhebung noch mehr erhöht.

Für die weitere Untersuchung interessieren vor allem die Aktiengesellschaften, die sich für sämtliche Spielarten der Verflechtung eignen. Öffentlich-rechtliche Anstalten und Versicherungsvereine sind ihrer Struktur nach nur einseitig voll verflechtungsfähig, da sie mangels eines Aktienkapitals mit Herrschaftsansprüchen allenfalls als aktiv

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[6] Das Eigentum am Kapital der deutschen Aktiengesellschaften, Statistik der BRD, Bd. 188, 1957.

[7] Bericht über das Ergebnis einer Untersuchung der Konzentration in der Wirtschaft, Bundestagsdrucksache IV/2320 vom 5. 6. 1964, S. 47.

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beherrschende, nicht aber als passiv beherrschte Unternehmung auftreten können.

B. Formen

1. Zusammenschlüsse können sich grundsätzlich in drei verschiedenen Formen vollziehen, die in der Reihenfolge zugleich die Intensität der Verflechtung angeben. Gemeint ist die Konzentration:

a) des *Kapitals* durch ein- oder mehrseitige Verflechtung des Aktienbesitzes. Hierfür kommen vor allem die Aktiengesellschaften in Frage.

b) in der *Leitung* durch personelle Verflechtung innerhalb der Aufsichtsräte und Vorstände, für die sämtliche Unternehmungsformen geeignet sind. Insbesondere auch bei den öffentlich-rechtlichen Versicherungsanstalten ist die Personalunion der Vorstände etwa bei Sach- und Lebensversicherungsanstalten häufig anzutreffen.

c) der *Unternehmungen* im Wege einer vollständigen oder auch teilweisen (hier besonders im Außendienst wirksamen) organisatorischen Verbindung.

Konzentrationserscheinungen in den beiden erstgenannten Formen überwiegen bisher in der Versicherungswirtschaft. Sie können, obwohl auch sie meist auf Dauer bestimmt sind, gegebenenfalls wieder aufgelöst werden, ohne daß der organisatorische Ablauf davon im Kern betroffen wird. Für die dritte Form trifft das nicht mehr zu.

2. Nach einer für die Industriewirtschaft gebräuchlichen Einteilung unterscheidet man auch im Versicherungswesen zwischen horizontalen und vertikalen Zusammenschlüssen. Horizontal sind solche, die mehrere Erstversicherer gleicher oder verschiedener Branchen umfassen; vertikal wäre ein Zusammenschluß von Erst- und Rückversicherungsunternehmungen. Die größten Versicherungsgruppen und -konzerne sind in diesem Sinne meist zweidimensional, indem sie horizontale und vertikale, teilweise sogar diagonale Verbindungen besitzen. Für den Wettbewerb auf den Erstversicherungsmärkten haben die vertikalen Zusammenschlüsse zwar nur eine mittelbare, aber doch nicht zu unterschätzende Bedeutung.

3. Je nachdem, ob sich Zusammenschlüsse ausschließlich auf Versicherungsunternehmungen erstrecken oder auch versicherungsfremde Unternehmungen einbeziehen, wären reine und gemischte Versicherungskonzerne zu unterscheiden. Die letzten können wir mangels ausreichender statistischer Unterlagen hier nur am Rande erwähnen. Für den Wettbewerb auf den Versicherungsmärkten spielen sie nur insoweit eine Rolle, als konzernzugehörige Unternehmungen (Industrie, Banken, Schiffahrt u. a.) ihre Nachfrage ganz oder doch vorwiegend bei ihren Hausgesellschaften decken.

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C. Gründe

1. a) An erster Stelle ist hier die deutsche Aufsichtspraxis zu nennen, die nunmehr seit fast 70 Jahren eine *Spartentrennung* in dem Sinne fordert, daß die drei Hauptgruppen der Lebens-, Kranken- sowie Schaden- und Unfallversicherung nur in getrennten, rechtlich selbständigen Unternehmungen betrieben werden dürfen. Kredit- und Rechtsschutzversicherung dürfen überhaupt nicht mit anderen Versicherungszweigen verbunden werden[8].

Das war und ist zweifellos die hauptsächliche Antriebskraft für die Bildung von Versicherungsgruppen und -konzernen, die hier als legaler Ausweg mit der dann zwangsläufigen Konsequenz von Zusammenschlüssen, vornehmlich in Form der Kapitalverflechtung, erscheint. Trotzdem kann man aber nicht von einer eigentlichen Konzentrationsbewegung sprechen. Eher träfe das Gegenteil zu, indem die primär wirksame Tendenz zur Einheitsunternehmung, die sich ohne das aufsichtsbehördliche Verbot eindeutig durchgesetzt haben würde, durch sekundäre und meist losere Zusammenschlüsse ersetzt worden ist.

b) die weitere Entwicklung in Richtung auf eine harmonisierte Wirtschaftsordnung der EWG bleibt abzuwarten. Die übrigen Länder der EWG kennen das Gebot der Spartentrennung nicht oder zumindest nicht in der scharfen Form wie bei uns. Eine bisher allerdings nur im Entwurf vorliegende „Erste Richtlinie des Rates zur Koordinierung der die Aufnahme und Ausübung der Direktversicherung (außer Lebensversicherung) betreffenden Rechts- und Verwaltungsvorschriften“[9] enthält in Art. 7 Abs. 2 c) die zunächst noch unbefristete Ausnahmeregelung:

„Bis zum Erlaß weiterer Koordinationsnormen ist die BRD berechtigt, das Verbot aufrecht zu erhalten, wonach auf ihrem Staatsgebiet die Zweige der Kranken-, Kredit-, Kautions- oder Rechtsschutzversicherung nicht nebeneinander bzw. nicht mit anderen Zweigen zusammen betrieben werden dürfen.“[10]

Sollte später einmal die Spartentrennung aufgehoben werden, so bleibt es fraglich, ob sich die Tendenz zur Einheitsunternehmung allgemein durchsetzen würde. In der Praxis herrscht anscheinend die Auffassung vor, daß das Trennungsprinzip den verselbständigten Sparten gut bekommen ist. Werbung und Wettbewerb um die besten Versicherungsformen werden dadurch intensiver betrieben.

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[8] Das Versicherungsaufsichtsgesetz (VAG) enthält keine ausdrückliche Vorschrift über die Spartentrennung.

[9] Amtsblatt der Europäischen Gemeinschaften, 9. Jg. (1966) S. 3056—3070.

[10] Die Lebensversicherung bleibt hier unerwähnt, weil sie als solche nicht von der Richtlinie erfaßt wird.

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2. Daß zahlreiche Zusammenschlüsse unter dem Eindruck von akuten Notständen — so insbesondere nach der Inflation und in der Wirtschaftskrise der dreißiger Jahre — zustandegekommen sind, ist bereits in Abschnitt I erwähnt worden. Ähnlich wie die Banken kann sich auch die Versicherungswirtschaft keine Vertrauenskrise leisten; Fusion und Bestandsübertragung treten insoweit an die Stelle eines sonst vielleicht unvermeidlichen Konkurses. In allen derartigen Fällen hat die Aufsichtsbehörde mitzuwirken, sei es durch Genehmigung auf Antrag oder aktives Eingreifen. Sie besitzt zwar kein direktes Anordnungsrecht, kann aber allein schon durch „Empfehlungen" und sonstige Sanierungsbefugnisse wesentlichen Einfluß nehmen[11, 12].

3. Konkrete Vorteile, die durch Zusammenschlüsse angestrebt werden, lassen sich folgendermaßen klassifizieren:

a) *marktmäßige Vorteile:*

(1) bessere Bedienung des Versicherungsnehmers durch ein vollständiges Angebot in möglichst zahlreichen Versicherungszweigen (Grundsatz des Versicherungs-Warenhauses),

(2) dadurch zugleich eine bessere Auslastung des Außendienstes, dessen Bezüge reichlicher werden und der durch Zusammenfassung zahlreicher Versicherungszweige rationeller arbeiten kann,

(3) verbesserte Wettbewerbschancen durch das erhöhte Vertrauen der Versicherungsnehmer zum allgemein bekannten Großunternehmen, ein zwar unwägbarer, aber trotzdem wirksamer Faktor. Praktisch kann er nur von solchen Konzernen genutzt werden, die unter gleichen oder doch erkennbar ähnlichen Namen auf den Versicherungsmärkten operieren (gemeinsame Firmenwerbung).

(4) Verminderung des Wettbewerbsdruckes auf Märkten, die einer besonders scharfen Konkurrenz ausgesetzt sind. Dieses Moment wird vermutlich auch dort eine gewisse Rolle spielen, wo grundsätzlich innerhalb eines Konzerns oder einer Gruppe keine einheitliche Preispolitik betrieben wird.

b) *Sonstige betriebswirtschaftliche und organisatorische Vorteile:*

(1) Besserer Risikoausgleich durch Vergrößerung der Bestände und Spartenkombination, verstärkt durch die Möglichkeit, Großrisiken im eigenen Hause sowie im Wege des Austausches von Mit- und Rückversicherungen innerhalb einer Gruppe übernehmen zu können.

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[11] Rechtsgrundlage VAG, insbesondere §§ 14 und 44.

[12] In der Zeit von Anfang 1957 bis Anfang 1970 sind, ohne daß es zu dramatischen Ereignissen gekommen wäre, insgesamt 247 Bestandsübertragungen vom Bundesaufsichtsamt genehmigt worden.

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(2) Gemeinsame Verwertung kostspieliger organisatorischer Mittel, insbesondere auf dem Gebiet der elektronischen Datenverarbeitung.

(3) Gegenseitiger Erfahrungsaustausch in branchenmäßiger oder auch regionaler Sicht, hier etwa bei der Erschließung ausländischer Versicherungsmärkte. Das kann insbesondere für die internationale Betätigung im Gemeinsamen Markt von Bedeutung werden. So wird möglicherweise innerhalb einer Gruppe von Allbranchen-Gesellschaften doch eine interne Spezialisierung fachlicher oder regionaler Art zustandekommen.

(4) Gegenseitige Unterstützung in Fragen der Kapitalanlage, der Finanzplanung und der Liquiditätsvorsorge.

c) Für vertikal strukturierte Konzerne kommen schließlich noch vorteilhafte Rückversicherungsbeziehungen hinzu. Ein Rückversicherer als beherrschende Unternehmung erhält von den Töchtern permanent ein Rückversicherungsaliment zu günstigen Bedingungen; umgekehrt wird ein herrschender Erstversicherer in der passiven Rückversicherung Vorzugsbedingungen durchsetzen und im Wege der Reziprozität indirektes Geschäft hereinnehmen können.

Insgesamt ist also der Katalog möglicher Vorteile recht vielseitig und umfangreich.

D. Die sechs größten Versicherungsgruppen in der BRD

1. Aus der Vielzahl der verflochtenen Versicherungs-Aktiengesellschaften heben sich nach Größe und Bedeutung sechs Konzerne oder, besser gesagt, „Gruppen" heraus (Tab. 5).

Die überragende Stellung dieser Gruppen geht allein schon daraus hervor, daß sie zahlenmäßig rd. 47,7 % und kapitalmäßig rd. 68,9 % aller Versicherungs-Aktiengesellschaften repräsentieren. Ihre innere Struktur, die hier im einzelnen nicht dargestellt werden kann, ist recht verschieden und zum Teil auch unübersichtlich. Vorherrschend sind Sachversicherungsunternehmungen die Träger aktiver Beteiligungen (Ausnahme Victoria-Gruppe), während bei den Lebens-, Spezial- und Rückversicherungsunternehmungen die passiven Beteiligungen überwiegen. Eine Ausnahme macht die „Münchener Rück", die unter wechselseitiger Beteiligung mit der Allianz gemeinsam mit dieser die Spitzenstellung in der größten deutschen Gruppe hält. Eine Sonderstellung nimmt der Gerling-Konzern ein, der als einziger die Bezeichnung „Konzern" trägt und im übrigen keine wechselseitigen Beziehungen besitzt. Alle übrigen können als „Gruppen", d. h. als losere Zusammenschlüsse bezeichnet werden. Von einer einheitlichen Geschäftspolitik, insbesondere im Wettbewerb, kann hier im allgemeinen nicht gesprochen werden, wohl jedoch von einer kapitalmäßigen Konzentration in dem oben erläuterten Sinne.

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Tabelle 5

Die sechs größten Versicherungsgruppen in der Bundesrepublik Deutschland[13]

	Zahl der Versicherungsunternehmungen	Aktienkapital (Mio. DM)	Innere Beteiligung (Mio. DM)	Verflechtungsgrad %
1. Rheinische Gruppe	29	158,7	93,5	58,9
2. Argippina-Gruppe	6	30,3	14,1	46,5
3. Allianz-Münchener-Rück-Gruppe	26	373,1	166,4	44,6
4. Magdeburger Gruppe	13	80,35	30,5	37,9
5. Victoria-Gruppe	7	59,75	42,5	71,1
6. Gerling-Konzern	9	110,0	—	—
Zusammen	90	812,2	347,0	—
Abzug für Doppelzählungen[a]	8	24,75	—	—
Insgesamt	82	787,45	347,0	51,8[b]

a) Für solche Gesellschaften, die kapitalmäßig zu zwei oder mehreren Gruppen gehören.

b) Berechnet auf das bereinigte Aktienkapital ohne Gerling-Konzern.

2. Verglichen mit dem Stande des Jahres 1957/58[14] hat sich die Zahl der erfaßten Gesellschaften (nach Abzug der Doppelzählungen für solche Versicherungsunternehmungen, an denen zwei oder mehrere Gruppen beteiligt sind) von 86 auf 82 vermindert (Gesamtzahl von 92 auf 90), obwohl inzwischen einige Unternehmungen hinzugekommen sind. Eine „Bereinigung" macht sich bei der Agrippina- und der Magdeburger Gruppe bemerkbar. Eine besonders ausgeprägte Tendenz zur Verschmelzung ist zur Zeit in der Rheinischen Gruppe zu beobachten. Sie ist noch nicht abgeschlossen und konnte daher noch nicht in ihrem vollen Ausmaß erfaßt werden.

Das gesamte Aktienkapital der erfaßten Gesellschaften hat sich von 304,9 auf 812,2 Mio. DM, d. h. um rd. 166 vH erhöht, während das Kapital aller Versicherungs-Aktiengesellschaften im gleichen Zeitraum um rd. 194 % zugenommen hat.

Der gewogene Verflechtungsgrad hat sich insgesamt leicht vermindert, nämlich von 54,6 % auf 51,8 %, was sich bei allen Gruppen mit Aus-

[13] Abweichend vom übrigen Zahlenmaterial, das nach den letzten amtlichen Angaben nur bis zum Jahre 1968 reicht, haben wir den neuesten Stand vom 1. 1. 1970 zugrunde gelegt, um möglichst gegenwartsnah zu sein. Seitdem sind allerdings wieder einige Änderungen eingetreten.

[14] s. Tab. 5, S. 420 aus der ersten Aufl. „Die Konzentration in der Wirtschaft", 1. Bd., Berlin 1960.

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nahme der Agrippina bemerkbar macht. Den höchsten Verflechtungsgrad besitzt nach wie vor die Victoria-Gruppe mit mehr als 70 %, den geringsten die Magdeburger Gruppe mit weniger als 40 %. Dabei muß besonders betont werden, daß es sich bei diesen Angaben um Mindestsätze handelt, die aus vorhandenen Quellen mit Sicherheit nachgewiesen werden konnten. Möglicherweise sind weitere Beteiligungen dabei unberücksichtigt geblieben.

III. Konzentrationspolitik

A. Privatwirtschaftliche Konzentrationspolitik

Wie der vorige Abschnitt gezeigt hat, ist die Struktur der Versicherungswirtschaft in der BRD in hohem Grade durch Verflechtungen in Form von Gruppen und Konzernen gekennzeichnet. Die wichtigsten Gründe für diese Entwicklung sind dargelegt worden. Dessen ungeachtet herrscht heute die Auffassung vor, daß auf den hauptsächlichen Versicherungsmärkten noch zu viele Versicherungsunternehmungen mit zu geringen Marktanteilen und zu geringer Leistungsfähigkeit, insbesondere gegenüber dem internationalen Wettbewerb, vorhanden sind. Die sich deutlich abzeichnende Tendenz ist auf die Bildung großer Betriebseinheiten in Gestalt von Einheitsunternehmungen gerichtet, wobei naturgemäß das Gebot der Spartentrennung[15] weiterhin zu beachten ist. Für die Zukunft ist daher anzunehmen, daß Zusammenschlüsse und Verflechtungen in zunehmendem Maße durch *Fusionen* ersetzt werden. Dafür dürften vor allem die folgenden Gründe maßgebend sein:

1. Verflochtene Unternehmungen sind häufig in ihrer Arbeitsweise zu schwerfällig und in ihrer Struktur unübersichtlich, wodurch eine schlagkräftige, einheitliche Geschäftspolitik behindert wird. Oft fehlt eine einheitliche Preispolitik; die Außenorganisationen stehen selbständig nebeneinander, verursachen erhöhte Kosten und stehen im gegenseitigen Wettbewerb. Hinzu kommt die Möglichkeit interner Rationalisierung, so etwa die Einsparung von Vorstandsposten, geeignete Spezialisierung von Führungskräften und rationeller Einsatz von Anlagen der elektronischen Datenverarbeitung als integriertes Instrument der Unternehmensführung. Über den quantitativen Erfolg solcher Rationalisierungsmaßnahmen liegen zur Zeit allerdings noch keine fundierten Angaben vor.

2. Im übrigen meinen wir, daß auch die neuen Vorschriften des AktG (§§ 329 ff.) über die Rechnungslegung im Konzern durch konsolidierte Rechnungsabschlüsse und zusammengefaßte Geschäftsberichte eine erwähnenswerte Rolle spielen. Solche Abschlüsse erfordern einen erheb-

[15] Vgl. oben Abschnitt II, C 1.

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lichen Arbeitsaufwand und bedingen zusätzliche Kosten. Anscheinend werden sie als ausgesprochen lästig empfunden. Das könnte ein Grund mehr sein, durch Fusion solcher Unternehmungen, die den Vorschriften über Konzernabschlüsse unterliegen würden, diesen Belastungen zu entgehen.

3. Problematisch erscheint die Beantwortung der Frage, ob ein vollständiger Zusammenschluß mehrerer Unternehmungen eine effektive Erhöhung der Zeichnungskraft in dem Sinne bewirkt, daß die Einheitsunternehmung größere Risiken übernehmen kann als die Summe kleinerer Versicherungsunternehmungen. Nach wahrscheinlichkeitstheoretischen Gesichtspunkten wäre diese Frage an sich zu verneinen. Theoretisch könnte jeder Versicherer unabhängig von seiner individuellen Bestandszusammensetzung ein Risiko bis zu der Grenze übernehmen, daß der daraus resultierende höchstmögliche Schaden im Selbstbehalt 1 bis 2 Prozent der Gesamtschadensumme für eigene Rechnung nicht übersteigt. Nach dieser Maxime würde eine Zusammenfassung mehrerer Versicherungsbestände letztlich keine Erhöhung der gesamten Zeichnungskapazität bedeuten. In der Praxis sehen die Dinge jedoch meist anders aus; die Kapazität wird überwiegend nach den einzelnen Branchen beurteilt, die in der versicherungstechnischen Erfolgsrechnung getrennt auszuweisen sind. So kann es tatsächlich dahin kommen, daß sich ein Großunternehmen mit umfangreichen Versicherungsbeständen eine größere Leistungsfähigkeit zutraut, als eine Vielzahl vorher selbständiger Versicherer, die sich vielleicht zu schwach fühlen, um sich überhaupt an Großrisiken zu beteiligen.

4. Daß im übrigen alle Vorteile von Gruppen und Konzernen, die bereits im vorhergehenden Abschnitt II C dargestellt worden sind, von einer Einheitsunternehmung in verstärktem Maße genutzt werden können, versteht sich von selbst.

B. Staatliche und überstaatliche Konzentrationspolitik

Die Auswirkungen einer staatlichen und überstaatlichen Konzentrationspolitik — wobei hier speziell an Normen der EWG gedacht ist — ergeben sich direkt oder indirekt aus verschiedenen gesetzlichen und aufsichtsbehördlichen Vorschriften. Besonders erwähnenswert erscheinen die folgenden:

1. An erster Stelle sind die aufsichtsbehördlichen Vorschriften für die Vermögensanlegung zu nennen, die in — erweiterter — Auslegung des § 68 VAG erlassen worden sind[16]. Danach ist für den Erwerb von Aktien anderer Versicherungsunternehmungen in jedem Falle eine Geneh-

[16] Anordnung R 15/58 vom 20. 12. 1958 nach Veröffentlichungen des Bundesaufsichtsamtes (VerBAV) 1959, S. 1—4.

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migung erforderlich, „soweit sich dadurch der Besitz auf 10 oder mehr vH des Kapitals der anderen Unternehmung stellt". Dabei wird der aktive Aktienbesitz von Konzernunternehmungen zusammengerechnet. Neuere Bestimmungen für Versicherungsunternehmungen, die einen Deckungsstock führen[17], setzen sogar die Grenze auf 5 % fest.

Diese Vorschriften, die für alle Versicherungsunternehmungen gelten, sollen offenbar eine unkontrollierte Kapitalkonzentration verhindern. Die Aufsichtsbehörde entscheidet dabei nach freiem Ermessen. Ob und in welchem Umfange sie von der Möglichkeit der Erlaubnisversagung Gebrauch gemacht hat, ist nicht bekannt geworden.

2. Eine besonders weitreichende gesetzliche Vorschrift enthält der § 82 VAG. Im Falle einer aktiven Beteiligung eines Versicherungsunternehmens an einer versicherungsfremden Unternehmung kann die Fortsetzung untersagt oder nur unter der Bedingung einer erweiterten Prüfungspflicht der abhängigen Unternehmung gestattet werden, soweit die Beteiligung „nach ihrer Art oder ihrem Umfang geeignet ist, die Versicherungsunternehmungen zu gefährden". Eine hemmende Tendenz gegen Verflechtungen mit versicherungsfremden Unternehmungen ist hier ebenfalls unverkennbar. Die Vorschrift gilt jedoch nicht in umgekehrter Richtung für den Fall, daß versicherungsfremde Unternehmungen an Versicherungs-Aktiengesellschaften beteiligt sind. Der Gesetzgeber unterstellt hier offenbar, daß bereits die qualifizierte Versicherungsaufsicht bei passiver Abhängigkeit ausreichenden Schutz gegen Gefahren und Mißstände bietet.

3. Bei Fusionen (Verschmelzungen) ist die Rechtslage verschieden, je nachdem, ob Aktiengesellschaften oder Versicherungsvereine davon betroffen sind.

a) Die Fusion von Aktiengesellschaften ist im VAG nicht ausdrücklich geregelt. Zwar fordert der einschlägige § 14, der für alle Rechtsformen gilt, eine besondere Genehmigung für *Bestandsübertragungen,* die an sich notwendig mit einer Fusion verbunden sind. Dabei wird jedoch auf § 8 VAG verwiesen, wonach praktisch die Erlaubnis nur dann versagt werden darf, wenn „die Belange der Versicherten nicht ausreichend gewahrt oder die Verpflichtungen aus den Versicherungen nicht genügend als dauernd erfüllbar dargetan sind". Im übrigen hat die Aufsichtsbehörde „darauf zu achten, daß die sozialen Belange der Angestellten[18] der Unternehmung, deren Versicherungsbestand übertragen wird, ausreichend gewahrt sind"[19].

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[17] R 3/69 vom 1. 8. 1969 nach VerBAV 1969, S. 230 f.

[18] Wozu nach herrschender Ansicht auch Vorstandsmitglieder gehören.

[19] Die grundsätzliche Frage, ob und unter welchen Voraussetzungen die Fusion als solche einer Genehmigung bedarf, braucht hier nicht weiter untersucht zu werden.

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Daraus geht hervor, daß das VAG bei den Aktiengesellschaften ausschließlich auf eine Fusionskontrolle im Interesse der Versicherten und der Angestellten zielt, nicht jedoch auf die Verhinderung von Machtpositionen und Veränderungen der Marktstruktur. Die Aufsichtsbehörde ist hier bei ihrer Entscheidung an die gesetzlich eng begrenzten Kriterien gebunden. Insoweit kann also, anders als bei kapitalmäßigen Verflechtungen, bei denen die Aufsicht einen erheblich größeren Spielraum besitzt, von einer wirtschaftspolitisch orientierten, präventiven Fusionskontrolle keine Rede sein.

b) Für Versicherungsvereine ist der Fall der Bestandsübertragung in § 44 geregelt. Durch das sogenannte „Umwandlungsgesetz" vom 15. 8. 1969[20] sind die neuen §§ 44 a bis c und 53 a dem VAG eingefügt worden. Sie regeln die Verschmelzung von Versicherungsvereinen ohne Abwicklung (§ 44 a), die Vermögensübertragung eines Versicherungsvereins auf eine Aktiengesellschaft (§ 44 b) oder eine öffentliche Anstalt (§ 44 c), schließlich auch die gleichen Vorgänge bei kleineren Versicherungsvereinen (§ 53 a). Eine ausdrückliche Genehmigung der Aufsichtsbehörde ist in allen drei Fällen vorgeschrieben.

Erhebliche Erleichterungen für die Durchführung von Fusionen bringt überdies das flankierende „Gesetz über steuerliche Maßnahmen bei Änderung der Unternehmensform" vom 14. 8. 1969 (BGBl. I., S. 1163 ff.).

c) Allgemein eröffnen die beiden Gesetze die Möglichkeit, Umwandlungen nach jeder Richtung hin vorzunehmen, ohne daß dadurch prohibitive Steuerbelastungen entstehen. So könnte beispielsweise die Umwandlung eines Versicherungsvereins in eine Aktiengesellschaft die Vorstufe einer im weiteren Verlauf beabsichtigten Verflechtung mit einer anderen Versicherungs-Aktiengesellschaft darstellen.

Allgemein ist festzustellen, daß sich die neueste Gesetzgebung in ihrer Grundtendenz ausgesprochen konzentrationsfördernd erweist. Dem entspricht die aufsichtsbehördliche Einstellung, die in mehreren Verlautbarungen zum Ausdruck gekommen ist[21].

4. Aus dem Bereich der EWG-Normen liegen bisher nur indirekte Ansatzpunkte zum Problem der Konzentrationsförderung vor. Erwähnenswert erscheinen insbesondere die „Solvabilitäts"-Bestimmungen für das mindesterforderliche Eigenkapital von Versicherungsunternehmungen[22]. Die sogenannte Solvabilitätsspanne bemißt sich nach einem zwei-

[20] Gesetz zur Ergänzung der handelsrechtlichen Vorschriften über die Änderung der Unternehmensform. BGBl. I., 1969, S. 1171 ff.

[21] Vgl. *E. Nowak*, Die Übertragung des Versicherungsbestandes auf eine neugegründete Aktiengesellschaft — Sachübernahme oder Nachgründung?, in: Ausblick und Rückblick, Erich R. Prölss zum 60. Geburtstag, München 1967, S. 251 ff.; *ders.*, Konzentration und Versicherungswirtschaft, Versicherungswirtschaft, 25. Jg. (1970), S. 11 ff.

[22] s. die in Anm. 9 zitierte Richtlinie.

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fachen Index, der sowohl auf die Beitragseinnahme als auch auf die Schadenbelastung abgestellt ist. Da beide Indizes mit steigendem Prämien- und Schadenvolumen degressiv verlaufen, kann die Verschmelzung von Versicherungsunternehmungen tatsächlich zu einer Verminderung des Eigenkapitalbedarfs führen[23]. Bei wechselseitiger Verflechtung steht demgegenüber die Möglichkeit einer reziproken Kapitalerhöhung, ohne daß neue Mittel von außen zugeführt werden müßten.

IV. Ausblick

1. Die deutsche Versicherungswirtschaft befindet sich zur Zeit in einer Phase des Übergangs. Dominierend war bisher ein hoher Grad von ein- und mehrseitigen Verflechtungen. Insbesondere das Gebot der Spartentrennung hat dazu geführt, daß Sach- und Lebensversicherungsgesellschaften in Form verbundener Unternehmungen entstanden sind, die jedoch auf verschiedenen Märkten arbeiten und dort vielfach nur einen geringen Marktanteil besitzen. Betriebswirtschaftliche Gründe der innerbetrieblichen Rationalisierung, der Kapazitätssteigerung und der Behauptung im internationalen Wettbewerb erfordern die Bildung größerer Unternehmungseinheiten. Entgegenstehende Hemmungen rechtlicher und steuerlicher Art sind durch das Umwandlungsgesetz und das flankierende Steuererleichterungsgesetz vom 14. und 15. 8. 1969 weitgehend beseitigt worden. Die allgemeine Einstellung der Aufsichtsbehörde kann als durchaus konzentrationsfreundlich bezeichnet werden.

Unter diesen Umständen ist eine weitere Konzentrationsbewegung zu erwarten, die sich vermutlich in zwei Formen abspielen wird. Einmal wird, wie bereits deutlich zu erkennen ist, eine „Flurbereinigung" innerhalb der bereits bestehenden Gruppen und Konzerne einsetzen, indem die kapitalmäßigen Verflechtungen verbundener Unternehmungen im Wege der Verschmelzung durch Bildung größerer Einheitsunternehmungen ersetzt werden. Darüber hinaus ist zu erwarten, daß sich weitere, bisher selbständig nebeneinander bestehende Versicherungsunternehmungen und kleinere Konzerne zusammenschließen werden. Losere Formen der Kooperation könnten dabei die erste Stufe bilden; dauerhafte kapitalmäßige Verflechtungen und spätere Fusionen könnten sich in Zukunft daran anschließen.

2. Ungeachtet dieser Tendenz wird es u. E. in der Versicherungswirtschaft keine so umfassende Konzentration geben, wie sie etwa in der Industrie möglich ist und tatsächlich auch vorkommt. Eine zu weit-

[23] Einzelheiten s. *P. Braeß*, Betriebswirtschaftliche Aspekte der „Solvabilitätsvorschriften", Versicherungswirtschaft, 24. Jg. (1969), S. 152 ff. In dem dort angeführten Beispiel würden zwei Versicherungsunternehmungen, die jede für sich ein Eigenkapital von je 5,4 Mio. DM benötigen, bei Verschmelzung nur 9,6 Mio. DM Eigenkapital nachzuweisen brauchen. Das bedeutet eine Ersparnis von 1,2 Mio. DM.

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gehende Konzentration wird verhindert durch die Existenz von öffentlich-rechtlichen Versicherungsanstalten und von Spezial-Versicherern in Form von Versicherungsvereinen. Beide arbeiten nicht nach dem Erwerbsprinzip; vielmehr verfolgen die öffentlichen Anstalten gemeinwirtschaftliche Ziele; die Versicherungsvereine streben nach optimaler Bedarfsdeckung, Ziele also, die sich ungeachtet aller Angleichungstendenzen in der praktischen Tätigkeit theoretisch doch deutlich voneinander unterscheiden.

Auch gegenüber großen Unternehmungseinheiten der Versicherungs-Aktiengesellschaften werden sich die öffentlichen Versicherungsunternehmungen und die Versicherungsvereine weiterhin im Wettbewerb behaupten können, selbst dann, wenn sie die für Aktiengesellschaften optimale Betriebsgröße nicht erreichen und auf gewisse organisatorische Vorteile verzichten müssen, die nur den Großbetrieben zur Verfügung stehen. Dafür besitzen sie andere Kostenvorteile, zu denen bei den öffentlichen Anstalten insbesondere die Bestandsdichte, bei den Versicherungsvereinen eine typische Selektion in der Risikoauslese gehören. Häufig kommen bei berufsständisch strukturierten Versicherungsvereinen Kostenvorteile in der Absatzorganisation hinzu. Der Ausdruck „Rosinenvereine" mit halb ironischem, halb neidischem Akzent, zeigt sehr deutlich, wie die großen Kompositversicherer die Situation einschätzen. Sie selbst sind auf das Massengeschäft angewiesen, während kleine und selektiv arbeitende Versicherungsvereine, wie etwa in der Kranken- und Kraftverkehrsversicherung zu beobachten ist, durch billigere Prämien die günstigsten Risiken an sich ziehen können.

3. Zusammenfassend kann man die Erwartung aussprechen, daß künftig in der Versicherungswirtschaft ungeachtet fortschreitender Konzentration neben dem üblichen Firmenwettbewerb ein institutioneller Wettbewerb der verschiedenen Unternehmungsformen bestehen bleiben wird. Seine Grenzen werden nach der einen Seite durch eine Fülle von aufsichtsrechtlichen und -behördlichen Vorschriften gesetzt, die im Interesse der Versicherten ein Zuviel an Wettbewerb verhindern sollen. Auf der anderen Seite stehen die Vorschriften des Kartellgesetzes als entgegengesetzte Schranke. Innerhalb des verbleibenden, relativ schmalen Autonomiebereiches dürfte der Wettbewerb künftig eher stärker als schwächer werden.

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Summary

Concentration in the Insurance Business

The quantitative development of the legally independent suppliers in the insurance market of the Federal Republic of Germany shows no considerable concentration tendency for the period of the sixties. The market shares of the various legal forms have remained rather constant during that time. The market is characterized by a comparatively large number of suppliers simultaneously with a low degree of concentration (tables 1 to 4).

The insurance business is marked by a high degree of interlacings whereby the legal form and group policy determine the degrees of dependence. This cooperation renders possible above all a better utilization of chances in the market by a—in spite of a division of branches—complete supply facilitates risk policy, and makes the employment of costly data processing machinery sensible.

The conceivable development with regard to the Common Market will henceforth force an even more consistent exploitation of the advantages of large-scale undertakings.

Consequently the merger wave which has set in at the beginning of the seventies may be understood as a necessary consolidation which will rather strengthen competition than weaken it.

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Genossenschaften und Konzentration

Von *S. L. Gabriel,* Kiel

I. Die Genossenschaft: Rechtsform versus Inhalt
A. Zum Kartellcharakter der Genossenschaft
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IV. Notwendigkeit und Kriterien einer Fusionskontrolle

I. Die Genossenschaft: Rechtsform versus Inhalt

Wenn nicht alles täuscht, ist der gegenwärtige Zeitpunkt für eine unter wettbewerbspolitischem Aspekt stehende Analyse der Genossenschaften — besonders in der BRD — alles andere als günstig. Der Umstand, daß irgendein Zusammenschluß von Unternehmen sich der Rechtsform der Genossenschaft bedient, hatte schon in der Vergangenheit keinen allzu großen Aussagewert. Heute fehlt diesem Kriterium nahezu jede wettbewerbspolitische Relevanz. Es gibt auch kaum noch eine Genossenschaftssparte, die nicht mit dem Genossenschaftsgesetz hadert. Die Kritik an diesem Gesetz, die in den Jahren 1955—1960 allein vom Handel ausgegangen war, kommt seither nur noch aus den Reihen der Genossenschaften. Eine Reform dieses Gesetzes — die erste war über einen Entwurf aus dem Jahre 1962 nicht hinausgekommen — ist in Vorbereitung. Indessen steht jetzt schon fest, daß sie für den überwiegenden Teil der Genossenschaften zu spät kommen wird, oder anders ausgedrückt: es gibt für diese großen Gruppen von Genossenschaften offensichtlich keine Reform, die ihnen noch das geben könnte, was sie für notwendig halten, ohne daß der Charakter dieses Gesetzes von Grund auf verändert würde.

Sie sind daher — wie seinerzeit — zur Selbsthilfe geschritten. Die Einkaufsgenossenschaften des Handels haben soeben damit begonnen, das Warengeschäft auszugliedern und auf einige wenige Handelsgesellschaften (in der Rechtsform der GmbH oder Kommanditgesellschaft) zu übertragen, während die weiter bestehende, ihrer eigentlichen Funktion

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jedoch entleerte Genossenschaft praktisch nur noch „für die Verwaltung des Immobilienbestandes verantwortlich zeichnet“[1]. Schon vorher (1967) hatten die Konsumgenossenschaften unter dem Zwang, „aus der Umklammerung des antiquierten Genossenschaftsgesetzes auszubrechen“[2], fast alle regionalen Genossenschaften im sogenannten Bund deutscher Konsumgenossenschaften, einer GmbH, vertikal straff zur Spitze hin integriert und gleichzeitig eine horizontale Verschmelzung in Angriff genommen, die die noch bestehenden 150 regionalen Genossenschaften auf etwa 20 Großfilialbetriebe konzentrieren soll.

Es zweifelt im übrigen niemand daran, daß die Konsumgenossenschaften früher oder später auch noch den Schlußstrich unter diese Entwicklung ziehen und für ihre regionalen Organisationen eine andere Rechtsform — voraussichtlich die der AG — wählen werden. „Rechtsformen“, so hieß es bezeichnenderweise vor kurzem auf einer Gesellschafterversammlung des Bundes deutscher Konsumgenossenschaften, „sind kein Wert an sich, sondern Mäntel, die man gegen passendere eintauscht, wenn man sich in den alten nicht mehr frei bewegen kann“.[3]

Über die Pläne der landwirtschaftlichen Genossenschaften lassen sich dagegen zur Zeit nur Vermutungen anstellen. Daß sie die Rechtsform der Genossenschaft immer dann abgelegt haben, wenn sich dieser Mantel — zumal bei überregionalen Zentralen — als hinderlich erwiesen hatte, unterscheidet sie nicht im geringsten von den übrigen Sparten. Immerhin stehen sie gerade jetzt vor der Frage, wie weit es u. U. geboten sein kann, regionale Genossenschaften nach dem Marktstrukturgesetz von 1969 in sog. Erzeugergemeinschaften umzuwandeln. Darüber hinaus diskutieren auch sie z. Z. über Rechtsformen und Organisationsmodelle, die ihnen eine „Filialisierung“ der regionalen Genossenschaften und Zentralen ermöglichen sollen.

Wenn alle diese Vorgänge auch nicht gerade den Eindruck erwecken, auf eine Förderung des Wettbewerbs auszugehen, so steht doch außer Zweifel, daß es in erster Linie der Wettbewerb war, der den genossenschaftlich organisierten Unternehmen ein Verbleiben in dieser Rechtsform in zunehmendem Maße als unzumutbar erscheinen ließ. So erwies sich z. B. schon die Geschäftsführung der Genossenschaft als zu schwerfällig, selbst die beschränkte Haftpflicht war wenig attraktiv, und der alte Grundsatz „ein Mann eine Stimme“ wurde in dem Maße unanwendbar, in dem die Differenzierung der Leistungsfähigkeit, der Umsätze

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[1] „Edeka im Zeichen struktureller Anpassung“, hrsg. v. der *Presse- und Informationsabteilung des Edeka-Verbandes*, Januar 1971, S. 9/10. (Edeka = Einkaufsgenossenschaften dt. Kolonialwaren- und Lebensmittel-Einzelhändler.)

[2] Aus dem Jahresbericht '69, hrsg. v. *Bund deutscher Konsumgenossenschaften GmbH*, S. 5.

[3] Bundesfinanzminister *Möller* am 24. 6. 1970 in Berlin.

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und Vermögen innerhalb des Kreises der Genossenschaften und Zentralen zugenommen hatte. Die Rückvergütung wurde (außer bei den landwirtschaftlichen Genossenschaften) weitgehend ein Opfer des scharfen Preiswettbewerbs. Während die Einkaufsgenossenschaften zur Nettokalkulation und zu Mengenrabatten übergingen, die nach Umsätzen, Warengruppen und selbst nach einzelnen Artikeln differenziert wurden, um einen Anreiz zur Konzentration der Bestellungen bei der Genossenschaft zu bieten, schütteten die Konsumgenossenschaften, um mit den Preisen ihrer Konkurrenten Schritt halten zu können, immer geringere Rückvergütungen aus, wenn sie nicht überhaupt davon abgingen und auch den Nichtmitgliedern Rabatte gaben.

Gleichzeitig blockierte das (im Genossenschaftsgesetz verankerte) Verbot der Verzinsung der Geschäftsanteile die immer notwendiger werdende Verbreiterung der Kapitalbasis der Genossenschaften — ganz abgesehen davon, daß der bisherige Ausschluß der Mitglieder von jeder Beteiligung am Vermögen und Wertzuwachs der Genossenschaft die Anziehungskraft der Mitgliedschaft nicht eben erhöhen konnte[4]. Es ließ sich auch nicht länger behaupten, daß der Genossenschaftsbetrieb nur eine „Hilfswirtschaft" darstellt. Dieser These widersprachen nicht nur die heute in fast allen Sparten erreichten Dimensionen, sondern auch die systematische, nach oben gerichtete Verlagerung der Entscheidungszentren.

Geblieben ist lediglich der vielzitierte „Förderungsauftrag", der seine bemerkenswerte Resistenz unzweifelhaft dem Umstand verdankt, daß es sich dabei um eine völlig unschädliche und „durchaus inhaltsleere" Formel handelt — kann man doch auch den mit den Genossenschaften konkurrierenden Kapitalgesellschaften getrost die Absicht unterstellen, ihre Anteilseigner fördern zu wollen[5]. Schließlich scheint sich selbst die These vom non-profit-Charakter der Genossenschaft kaum noch für den Hausgebrauch zu eignen[6]. Dagegen kann die bei den Genossenschaften (oder bei ihren Nachfolgegesellschaften) in der Regel gegebene Identität von Inhabern und Kunden (oder Lieferanten), an der auch das — in-

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[4] Vgl. *S. L. Gabriel*, Zum sogenannten „Sozialkapital" der Genossenschaften, Wirtschaftsdienst, Jg. 46 (1966), S. 77 ff.

[5] Vgl. *E. Grünfeld*, Genossenschaftswesen, HdSt. Jena 1929[4], S. 267 ff. In diesem Beitrag eines der bedeutendsten Theoretiker des Genossenschaftswesens heißt es im Hinblick auf die vom deutschen Gesetzgeber gewählte Begriffsbestimmung der Genossenschaft: „Diese durchaus inhaltsleere Definition ... ist in Deutschland lange in hohen wissenschaftlichen Ehren gehalten worden" (S. 268).

[6] „Abgesehen von den absatzpolitischen Maßstäben, soll die Richtung der Unternehmensentwicklung an der Kapitalrentabilität gemessen werden. Sie verknüpft die Elemente Gewinn, Umsatz und Investitionen." Jahresbericht '69, a. a. O., S. 18.

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zwischen ebenfalls unproblematisch gewordene — Nichtmitgliedergeschäft wenig geändert hat, von erheblicher wirtschaftlicher Bedeutung sein, vor allem in steuerlicher Hinsicht[7].

Diese bewußt pointiert formulierende Skizze bedarf kaum der Feststellung, daß alle diese Dinge noch in Bewegung sind und daß der Versuch, so etwas wie eine Momentaufnahme zu machen, nur einen geringen Aussagewert haben könnte. Interessant und zweifellos von großer Tragweite für die Gesamtwirtschaft ist nicht das, was heute ist, sondern was sich zur Zeit in diesem Bereich offensichtlich vorbereitet. Es geht hier daher weniger um den gegenwärtigen Stand der Konzentration als vielmehr um den mutmaßlichen Trend dieses tiefgreifenden dynamischen Prozesses und um dessen spezifische wettbewerbspolitische Problematik, die sich bereits deutlich abzuzeichnen beginnt und die vielleicht doch noch den Zeitpunkt zu rechtfertigen vermag, zu dem dieser Versuch einer Analyse unternommen wird.

A. Zum Kartellcharakter der Genossenschaft

Wenn dabei die erste Frage dem Kartellcharakter der Genossenschaft gilt, dann deshalb, weil eine begriffliche Klärung vorweg notwendig erscheint und diese Frage außerdem dadurch besondere Aktualität gewonnen hat, daß man sich bei der gegenwärtig vorbereiteten Novellierung des Gesetzes gegen Wettbewerbsbeschränkungen (GWB) mit dem Gedanken trägt, das Kartellverbot des § 1 in der Weise zu erweitern, daß ein Vertrag in Zukunft auch dann als Kartell anzusehen sei, wenn die wirtschaftliche Bewegungsfreiheit der Beteiligten durch den Vertrag nur faktisch, nicht aber de jure beschränkt wird. Diese „Vertragsfolgetheorie" darf allerdings mit der wesentlich weitergehenden „Folgetheorie" nicht verwechselt werden. Während sich erstere — dabei der bisher vorherrschenden „Gegenstandstheorie" folgend — nur für die Beschränkung der wirtschaftlichen Bewegungsfreiheit der Vertragspartner interessiert, richtet die „Folgetheorie" ihr Hauptaugenmerk auf die wettbewerbspolitisch relevanten Konsequenzen eines Vertrages, unabhängig davon, ob der Vertrag die wirtschaftliche Bewegungsfreiheit der Beteiligten in irgendeiner Weise einengt oder unberührt läßt.

Diese Folgetheorie, die längst vor Inkrafttreten des GWB diskutiert worden war, hatte sich damals nicht durchzusetzen vermocht. Wenn nicht alles täuscht, ging der Widerstand einmal von den Genossenschaften aus, die — nicht zu Unrecht — die bei einer Rezeption der Folgetheorie drohende Gefahr bannen wollten, als Kartelle behandelt zu werden. Und zum andern scheint sie auch den Juristen nicht behagt

[7] Vgl. *S. L. Gabriel*, Die Problematik der Besteuerung von Genossenschaften, JB f. Nat. u. Stat., Bd. 167 (1955), S. 376—413.

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zu haben, die wiederum die Rechtssicherheit dann für gefährdet hielten, wenn die Legalität eines Vertrages nicht von seinem Text, sondern — horribile dictu — von seinen ökonomischen Konsequenzen abhängen sollte, die sich (zumal von Juristen) schwer übersehen ließen. Diese Bedenken hat *Westermann* erst vor kurzem wieder vorgetragen. Für den Fall, daß sich der Gesetzgeber für die Folgetheorie entscheiden sollte, müßten die Genossenschaften nach seiner Meinung „ständig mit einer gewissen Sorge ihre Erfolge und ihre Einwirkungen auf den Wettbewerb beobachten und ihre Tätigkeit bremsen, sobald sie bemerken, daß sie in die Nähe einer Wettbewerbsbeschränkung kommen"[8].

Es ist indessen nicht ganz einzusehen, warum gerade diese Überlegung gegen die Folgetheorie sprechen soll. Das ganze GWB verfolgt keinen anderen Zweck als den, Unternehmen dort zu stoppen, wo sie im Begriff stehen, den Wettbewerb zu beschränken. Man muß allerdings zugeben, daß es einfacher ist, sich im Hinblick auf § 1 GWB lediglich an solche Wettbewerbsbeschränkungen zu halten, die, wie z. B. ein zwischen den Mitgliedern einer Gruppe von Unternehmen vereinbarter Bezugs- oder Absatzzwang, Gegenstand eines Vertrages sind. Es läßt sich aber ebensowenig leugnen, daß Verträge auch dann, wenn sie die Freizügigkeit der Beteiligten unberührt lassen, im Ergebnis eine nicht geringere Störung oder Lähmung des kompetitiven Prozesses nach sich ziehen können.

Die Wettbewerbspolitik hat sogar allen Grund, sich auch mit den Fällen zu befassen, in denen überhaupt kein Vertrag vorliegt und es auch gar keines Vertrages bedarf, um eine Gruppe unter bestimmten Voraussetzungen zu einem de facto wettbewerbsbeschränkenden Verhalten zu veranlassen. Wieder ist zuzugeben, daß allein schon der Nachweis einer Beschränkung des Wettbewerbs unter diesen Umständen in der Regel auf Schwierigkeiten stoßen wird — ganz abgesehen davon, daß es nahezu ausgeschlossen ist, Verhaltensweisen dieser Art wirksam abzustellen, solange die Struktur des betreffenden Marktes unangetastet bleibt, die diese Verhaltensweisen unvermeidbar macht. Aber auch diese Überlegungen können nichts daran ändern, daß es im Rahmen der Wettbewerbspolitik in erster Linie auf den Effekt ankommt und nur so weit auf die mutmaßliche Ursache, als dies im Hinblick auf die Therapie jeweils notwendig erscheint.

Man kann indessen durchaus verstehen, daß die Kartellbehörden bisher gezögert haben, sich die Folgetheorie zu eigen zu machen, d. h. § 1 GWB auch auf Genossenschaften (oder freiwillige Ketten) anzuwenden,

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[8] *H. Westermann,* Die Genossenschaft im Wettbewerb als Rechtsproblem, Vortrag am Deutschen Genossenschaftstag 1970 in Bad Godesberg, Bericht über die Tagung, S. 49.

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deren Verträge weder Bezugs- noch Absatzzwang kennen. In der Tat konnte niemand abstreiten, daß die Genossenschaften viele Jahrzehnte hindurch den Wettbewerb auf den verschiedensten Märkten gefördert hatten: durch Stärkung der Marktposition strukturell schwacher Anbieter, durch Verbesserung der Transparenz zahlreicher Märkte, durch Beseitigung lokaler Monopolstellungen oder Abhängigkeiten verschiedenster Art und schließlich allein schon durch die Gründung neuer Unternehmen, die vor allem auf verschiedenen Stufen des Handels den Wettbewerb zweifellos intensiviert haben. Wenn auch die landwirtschaftlichen Genossenschaften inzwischen über den „Flammersfelder Hilfsverein für minderbemittelte Landwirte" etwas hinausgewachsen waren, die Intensität des Preiswettbewerbs im Lebensmitteleinzelhandel nicht mehr von den Konsumgenossenschaften, sondern von anderen Filialunternehmen bestimmt wurde und auch die Einkaufsmacht gewerblicher Bezugsgenossenschaften nicht nur die Industrie, sondern auch die Wettbewerbspolitik vor neue Probleme stellte, so konnte doch nicht zweifelhaft sein, daß in manchen Bereichen der Wirtschaft — schon um annähernd gleiche Startbedingungen sicherzustellen — auf Genossenschaften oder ähnliche Zusammenschlüsse nicht verzichtet werden konnte.

Wollte man also beides haben: sowohl die Möglichkeit der Legalisierung bestimmter Zusammenschlüsse als auch eine wirksame Kontrolle über unerwünschte Formen der Kooperation (unabhängig von ihrer Rechtsform), dann mußte einmal § 1 GWB im Sinne der Folgetheorie interpretiert werden, um auch jene Gruppen fassen zu können, die den Wettbewerb — als kompetitiven Prozeß — eindeutig beschränken, ohne einzelne Parameter der kooperierenden Unternehmen vertraglich binden zu müssen. Zum andern mußten jene Zusammenschlüsse, auf die man aus wirtschafts- oder gesellschaftspolitischen Gründen nicht verzichten zu können glaubt, dem § 1 GWB irgendwie entzogen werden.

Ein Beispiel dafür bietet § 100 GWB, der landwirtschaftlichen Genossenschaften und ihren Zentralen die Möglichkeit gibt, Erzeugung, Absatz und Verarbeitung von Agrarprodukten durch Satzung oder Verträge zu regeln. Diese Privilegierung ist lediglich an die Bedingung geknüpft, daß dies „ohne Preisbindung" geschieht und der Wettbewerb nicht völlig ausgeschlossen wird. Die Berechtigung dieser Ausnahmevorschrift steht hier ebensowenig zur Diskussion wie die damit verbundene Diskriminierung des Landhandels. Sie interessiert nur insofern, als der Gesetzgeber nicht gezögert hat, den landwirtschaftlichen Genossenschaften für eine bestimmte Tätigkeit, die er für notwendig hält, auch ausreichenden Spielraum zu geben, oder anders ausgedrückt, sie auch dann noch zu decken, wenn sie den Wettbewerb wesentlich beschränken.

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B. Kartellnovelle und Kooperation

Unter diesem Aspekt kann daher die u. a. für gewerbliche Genossenschaften vorgesehene Ausnahmeregelung des sog. Referentenentwurfs zur vorbereiteten Kartellgesetznovelle kaum befriedigen. Einmal scheut man sich, die Folgetheorie zu übernehmen, und begnügt sich mit einer Interpretation des § 1, die — i. S. einer „Vertragsfolgetheorie" — noch immer am Tatbestand der Beschränkung der Freizügigkeit der am Vertrag Beteiligten als an dem allein relevanten Kriterium für das Vorliegen einer Wettbewerbsbeschränkung nach § 1 festhält und sich damit nicht allzuweit von der bisherigen Praxis entfernt. Zum andern werden Kooperationsformen, auf die der Gesetzgeber nicht verzichten zu können glaubt, die aber Gefahr laufen, mit einem extensiv interpretierten Kartellverbot zu kollidieren, zwar von diesem Verbot ausgenommen — aber nur dann, wenn sie (von dem Nachweis eines Rationalisierungserfolges abgesehen) die Marktverhältnisse, d. h. den kompetitiven Prozeß „nicht wesentlich" beeinflussen. Wie soll aber dann verfahren werden, wenn sich herausstellt, daß diese Gruppen ihre Ziele praktisch nur dann erreichen können, wenn sie den Wettbewerb — etwa durch Einführung eines lückenlosen Bezugszwangs — „wesentlich" beschränken? Was dann, wenn ein solcher Bezugszwang zwar den Wettbewerb (zwischen den Mitgliedern einer Gruppe) beim Einkauf ausschließt und damit auch Dritten den Zugang zu diesem Markt erschwert, auf jenen Märkten dagegen den Wettbewerb intensiviert, auf denen die gleichen Unternehmen als Anbieter auftreten? Müßte man dann nicht diese beiden Effekte gegeneinander abwägen? Müßte nicht außerdem geklärt sein, wo die Grenzen des jeweils relevanten Marktes liegen?

Würde man dabei großzügig verfahren und auch „wesentliche" Wettbewerbsbeschränkungen in Kauf nehmen, dann bestünde wiederum die Gefahr, das ganze Kartellverbot aus den Angeln zu heben. Geht man nicht so weit, dann wird vermutlich das eintreten, was sich schon jetzt vorbereitet und wettbewerbspolitisch ebensowenig befriedigen kann: Die Genossenschaften und Ketten werden sich die Möglichkeit einer zentralen Steuerung ihrer Einkäufe, in der sie offenbar den entscheidenden Vorteil der Filialunternehmen erblicken, dadurch selbst verschaffen, daß sie sich der innerbetrieblichen Organisation — und wenn nötig auch der Rechtsform — ihrer schärfsten Konkurrenten angleichen, ohne den Gesetzgeber bemühen zu müssen oder Gefahr zu laufen, mit dem Kartellgesetz (wie immer auch § 1 interpretiert werden mag) in Konflikt zu geraten.

Der Darstellung dieses Anpassungsprozesses sei nur eine kurze summarische Bemerkung über die Vorteile eines zentralen Einkaufs vorausgeschickt, deren Wahrnehmung zweifellos das stärkste Konzentrations-

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motiv darstellt. Solange sich die Zentralisierung auf das bloße Sammeln von Bestellungen beschränkt, sind dabei nur Mengenrabatte zu gewinnen, die maximal den Kostenersparnissen entsprechen, die Großaufträge im Herstellerbetrieb ermöglichen.

Ganz anders liegen die Dinge dann, wenn der potentielle Abnehmer eines bestimmten Artikels als Optionsfixierer auftritt, d. h. wenn er den Hersteller vor die Alternative stellen kann, das Geschäft entweder zu einem bestimmten (vom Abnehmer genannten) Preis zu machen oder auf den Großauftrag — und damit möglicherweise auch auf den Kunden — zu verzichten. Ein solches Verhalten setzt allerdings voraus, daß der Einkäufer einer Gruppe tatsächlich in der Lage ist, auf die betreffende Ware, wenn es sein muß, zu verzichten. Dies hängt wiederum davon ab, wie weit es ihm gelingt, die Mitglieder seiner Gruppe davon zu überzeugen, daß es notfalls auch ohne diesen Artikel gehen müßte. Daß dabei auch Erwartungen hinsichtlich der mutmaßlichen Reaktionen der Verbraucher eine Rolle spielen, versteht sich von selbst. Diese Überlegung muß aber auch die Leitung eines Filialunternehmens anstellen. Der Unterschied zur Gruppe — und darin liegt ihre entscheidende Schwäche — besteht darin, daß die Leitung eines Filialunternehmens dort anordnen kann, wo der Einkäufer einer Gruppe überzeugen muß.

Das Streichen eines bestimmten Produkts aus dem Sortiment und das Ausweichen auf andere Hersteller oder andere Marken — vor allem auch auf Eigenmarken des Handels, deren Bedeutung als mögliche Alternativen in diesem Zusammenhang besonders deutlich sichtbar wird — stellen allerdings nur einen Grenzfall dar. Tatsächlich sind die Übergänge fließend: zwischen der bloßen Weitergabe einer Sammelbestellung bis zum starren Entweder-Oder einer Option gibt es zahlreiche Nuancen unterschiedlicher Stärke der Verhandlungsposition — immer aber davon abhängig, welches Maß an Reduzierung seiner Bezüge eines bestimmten Artikels ein Einkäufer eben noch vertreten zu können glaubt.

Die notwendige Rücksichtnahme auf die Reaktion der Verbraucher gilt, wie gesagt, für Filialunternehmen und Gruppen in gleicher Weise. Wenn letztere daher beim Einkauf mit den Filialunternehmen gleichziehen wollen, dann setzt dies einen lückenlosen Bezugszwang voraus, der die der Gruppe angeschlossenen Firmen wirksam daran hindert, ihre eigene Einkaufs- und Sortimentspolitik zu treiben und damit die Verhandlungsposition ihres Einkäufers — im Vergleich zu den Filialunternehmen — entscheidend zu schwächen. Wenn daher möglichen Vorteilen beim Einkauf heute die ausschlaggebende Bedeutung im Konkurrenzkampf beigemessen wird — und das ist offensichtlich der Fall —, dann wird man verstehen, daß alle Diskussionen über neue Organi-

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sationsmodelle derzeit im wesentlichen um die Einführung eines lückenlosen Bezugszwanges kreisen. Das gleiche gilt — mit umgekehrtem Vorzeichen — für die landwirtschaftlichen Genossenschaften, die wiederum den Absatzzwang als Voraussetzung jeder wirksamen Kontrolle über Mengen und Preise ansehen.

II. Konzentration statt Kooperation

Daß sich die — vorläufig noch — unbestreitbare Überlegenheit der großen Filialunternehmen auch auf andere Faktoren stützt, braucht kaum gesagt zu werden. Vielleicht sind die Möglichkeiten einer zentralgesteuerten Marktstrategie — von der Werbung über die Preispolitik, Sortimente, Lagerhaltung usw. bis zu den Eigenmarken, Ladentypen, Standorten u. ä. —, vielleicht sind diese Dinge zusammengenommen noch wichtiger als der zentrale Einkauf. Wie immer es sich auch verhalten mag, sicher ist jedenfalls, daß alle diese Parameter ein einheitlich geführtes Unternehmen voraussetzen — oder zumindest eine vertikale Integration, die eine nennenswerte Selbständigkeit der unteren Ränge ausschließt.

Das erklärte Ziel der Einkaufsgenossenschaften ist demgemäß die „integrierte" Genossenschaft, der „genossenschaftliche Verbund", die Reduktion der Zahl der Entscheidungsträger auf den unteren Stufen, die systematische Verlagerung der Entscheidungen auf die Zentralen durch „Verdichtung" der Beziehungen zwischen den Primärgenossenschaften und der Spitzenorganisation, um der genossenschaftlichen Organisation „adäquate Mittel" in die Hand zu geben, „die ihr das ermöglichen, was in jeder anderen Gesellschaftsform stattfinden kann". Deshalb müsse in der „verbundwirtschaftlichen" Genossenschaft der Ein- und Verkauf „funktionell gesteuert" werden und das einzelne Mitglied in eine „Programmierung auf freiwilliger Grundlage, erforderlichenfalls durch einzelvertragliche Vereinbarungen, einbezogen" werden, da die Sicherung der Existenz zahlreicher Einzelhandelsbetriebe davon abhängt, „daß die Mitglieder sich freiwillig in einen großen Organismus einordnen und daß sie die erforderlichen Kontrollen hinnehmen und sich zu gemeinsamem Handeln mit der Gruppe, der sie sich angeschlossen haben, bereitfinden! Nicht zufällig wird vor einem „utopischen Freiheitsbegriff" gewarnt, eine „rückschrittliche Selbständigkeitsideologie" angeprangert, gleichzeitig aber auch der angeblich drohende „Filialwolf im Schafskleid der Genossenschaft" als bloßes Schreckgespenst entlarvt und der Begriff der „freiwilligen Filialisierung" — nicht ganz zu Unrecht — als zumindest „mißverständlich" hingestellt.

Dieselben Überlegungen beschäftigen — auch schon seit Jahren — die mit dem gleichen Problem konfrontierten freiwilligen Ketten. So hatte

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z. B. der Präsident der SPAR-Kette bereits im Jahre 1966 in Wiesbaden festgestellt, daß sich die Phase der freiwilligen Kooperationen ihrem Ende zuneige. Das Rezept im Wettbewerb mit den Waren- und Versandhäusern und den Großfilialisten lautete „Konzentration statt Kooperation". „Einzelhändler, die nicht bereit sind, sich mit Haut und Haaren — mit Betriebsleitung und Sortiment — dem Kopffilialisten (nicht mehr Kopf-Großhändler!) unterzuordnen, werden aus der Kette ausgeschieden." Das Kartellgesetz, so hieß es weiter, „verbietet freiwillige Filialbetriebe". Es verbiete damit einheitliche Marktpolitik, einheitliches Sortiment, einheitliche Preisgestaltung, einheitliche Werbung. Es verbiete den Ketten, den Kettenmitgliedern zu „empfehlen", was von einem Großbetrieb einheitlich angeordnet werden könne. Wer wettbewerbsfähig bleiben will, werde daher „auf den Weg der Fusion und Konzentration gedrängt".

A. Einkaufsgenossenschaften: Zum rechtlich geschlossenen Unternehmensverbund

Die gleichen Überlegungen hat man auch bei den Einkaufsgenossenschaften angestellt, die ebenfalls von einer „Scheinbrücke der Kooperation" sprechen, die keine Lösung darstelle, und die Notwendigkeit unterstreichen, den gemeinsamen Einkauf zu aktivieren, die „Einkaufspotenz" der Organisation durch „verstärkte Formierung des Bedarfs" und „gezielte Potenzierung der Verbundmaßnahmen" wirksamer zu gestalten, um endlich eine „intensive Ausnutzung von Äußerstangeboten" möglich zu machen. Da „Einkaufskonzentration" nun einmal das „Gebot der Stunde" ist, sei es auch „höchste Zeit zur Neuorganisation einer Gegengewichtsposition" gegenüber der Industrie[9].

Der erste Schritt in dieser Richtung ist in der BRD inzwischen getan worden. Der Grundgedanke der Reform ist der, das Warengeschäft der einzelnen Genossenschaften aus den Genossenschaftsbetrieben auszugliedern und zusammengefaßt in eine regionale Handelsgesellschaft einzubringen, für die entweder (wie bei der Edeka) die Rechtsform der GmbH oder die der GmbH & Co, KG (REWE = Rheinisch-Westfälische Genossenschaft) gewählt wurde. Während den einzelnen Genossenschaften nur noch (nicht näher bezeichnete) „besondere Dienstleistungsfunktionen" sowie die Verwaltung des Immobilienbestandes verbleiben, wechseln ihre Vorstände zur Geschäftsführung der Handelsgesellschaft über, an der — neben der früheren Genossenschaft — die Genossenschaftszentrale beteiligt ist. Bei der einen Gruppe ist es die „Edeka

[9] Zum letzten Satz vgl. *H. Diederichs*, Der Edeka Kaufmann im zukünftigen Wettbewerb, Bericht über den 61. Edeka Verbandstag (9.—11. Juni 1968), S. 25.

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Warenhandelsgesellschaft mbH", eine Tochter der Edeka-Zentrale, während die regionalen Kommanditgesellschaften der REWE die Mitgliedschaft der REWE-Zentrale erwerben. In beiden Organisationen können außerdem noch Mitglieder der alten Genossenschaft stille Gesellschafter oder Kommanditisten dieser Handelsgesellschaften werden, deren (nicht unbeträchtliche) Kapitaleinlagen eine in der Regel über die garantierte Verzinsung hinausgehende Rendite abwerfen. Als „Ziel dieser neuen Vertriebskonzeption" nannte der Edeka-Verband „eine verstärkte Auftragskonzentration", die der Edeka „nachhaltige Verbesserungen im Einkauf für die Gruppe ... sowie neue Fusionsmöglichkeiten" bringen soll[10]. Darüber hinaus haben bei der Wahl dieser Konstruktion auch steuerliche Vorteile sowie Aussichten auf eine Verbreiterung der Finanzierungsbasis eine Rolle gespielt.

Leider ist nicht bekannt, in welchem Verhältnis die allein stimmberechtigten Gesellschafter, nämlich der Vorstand der alten Genossenschaft und die Zentrale, an den neuen Handelsgesellschaften beteiligt sind. Daß der Anteil der Zentrale unter 50 v. H. liegen sollte, kann als unwahrscheinlich gelten. Mehr spricht für eine Stimmenverteilung, die den Vorrang der Zentrale sichert — will man doch schließlich, wie die Eisenwaren-Zeitung vom 9. 1. 1971 trocken bemerkte, „die angeschlossenen Einzelhändler strammer an die Leine nehmen". Liegt somit der Einkauf für die Mitglieder der alten Genossenschaft in Zukunft bei der für sie regional zuständigen Handelsgesellschaft, so kauft wiederum die Spitze zentral für die Handels- oder Kommanditgesellschaften ein, denen sie selbst als der maßgebliche Gesellschafter angehört. Mit dieser „Konzentration in einem rechtlich geschlossenen Unternehmensverbund" könne man daher „einige wesentliche Handicaps abwerfen", „die bisher die Wettbewerbsfähigkeit unseres losen Verbands gegenüber den Großbetrieben beeinträchtigen"[11].

Da niemals zweifelhaft war, was die Einkaufsgenossenschaften unter diesen „wesentlichen Handicaps" seit jeher verstanden haben, läßt diese Feststellung nur den Schluß zu, daß es jetzt endlich gelungen sei, einen Bezugszwang zu etablieren, der — gewissermaßen im eigenen Haus praktiziert — eindeutig außerhalb der Reichweite des Kartellgesetzes liegt. Die Frage, ob damit auch grünes Licht für Preisempfehlungen gegeben ist, kann offenbleiben, zumal sie in dem hier behandelten Zusammenhang weniger interessiert.

Die Bedeutung dieser Umorganisation wird auch nicht dadurch verringert, daß sie sich z. B. bei der Edeka noch im Experimentierstadium befindet. Selbst dann, wenn es sich als notwendig erweisen sollte, an den

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[10] Edeka im Zeichen struktureller Anpassung, a. a. O., S. 10/11.
[11] Edeka-Rundschau, Nr. 1 (1969).

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heute praktizierten Systemen noch da und dort Korrekturen vorzunehmen, kann nicht der geringste Zweifel darüber bestehen, daß diese, auch bei anderen gewerblichen Genossenschaften und bei den Ketten zu beobachtende Entwicklung zum „rechtlich geschlossenen Unternehmensverbund" kaum aufzuhalten ist. Oder pointiert formuliert: die Filialisierung durch (wie immer geartete) Fusionen wird so lange weitergehen, als es Gruppen gibt, die in intensivem Wettbewerb mit großen Filialunternehmen stehen, und zum andern das Kartellrecht paradoxerweise eine Kooperation verbietet, die sich als Fusion im Glanz der Legalität präsentiert.

Das ist allerdings nur die gegenwärtige Rechtslage. Noch vermag niemand zu sagen, wie die z. Z. in der BRD geplante Fusionskontrolle — falls sie überhaupt zustande kommen sollte — aussehen wird. Immerhin wirft bereits die Möglichkeit einer solchen Kontrolle die Frage auf, wie weit die von den Genossenschaften oder ihren Nachfolgegesellschaften betriebene horizontale und vertikale Konzentration — hier der Betriebsgrößen, dort der Entscheidungsbefugnisse — tatsächlich notwendig sein kann, um diese Gruppen in die Lage zu versetzen, auf längere Sicht mit den großen Filialunternehmen erfolgreich zu konkurrieren.

Die Beantwortung dieser Frage stößt indessen schon deshalb auf Schwierigkeiten, weil verläßliche Angaben über die bisherige Entwicklung der Marktanteile der beiden Einkaufsgenossenschaften und über die Bewegungen des zusammengefaßten Marktanteils der Ketten fehlen. Warum diese Verbände die ihnen bekannten Zahlen nicht veröffentlichen, entzieht sich unserer Kenntnis. Es mag sein, daß sie nicht zugeben wollen, daß sie auch in ihrer gegenwärtigen Organisationsform imstande waren, ihre Marktanteile zu halten. Vielleicht haben sie sogar an Terrain gewonnen, wenn auch nicht in dem Maße, in dem dies den Filialbetrieben (einschließlich der Lebensmittelabteilungen der Warenhäuser) gelungen ist, die vor allem seit 1961 ständig steigende Zuwachsraten aufweisen (Tabelle 1).[12] Nach einer Schätzung des Ifo-Instituts konnten in der BRD die Genossenschaften und Ketten ihre Marktanteile bis 1966 expandieren, seither jedoch einen leichten Rückgang nicht aufhalten, der nach Ansicht des Instituts voraussichtlich noch bis 1975 anhalten wird.

Diese rückläufige Bewegung kann allerdings auch damit zusammenhängen, daß beide Gruppen die Zahl der ihnen angeschlossenen Einzelhandelsfirmen durch Konzentration auf moderne und größere Betriebe in den letzten Jahren systematisch reduziert haben. Diese Selektion hat zunächst eine Verkleinerung der Verkaufsfläche zur Folge. Dieser Effekt wird jedoch dadurch immer wieder kompensiert, daß einmal die durch diese Konzentration ermöglichte intensivere Förderung der überdurchschnittlich leistungsfähigen Betriebe diese in die Lage versetzte, ihre

[12] Vgl. S. 495.

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Marktposition auszubauen, während zum andern Genossenschaften und Zentralen ebenso planmäßig eigene Großraumläden und ähnliches einrichteten, um auch auf dieser Ebene mit ihren Konkurrenten Schritt halten zu können.

Tabelle 1

Marktanteile am gesamten Lebensmittel-Einzelhandel-Umsatz in der BRD einschl. West-Berlin

Jahr	Filialisten (Warenhäuser)	Konsum	Jahr	Filialisten (Warenhäuser)	Konsum
1953	12,8	9,8	1961	16,7	10,0
1954	13,7	9,7	1962	17,0	9,5
1955	13,5	9,9	1963	17,4	9,5
1956	14,2	10,2	1964	18,2	8,6
1957	14,6	10,7	1965	19,3	8,6
1958	15,2	10,4	1966	21,3	7,8
1959	17,5	9,2	1967	22,7	8,0
1960	17,4	9,3	1968	24,2	8,0
			1969	26,5	7,7

Quelle: Vgl. Der Markenartikel, diverse Jge.

Im übrigen ist die Entwicklung der Marktanteile der Einkaufsgenossenschaften und Ketten auch insofern nicht sehr aufschlußreich, als sie nicht erkennen läßt, wie sich diese Gruppen in den Großstädten, in denen sie direkt mit den Filialunternehmen konkurrieren, bisher gehalten haben. Man kann nur vermuten, daß sie außerhalb der Großstädte bessere Chancen hatten — und weiterhin haben werden, und daß, bei insgesamt wenig veränderter Position, einem relativen Zurückfallen in den Großstädten eine lebhafte Expansion in kleineren Städten und auf dem Lande entsprochen hat. Die einzigen Zahlen, die etwas Licht auf diese Vorgänge werfen, kommen aus Berlin, wo der Marktanteil der Einkaufsgenossenschaften (im Lebensmitteleinzelhandel) für 1967 auf 15,2 % geschätzt wurde. Wenn diese Zahl auch unter dem Bundesdurchschnitt des gleichen Jahres liegt — die Schätzungen schwanken zwischen 25 und 29 %, so spricht dies insofern doch für die Widerstandsfähigkeit dieser Gruppen, als die Filialunternehmen (zusammen mit den Lebensmittelabteilungen der Warenhäuser) in Berlin gleichzeitig einen Marktanteil von nicht weniger als 49,5 % erreicht hatten — im Gegensatz zu einem Bundesdurchschnitt von 22,7 % (1969 = 26,5 %). Es ist allerdings nicht auszuschließen, daß die Entwicklung in Berlin — bedingt durch besondere lokale Verhältnisse — nicht als repräsentativ angesehen werden kann: Der auffallend geringe Marktanteil der Konsumgenossenschaften (3,7 % gegenüber 8 % im Bundesdurchschnitt) mahnt jedenfalls zur Vorsicht.

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Zurückhaltung bei einer Prognose ist um so mehr geboten, als das Schicksal der Einkaufsgenossenschaften und Ketten entscheidend von einem Faktor mitbestimmt wird, der sich vorläufig noch jeder Quantifizierung entzieht, nämlich von der Dynamik der Konsumgenossenschaften, die bereits 1967 mit der Gründung des Bundes Deutscher Konsumgenossenschaften eine tiefgreifende Änderung ihrer Struktur in Angriff genommen haben.

B. Konsumgenossenschaften: Zur Sicherung gleichförmigen Verhaltens

Es ist selbstverständlich kein Zufall, daß sich auch im Bereich der Konsumgenossenschaften eine ähnliche Entwicklung abzeichnet. Sie stellt sich äußerlich dar als ein Ringen um eine optimale Organisations- und Rechtsform, materiell um einen mehrdimensionalen Konzentrationsvorgang, der — vor allem durch Forcierung der vertikalen Integration — eindeutig in die Richtung eines einzigen, einheitlich geführten Unternehmens weist. Nicht ohne Grund „wird das Wort ‚Konzern' gebraucht, um diesen Vorgang der inneren Reorganisation zu beschreiben"[13].

Ausgangspunkt war, wie schon erwähnt, „die Notwendigkeit", „aus der Umklammerung des antiquierten Genossenschaftsgesetzes auszubrechen"[14], das sich im Hinblick auf die Gestaltung der Satzungen, die Kapitalbeschaffung, die Regelung des Stimmrechts, die Behandlung des ausscheidenden Mitglieds usw. immer mehr als Hemmschuh erwiesen hatte. Schließlich hatte sich auch die Rückvergütung, „von der man einst beglückt glaubte, die Beseitigung des Kapitalprofits gefunden zu haben"[15], allmählich überlebt. Schuld daran trug allerdings nicht die seit 1954 gesetzlich vorgeschriebene Begrenzung der Rückvergütung auf maximal 3 % (die damit die gleiche Behandlung erfuhr wie der Rabatt), sondern der Umstand, daß die Preispolitik der Filialunternehmen den Konsumgenossenschaften gar keine andere Wahl gelassen hatte, als früher oder später zur „instant dividend", d. h. zur Überschußverteilung in Gestalt gesenkter Preise überzugehen. Daß davon auch Nichtmitglieder, die im Konsum kaufen, profitieren, konnte zunächst noch als Schönheitsfehler gelten. Inzwischen ist allerdings niemand mehr darüber im Zweifel, daß die Rückvergütung der Vergangenheit angehört und daß eine „gemeinwirtschaftliche" Ausrichtung der Unternehmensgruppe co op — wenn überhaupt — nur in ihrer Preispolitik zum Ausdruck kommen kann. So gesehen sind die Konsumgenossenschaften (unabhängig von

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[13] Jahresbericht '69, a. a. O., S. 5.

[14] Ebenda, S. 5.

[15] *R. Henzler,* Der genossenschaftliche Grundauftrag: Förderung der Mitglieder, Gesammelte Abhandlungen und Beiträge, Frankfurt/M. 1970, S. 291.

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ihrer Rechtsform) „nicht mehr Unternehmungen einer bestimmten Schicht für eine bestimmte Schicht, sondern Unternehmungen, deren Ziele gesamtwirtschaftlicher Natur sind“[16].

Folgt man diesen Überlegungen, dann erhält naturgemäß auch der Gewinn eine andere Note. Selbst das Streben nach maximalem Gewinn verliert in einer Zeit, in der sich „eine zunehmende Konvergenz gemeinwirtschaftlich und erwerbswirtschaftlich orientierter Unternehmen“ beobachten läßt[17], seine Signifikanz. Damit stellt sich auch für die Genossenschaft nicht länger die Frage, „ob ein Gewinn erzielt werden soll oder nicht, sondern wie ein erzielter Gewinn verwendet werden soll“[18]. Fällt die Entscheidung zugunsten einer „Verwendung der Gewinne im Allgemeininteresse“, dann wird aus diesen Unternehmen „ein autonomes Instrument der Wettbewerbs- und der Strukturpolitik“, deren Aufgabe darin bestünde, auf den jeweiligen Märkten „als Korrektiv, als Regulativ und als Beispiel zu wirken“[19].

Wenn es zutrifft, daß die Gewinnverteilung der Konsumgenossenschaften „bereits für gemeinwirtschaftliche Ziele“ eingesetzt wird[20], dann kann sich dies offenbar nur auf ihre Preispolitik beziehen. Man wird allerdings kaum behaupten dürfen, daß sie heute schon „Preisführer nach unten“ seien. Das mag aber eines Tages durchaus der Fall sein; und wenn sie dann ihre Überlegenheit in erster Linie ihrer Effizienz, nicht aber ihrer Marktmacht (insbesondere beim Einkauf) verdanken, dann wird niemand die Möglichkeit — und die Notwendigkeit — leugnen können, daß sich diese Unternehmensgruppe tatsächlich als Korrektiv betätigt, wenn es im Lebensmitteleinzelhandel nur noch eine sehr geringe Zahl sehr großer Anbieter geben wird, deren Abneigung gegen Preiswettbewerb sich schon heute voraussagen läßt. Es mag sein, daß „von ihrer Geschichte und aus ihrer gesellschaftspolitischen Intention her bei ihnen die Vermutung für ihre Gemeinwirtschaftlichkeit“ spricht[21]. Es läßt sich aber ebensowenig bestreiten, daß nichts sie zwingen könnte, so zu handeln. Selbst dann, so meint *Thiemeyer* mit Recht, wenn die Frage der Konkretisierung der Ziele eines Unternehmens gelöst wäre, „so ist damit keinesfalls gesichert, daß die im Unternehmen Tätigen gemäß diesen Zielen, gemäß den konkreten gemeinwirtschaftlichen Aufgaben disponieren“. In der Tat ist nicht auszuschließen, „daß Konflikte zwischen

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[16] *W. Hesselbach,* Die gemeinwirtschaftlichen Unternehmen, Instrumente gewerkschaftlicher und genossenschaftlicher Struktur- und Wettbewerbspolitik, Frankfurt/M. 1971, S. 45.
[17] Ebenda, S. 45.
[18] *R. Henzler,* a. a. O., S. 290.
[19] *W. Hesselbach,* a. a. O., S. 48.
[20] Ebenda, S. 48.
[21] *W. Hesselbach,* a. a. O., S. 27.

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dem ‚Sinn' der Unternehmen und den individuellen Zielen, den persönlichen Interessen zumal der Unternehmensleiter bestehen"[22].

Noch sind wir allerdings nicht soweit. Was sich heute vollzieht, ist erst die Grundsteinlegung — wenngleich nach einem sehr anspruchsvollen Plan. Sie beginnt „unten" und sieht zunächst eine massive horizontale Konzentration in der Form vor, daß die z. Z. bestehenden 150 Konsumgenossenschaften[23] auf 20 regionale Großunternehmen reduziert werden. Es gibt bereits Beispiele dieser Art: so die co op Schwaben mit einem Jahresumsatz von über 200 Mill., die co op Bremen (150), Saar (200), schließlich noch die „Produktion" in Hamburg (500) oder die co op Dortmund, die sich anscheinend bewährt haben und von der Spitze der Unternehmensgruppe offensichtlich als optimale Betriebsgrößen in dieser Branche angesehen werden.

Eine ungleich wichtigere Konzentration der Entscheidungsbefugnisse hat sich allerdings schon Mitte 1967 im vertikalen Aufbau dieser Organisation durch Gründung des Bundes deutscher Konsumgenossenschaften vollzogen — einer GmbH, der inzwischen fast alle Konsumgenossenschaften in der BRD beigetreten sind. Hauptaufgabe des Bundes als der „zentralen Entscheidungs- und Lenkungsinstanz"[24] ist die den Gesamtbereich umfassende Planung und Koordinierung der Warenbeschaffung und Sortimentsgestaltung, Finanzierung, Investitionen usw. Er ist eine „neue Instanz höherer Ordnung, der die Aufgabe zufällt, Konsumgenossenschaften und GEG überall dort, wo das Gesamtinteresse es erfordert, zu gleichförmigem Verhalten und zu gemeinsamen Operationen am Markt anzuhalten"[25]. Bei seiner Schaffung ging es vor allem darum, „die Kooperation dank einer einzigen Lenkungsinstanz mit den notwendigen Kompetenzen ... institutionell zu verankern".

Der Preis für dieses Plus an „größerer wirtschaftlicher Schlagkraft", so hieß es damals, liegt in einer freiwillig zugestandenen „Einschränkung" der Autonomie der regionalen Genossenschaften durch „Abgabe gewisser unternehmenspolitischer Funktionen an den Bund". Die Spitze stützt sich dabei auf eine ihr übertragene Richtlinienkompetenz, von der noch einmal unmißverständlich gesagt wird, daß sie „ein gleichförmiges Verhalten der Gruppe sicherstellen soll"[26], sowie auf das Recht der „Mit-

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[22] *Th. Thiemeyer,* Grundsätze einer Theorie der Gemeinwirtschaft, Frankfurt/M. 1970, S. 36.

[23] Gegenüber 312 Genossenschaften des Jahres 1953!

[24] *C. Schumacher,* Konsumgenossenschaften und Wirtschaftsordnung, in: Genossenschaften und Genossenschaftsforschung, Festschrift für G. Draheim, Göttingen 1968, S. 364.

[25] *C. Schumacher,* Vortrag auf dem 42. ord. Konsumgenossenschaftstag in Bonn, Presseinformation, S. 6. (GEG = Großeinkaufs-Gesellschaft dt. Konsumgenossenschaften m.b.H.)

[26] *C. Schumacher,* Festschrift Draheim, a. a. O., S. 364.

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wirkung des Bundes bei der Bestellung der konsumgenossenschaftlichen Vorstände", d. h. auf eine Vollmacht, die als „Unterpfand für die Kooperation auch im personellen Bereich" gedacht ist.

Rund 10 % des Grundkapitals des Bundes deutscher Konsumgenossenschaften liegen bei der GEG (GmbH), die restlichen Anteile halten die einzelnen Konsumgenossenschaften, deren Stimmrecht im „Bund" (in bewußtem Gegensatz zum alten genossenschaftlichen Prinzip) nach der Zahl ihrer Mitglieder, ihren Umsätzen sowie nach ihren Bezügen von der GEG differenziert ist.

Die Frage, wie weit die wettbewerbspolitisch relevanten Entscheidungen — vor allem über den Wareneinkauf, die damit verbundene Sortimentsgestaltung und die Preispolitik eines Unternehmens, das 1969 einen Umsatz von 4,8 Mrd. DM aufwies — nunmehr tatsächlich bei der Zentrale liegen, läßt sich selbstverständlich nicht anhand von Statuten beantworten. So muß — jedenfalls für einen Außenstehenden — offenbleiben, wie weit es gelungen ist, die weitgehende Selbständigkeit der regionalen Konsumgenossenschaften, in der man das entscheidende Handicap der Gruppe im Wettbewerb gesehen hatte, einzuengen. Immerhin sollte man annehmen, daß die Bestimmungen des Gesellschaftsvertrages, wonach kein Vorstand einer Konsumgenossenschaft ohne schriftliche Zustimmung des „Bundes" gewählt werden kann und dem Bund das Recht eingeräumt wird, auch Anträge auf Abberufung von Vorstandsmitgliedern zu stellen, an den Sitzungen der regionalen Konsumgenossenschaften teilzunehmen und deren Bücher einzusehen — daß gerade diese Sicherungen ausreichen müßten, um den „Verbundkomplex" der Konsumgenossenschaften de facto zu einem Massenfilialunternehmen zu machen. Jedenfalls ist der Bund mit den Kompetenzen ausgestattet worden, deren es „zum Ausbau der Unternehmensgruppe als einer schlagkräftigen und wettbewerbsfähigen Einheitsorganisation bedarf"[27], und „die es ihm ermöglichen, eine Führungsrolle zu übernehmen und den Gesamtwillen gegen einen etwa divergierenden Einzelwillen durchzusetzen" sowie „das einheitliche Auftreten der konsumgenossenschaftlichen Unternehmen am Markt" sicherzustellen[28].

Am aufschlußreichsten ist vielleicht die Feststellung von *Hasselmann*, daß die regionalen Konsumgenossenschaften vor der Gründung des Bundes „nicht einmal verpflichtet" gewesen seien, „die Dienste, für die sie die Großeinkaufsgesellschaften geschaffen hatten, in Anspruch zu nehmen". Ebensowenig sei die GEG damals „zu unternehmerischen Wei-

[27] Ebenda, S. 365.

[28] *E. Hasselmann*, Die Polarität von Autonomie und Einheit in der konsumgenossenschaftlichen Praxis, dargestellt an der konsumgenossenschaftlichen Strukturreform des Jahres 1967, in: Genossenschaften und Genossenschaftsforschung, Festschrift für G. Draheim, a. a. O., S. 378.

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sungen an die Konsumgenossenschaften" befugt gewesen[29]. Diese Hinweise sind in der Tat kaum mißzuverstehen. Sie lassen nur den Schluß zu, daß es — zumindest de facto — gelungen ist, den Bezugszwang durchzusetzen. Was das wettbewerbspolitisch bedeutet, läßt sich daran ermessen, daß die Konsumgenossenschaften schon jetzt rund 60 % ihres Sortiments von der GEG beziehen, die 1969 einen Gesamtumsatz von 2,46 Mrd. DM verzeichnen konnte. Davon entfielen allerdings 31 % auf die Eigenproduktion, die übrigen 69 % (1,7 Mrd. DM) auf Umsätze im Handel. Da die GEG rund 20 % ihres Umsatzes mit privaten Unternehmen des Lebensmittel-Großhandels tätigt, dürften die Bezüge der regionalen Genossenschaften bei etwa 2 Mrd. DM liegen. Wenn davon auch ein Teil auf die Abnahme von Waren aus der Eigenproduktion der GEG entfällt, deren Käufe über Verrechnungspreise abgewickelt werden, so bleibt — schon jetzt — eine aggregierte Nachfrage auf den Absatzmärkten der Lebensmittelindustrie in einem Ausmaß übrig, das sich kaum noch mit dem Wunsch nach Bildung gegengewichtiger Marktmacht erklären läßt.

Wenn schließlich darauf aufmerksam gemacht wird, daß z. B. in Dänemark und Schweden „die Schaffung eines einheitlichen konsumgenossenschaftlichen Unternehmens für das ganze Land das erklärte Ziel der Konsumgenossenschaftsbewegung" sei[30], dann dürfte dies ebensowenig ein Zufall sein wie die lancierte Meldung über Pläne, die Rechtsform der Genossenschaft — auch in den unteren Rängen — endgültig zu verlassen und den konsumgenossenschaftlichen Gesamtkomplex in eine „Volksaktiengesellschaft co op" einzubringen.

Wieder erhebt sich die Frage, ob man die Rechtsform der Aktiengesellschaft wählen möchte, um freien Zugang zum Kapitalmarkt zu gewinnen und gleichzeitig das aktuelle Problem der Beteiligung der 2,2 Mill. Mitglieder am Vermögen und am Wertzuwachs lösen zu können; oder ob damit auch die letzten, bisher noch fehlenden Klammern vertikaler Integration zu einer Einheitsgesellschaft eingebaut werden sollen. Wieder muß die Frage offenbleiben. Sicher ist nur so viel, daß selbst dann, wenn man die Umwandlung in eine einzige AG nur mit den zuerst genannten Zielsetzungen motivieren sollte, die Einheitsgesellschaft — bemerkenswert geräuschlos — als Nebenprodukt anfallen würde.

III. Standort und Aufgaben landwirtschaftlicher Genossenschaften

Die Position der landwirtschaftlichen Genossenschaften, die Struktur ihrer Organisation sowie die Schwerpunkte ihrer Aktivität werden von den Aufgaben bestimmt, die sie sich selbst stellen oder die sie im Rah-

[29] Ebenda, S. 370.
[30] *E. Hasselmann*, a. a. O., S. 368.

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men, u. U. auch im Auftrag der staatlichen Agrarpolitik zu erfüllen haben. Als Ansatzpunkte ihrer Interventionen werden seit jeher vor allem die Zersplitterung des Angebots landwirtschaftlicher Produkte, eine daraus resultierende strukturelle Marktschwäche — vor allem gegenüber einer ständig fortschreitenden Konzentration der Nachfrage — genannt, zum andern eine inhärente Labilität der Agrarmärkte, funktionslose Preisschwankungen und damit hohe, auch witterungsbedingte Unsicherheit bei geringer Markttransparenz.

Dieser Ausgangslage entsprechen die Bemühungen um eine möglichst weitgehende Zusammenfassung des Angebots — man sprach von der Notwendigkeit, den „Monopolisierungsgrad" der Landwirtschaft zu stärken, zentrale Absatzorganisationen einzurichten und schließlich durch verstärkte Integration (Übernahme von Handelsstufen und Einschaltung in den Verarbeitungsprozeß) „grundsätzlich ... bis in die Sphäre des Kleinhandels vorzustoßen"[31]. Damit sollten zugleich die Voraussetzungen für eine berufsständige Marktregulierung geschaffen werden, die wiederum eine wirksame Stabilisierung der wichtigsten Märkte für landwirtschaftliche Erzeugnisse sicherzustellen hätte. Daß man bei all diesen Vorhaben auch einen Einkommenseffekt im Auge hatte, braucht kaum gesagt zu werden.

Wichtiger ist die Feststellung, daß auch dann, wenn man die Notwendigkeit von Interventionen auf Agrarmärkten sowie die Berechtigung der Paritätsforderung unterstellt, immer noch offenbleibt, wer diese Aufgaben durchführen soll und in welcher Weise dies am zweckmäßigsten geschehen kann. Das kann einmal der Staat sein, der sich z. B. besonderer Marktordnungsgesetze bedient, die mit Einfuhrkontrollen, Exportsubventionen, Festpreisen, Mindest-, Höchst-, Richt- und Interventionspreisen mit Abschöpfungen, Vorratsstellen, Anbaubeschränkungen, Andienungsvorschriften und ähnlichen Mitteln arbeiten. So sind z. B. auf dem EWG-Agrarmarkt bereits seit dem 1. Juli 1968 für mehr als 90 % des Wertes der Agrarerzeugung gemeinsame Markt- und Preisregelungen in Kraft. Sie sind meist — wie z. B. die EWG-Marktregelung für Getreide — so beschaffen, daß sie jede weitere (nicht staatliche) Regulierung überflüssig machen. Ein in diesem Zusammenhang sehr aufschlußreiches Beispiel liefert England, wo nach Schaffung der Milk Marketing Boards „der genossenschaftliche Anteil an der Erfassung der Milch so gering geworden" ist, „daß die Molkereigenossenschaften in England überhaupt keine Rolle spielen"[32]. Dasselbe hat sich in der Südafrikanischen Union gezeigt,

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[31] *H. J. Seraphim,* Die marktordnerischen Funktionen der landwirtschaftlichen Absatzgenossenschaften, ZfgG, Bd. 1 (1951), S. 97/101.

[32] *H. Meyerholz,* Organisation und Bedeutung des landwirtschaftlichen Genossenschaftswesens in den Niederlanden, England und Schweden, Frankfurt/M. 1953, S. 34. Vgl. ferner *M. Rolfes,* Neue Formen der Kooperation land-

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wo die Marktordnungen für die wichtigsten Agrarprodukte die Stellung der Genossenschaften ebenfalls erheblich geschwächt haben[33].

Es sind ferner Lösungen denkbar, die zwar vorrangig staatliche oder halbstaatliche Marktregelungen vorsehen, gleichzeitig jedoch den verschiedensten berufsständischen Organisationen — darunter auch landwirtschaftlichen Genossenschaften — den Beitritt offenhalten. Dies ist z. B. der Fall bei den holländischen „Produktschappen", die als vertikale Zwangszusammenschlüsse öffentlichen Rechts Vollmacht haben, allgemein verbindliche Vorschriften für Produktion, Absatz, Verteilung, Verarbeitung und Ausfuhr der wichtigsten landwirtschaftlichen Erzeugnisse zu erlassen. Hierher gehören auch die französischen „groupements des producteurs" von 1960/1962, die allerdings keine Zwangszusammenschlüsse darstellen, denen der Gesetzgeber vor allem strukturpolitisch wichtige Aufgaben anvertraut hat. Dieses Experiment hat inzwischen so weit Schule gemacht, daß die EWG-Kommission — nicht zuletzt deshalb, um eine Benachteiligung der übrigen EWG-Länder im Wettbewerb zu verhindern — eine Verordnung vorbereitet hat, die die Anerkennung von Erzeuger*gemeinschaften* einheitlich regelt[34]. An der jüngsten Fassung dieses Entwurfs interessiert in diesem Zusammenhang vor allem die Präambel, in der die Notwendigkeit unterstrichen wird, „die Landwirte zu Zusammenschlüssen zu veranlassen", um der landwirtschaftlichen Bevölkerung eine angemessene Lebenshaltung zu gewährleisten, die Märkte zu stabilisieren und die Erzeugung den Markterfordernissen anzupassen[35].

Diese Aufzählung ist insofern bemerkenswert, als hier offensichtlich dieselben Aufgaben genannt werden, denen sich die Genossenschaften bekanntlich seit jeher verschrieben haben. Daß sie in diesem Zusammenhang nicht einmal angesprochen werden, sollte man nicht überschätzen. Jedenfalls steht auch Genossenschaften frei, sich in Erzeugergemeinschaften umzuwandeln oder solche vorzuschalten. Ebensowenig wird man allerdings die Tatsache unterschätzen dürfen, daß es nicht — wie man eigentlich erwarten dürfte — die Genossenschaften waren, an die dieser Auftrag erging, sondern daß hier neue Wege beschritten werden, die nicht unbedingt zu den Genossenschaften hinführen müssen, und daß es z. B. in der BRD Erzeugergemeinschaften gibt, die, auf eine Initiative des Landhandels zurückgehend, in keiner Beziehung zu irgendeiner Genossenschaft stehen.

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wirtschaftlicher Betriebe in England, in: Genossenschaften und Genossenschaftsforschung, Festschrift für G. Draheim, a. a. O., S. 445: [Es] „fehlen fast gänzlich die bei uns so wichtigen Molkereigenossenschaften".

[33] *C. H. Marks*, in: Foreign Agriculture, Juli/August 1953, S. 134 ff.

[34] In der Bundesrepublik ist die Bildung von Erzeugergemeinschaften bereits Gegenstand des „Marktstrukturgesetzes" vom 16. 5. 1969 gewesen.

[35] Amtsblatt der Europäischen Gemeinschaften, Nr. C 70/35 vom 12. 6. 1970.

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Schließlich kann eine staatliche Marktordnung von vornherein so konzipiert sein, daß sie einer Ergänzung durch eine bestimmte Aktivität von Genossenschaften bedarf. Ein Beispiel dafür bietet § 100 GWB, der seine Existenz, wie aus der amtlichen Begründung zum Kartellgesetzentwurf hervorgeht, der Vorstellung verdankt, daß auf „eine gewisse Lenkung" landwirtschaftlicher Märkte — auch außerhalb der damals geltenden Marktordnungsgesetze — nicht verzichtet werden könne. Ebenso gilt Art. 85 EWG-Vertrag nicht für Verträge, Beschlüsse und aufeinander abgestimmte Verhaltensweisen, „die wesentliche Bestandteile einer einzelstaatlichen Marktordnung sind" — obwohl kaum zweifelhaft sein kann, daß die Voraussetzungen, die vielleicht seinerzeit in der BRD eine derart weitgehende Sonderstellung der landwirtschaftlichen Genossenschaften zu rechtfertigen vermochten, inzwischen längst weggefallen waren.

Diese Aufstellung wäre indessen unvollständig, wenn man nicht zuletzt noch an jene Fälle denken würde, in denen landwirtschaftliche Genossenschaften auf Märkten tätig sind, die entweder keiner Marktordnung unterliegen oder deren Regulierung noch einen gewissen Spielraum für — an sich nicht vorgesehene — genossenschaftliche Interventionen offenläßt. Eine solche Aktivität kann — man denke nur an den Gesamtkomplex betrieblicher und überbetrieblicher Rationalisierung — von großem gesamtwirtschaftlichen Nutzen sein. Sie kann dann aber auch unerwünscht sein, wenn etwa Märkte von Genossenschaften reguliert werden, die der Gesetzgeber nicht reguliert wissen wollte.

Es ist ferner vorgekommen, daß z. B. nach Aufhebung des bisherigen Festpreises (für Butter) und nach Einführung eines gesetzlichen Höchstpreises — in der Absicht, dem Preiswettbewerb größeren Spielraum zu geben — die zuständige genossenschaftliche Butter- und Eierzentrale die ihr angeschlossenen 450 Molkereien veranlaßt hat, Butter ab sofort nur noch zu diesem Höchstpreis in den Handel zu geben, wenn „drastische Maßnahmen über die berufsständischen Organisationen" vermieden werden sollten. Das mit diesem Vorgang befaßte Gericht stellte damals mit Recht fest, daß das Kontor mit diesem Appell den Zweck verfolgt habe, „die in der Butterpreisverordnung M 1/51 vorgesehenen Höchstpreise zu Festpreisen zu machen, also das zu erreichen, was gerade mit der neu geschaffenen Höchstpreisregelung ausgeschlossen sein sollte"[36].

Die gleiche Butter- und Eier-Zentralgenossenschaft hatte übrigens auch den Versuch gemacht, die ihr angeschlossenen Molkereien durch Satzung zu verpflichten, ihre gesamte Butterproduktion sowie ihre Eierbestände allein der Zentrale zur Verfügung zu stellen. Mit dieser Zusammenfassung fast des gesamten Butter- und Eieraufkommens zweier

[36] WuW, Jg. 2 (1952), S. 649 f.

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Bundesländer, so erklärte wiederum das Gericht, habe die Genossenschaft eine fast uneingeschränkte Monopolstellung besessen. Das Milch- und Fettgesetz sehe zwar die Möglichkeit einer Preisfestsetzung für Butter vor. „Eine solche Preisfestsetzung soll jedoch durch die Bundesregierung erfolgen und nicht einseitig durch einen monopolistischen Kontrahenten des Buttermarktes."[37] Zum gleichen Urteil müßte man auch dann kommen, wenn es sich bewahrheiten sollte, daß Molkereiverbände ungeachtet der am 1. 4. 1970 durch EWG-Beschluß beseitigten Einzugs- und Absatzgebietsmonopole übereingekommen waren, sich weiterhin streng an die alten Verkaufsbezirke zu halten.

In diesem Zusammenhang müssen schließlich noch zwei Vorgänge besonderer Aktualität im genossenschaftlichen Kreditsektor erwähnt werden. Einmal geht es um die grundsätzliche Frage, ob es sich noch länger vertreten läßt, daß die Raiffeisenkassen in der BRD mit wenigen Ausnahmen zugleich das Warengeschäft betreiben[38]. Diese Kombination hat zur Folge, daß die Gewährung von Darlehen nicht selten davon abhängig gemacht wird, daß sich der kreditnehmende Landwirt verpflichtet, bestimmte Erzeugnisse, die die Bauern erfahrungsgemäß lieber an den Landhandel verkaufen, nunmehr genossenschaftlich zu verwerten. Da sich Koppelungsgeschäfte dieser Art, die kaum eines Kommentars bedürfen, nur dadurch wirksam unterbinden lassen, daß Kredit- und Warengeschäft organisatorisch getrennt werden, sehen zahlreiche Genossenschaftsgesetze des Auslandes ausdrücklich vor, daß Kreditgenossenschaften keine Warengeschäfte betreiben dürfen.

Eine ähnliche Regelung wäre hierzulande kaum jemals diskutiert worden, wenn nicht — und damit kommen wir zum zweiten Punkt — die gegenwärtig laufenden Verhandlungen über eine Fusion zwischen Raiffeisen-Kreditgenossenschaften und gewerblichen Kreditgenossenschaften (vor allem Volksbanken) auch diese Frage aufgeworfen hätten. Sollte diese Fusion, wie — unter wettbewerbspolitischem Aspekt — zu befürchten ist, demnächst zustande kommen, dann bestünde immerhin die Möglichkeit, daß die Raiffeisenkassen nach dem Vorbild des „Württemberger Modells" das Warengeschäft vor der Fusion an eine andere Organisation (in Bayern etwa an die Bayr. Warenvermittlung Landwirtschaftlicher Genossenschaften AG) abgeben.

Dieser Katalog möglicher — und realisierter — Beziehungen zwischen staatlicher Agrarpolitik und Genossenschaften zeigt mit aller wünschenswerten Deutlichkeit, daß Urteile über die derzeitige Konzentration im landwirtschaftlichen Genossenschaftswesen, über einen optimalen Konzentrationsgrad oder über ein notwendiges Mindestmaß an ver-

[37] WuW, Jg. 2 (1952), S. 929.
[38] Umsätze der ländlichen Kreditgenossenschaften im Bezugs- und Absatzgeschäft (1969) = 3,3 Mrd. DM.

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tikaler Integration erst dann gefällt werden können, wenn die Aufgaben feststehen, die die Genossenschaften zu lösen haben.

Die Entscheidung darüber kann allerdings niemals eine endgültige sein. Zahlreiche Aufgaben, die bisher von den Genossenschaften wahrgenommen wurden, haben inzwischen an Bedeutung verloren — nicht selten deshalb, weil die Genossenschaften sie mit Erfolg bewältigt haben. Andere ihrer traditionellen Aufgaben werden heute anders gelöst. Das gilt nicht nur im Hinblick auf die Erzeugergemeinschaften, deren Möglichkeiten sich noch nicht mit Sicherheit abschätzen lassen. Eher könnte es sein, daß die bisherigen Versuche, die Erzeugung im wesentlichen über die Preise zu steuern, nach den ungünstigen Erfahrungen der letzten Zeit aufgegeben werden und daß man vielleicht Marketing Boards nach englischem Muster einrichten wird, denen wie in England u. a. auch die Auszahlung der — dann zweifellos notwendigen — deficiency payments zukäme.

Daß diese Lösung für die Genossenschaften weittragende Konsequenzen haben könnte, braucht kaum noch einmal gesagt zu werden. Nun kann die Entwicklung auch anders verlaufen. Sicher ist nur so viel, daß wir von einer Antwort auf die oben gestellte Frage weiter entfernt sind denn je.

Diese Feststellung gilt allerdings in keiner Weise für die Theoretiker und Praktiker des Genossenschaftswesens, für die nur die Notwendigkeit weiterer Konzentration existiert, die sowohl mit dem Fortschreiten der Konzentration auf der Nachfrageseite[39] als auch mit dem Zwang begründet wird, wesentlich größere Betriebs- und Entscheidungseinheiten zu schaffen. Wieder wird — nicht zufällig — zunächst einmal eine Revision des Genossenschaftsgesetzes verlangt, da die (heute noch vom Gesetz geforderte) Zustimmung jedes einzelnen Mitglieds zur Einführung eines lückenlosen Absatz- und Bezugszwangs[40] „de facto niemals beizubringen sein wird"[41].

Bezeichnenderweise beruft man sich dabei auf die Konsumgenossenschaften, denen es bereits gelungen sei, „die Selbständigkeit der Einzelgenossenschaften einzuschränken und wichtige Kompetenzen an die mit

[39] In diesem Zusammenhang wird vor allem auf die Entwicklung der zusammengefaßten Marktanteile der Filialunternehmen des Lebensmitteleinzelhandels (einschließlich der Lebensmittelabteilungen der Warenhäuser) und der Konsumgenossenschaften am Gesamtabsatz des Lebensmitteleinzelhandels verwiesen, der 1969 34,2 % erreicht hatte — gegen 23,5 % im Jahre 1953.

[40] Die Mitglieder müssen „veranlaßt werden, ihrer Genossenschaft ihre gesamte Erzeugung anzubieten — und sinngemäß ihren gesamten Bedarf bei ihr" zu decken. *Th. Sonnemann,* Genossenschaften im Wandel, ZfgG, Bd. 19 (1969), S. 10.

[41] „Eine Modernisierung des Genossenschaftsrechts, das die Schaffung von festen Liefer- und Abnahmebeziehungen erleichtert, erscheint dringend geboten." Ebenda, S. 10, passim.

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Weisungsrechten ausgestattete Verbandsspitze zu übertragen". Der nächste Schritt müsse dann die „Straffung des organisatorischen Aufbaus" durch „Aufteilung der wirtschaftlichen Funktionen" sein, wobei die Genossenschaftszentralen (nach genauer Festlegung der Einzugs- und Absatzgebiete) die regionalen Märkte zu versorgen hätten, „während der übergebietliche Marktausgleich und der grenzüberschreitende Waren- und Geldverkehr ausschließlich in der Hand der Bundeszentralen liegen sollten". Damit soll auch hier erreicht werden, was z. Z. offenbar allen genossenschaftlichen Spitzenverbänden vorschwebt: „Bei Aufrechterhaltung ihrer Rechtspersönlichkeit müssen die örtlichen Genossenschaften den Status von Filialen der Zentralen einnehmen."[42]

Es fehlen auch nicht Überlegungen, wie diese Konzentrationspläne rechtlich — vor allem gegenüber den Kartellbehörden — abgesichert werden könnten. Man überlegt daher, an die Stelle eines Bezugszwangs, dessen Einführung in der Praxis auf Schwierigkeiten stößt und der auch nicht durch § 100 GWB gedeckt wird, ein Bündel vertikaler Ausschließlichkeitsverträge zu setzen, mit denen sich u. U. der gleiche Effekt erzielen ließe. Besondere Aufmerksamkeit verdient jedoch der Gedanke von *Westermann*, alle landwirtschaftlichen Genossenschaften in der BRD zu einem einzigen Unternehmen zusammenzufassen. „Ein Weg", so hatte er bereits 1965 vorgeschlagen, „ungehindert von § 1 GWB zu einem einheitlichen Auftreten der gesamten genossenschaftlich zusammengefaßten Landwirtschaft auf den Markt zu kommen, bietet sich in der Gründung einer einzigen umfassenden Zusammenfassung an, in der die bisher selbständigen genossenschaftlichen Geschäftszentralen aufgehen. Es gibt dann nicht mehr wie bisher eine große Anzahl selbständiger Ortsgenossenschaften, die ihrerseits wieder in selbständig nebeneinander stehenden Zentralgenossenschaften zusammengefaßt sind, sondern nur noch eine einzige Genossenschaft oder sonstige juristische Person mit einer großen Anzahl vielleicht wirtschaftlich in gewissem Umfange selbständiger, der Rechtssubjektivität nach aber unselbständiger Filialen oder ‚örtlicher Geschäftsstellen' auf der unteren oder mittleren Ebene. Ein Wettbewerb zwischen den bis dahin selbständigen Unternehmen kann in einem solchen Falle nicht im Sinne des GWB ‚beschränkt werden', da es einen Wettbewerb mangels selbständiger Rechtssubjekte nicht mehr gibt."[43]

Dieser geradezu beängstigenden Vision eines auf allen Ebenen gegen jeden Wettbewerb fugendicht abgeschirmten monolithischen Blocks wollte Westermann allerdings „mehr theoretische als praktische Bedeu-

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[42] Ebenda, S. 8.

[43] *H. Westermann*, Die Marktintegration als Rechtsproblem, in: Marktintegration und agrarpolitisch relevante Tätigkeit der Genossenschaften, Berichte über Landwirtschaft (NF), Sonderh. 183, Hamburg, Berlin 1967, S. 35.

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tung" beimessen. Die Spitze des Raiffeisenverbandes war jedoch, wie man verstehen kann, der Meinung, daß die Möglichkeit eines Zusammenschlusses der gesamten genossenschaftlich organisierten Landwirtschaft, in dem auch die Zentralen nur noch „die Funktion von Zweigniederlassungen ausüben", immerhin „ein interessanter Aspekt" sei[44].

Der Versuch, die Produktionsmengen und Preise auf diese Weise in den Griff zu bekommen, würde jedoch zu einer bis ins Einzelne gehenden Kontingentierung der Erzeugung zwingen und damit eine von oben dirigierte Selektion notwendig machen, die zumindest einer ehemaligen Genossenschaft seltsam anstehen würde. Der entscheidende Einwand gegen ein solches System geht indessen dahin, daß es — wie immer die Ziele auch aussehen mögen — eines derartigen Agrardirigismus gar nicht bedarf, da „es zweckmäßigere Mittel gibt, das Preisniveau und das Einkommen der Landwirte zu verbessern"[45].

IV. Notwendigkeit und Kriterien einer Fusionskontrolle

Vergegenwärtigt man sich noch einmal, daß der heute mit einer bisher unerreichten Intensität ablaufende Prozeß der Konzentration und vertikalen Integration im Sektor der gewerblichen Genossenschaften und der Konsumgenossenschaften sowie ihrer Nachfolgegesellschaften im wesentlichen als Reaktion auf eine weitgehend veränderte Wettbewerbssituation verstanden werden muß, dann scheint sich in der Tat der *Proudhonsche* Satz zu bestätigen: „la concurrence tue la concurrence." Es fragt sich jedoch, ob diese Entwicklung so zwangsläufig ist, wie immer wieder behauptet wird. Kommt es nicht vielmehr entscheidend darauf an, jenes kritische Maß an Konzentration zu ermitteln, das — einmal unter dem Aspekt der Schaffung gleicher Startbedingungen im Bereich der Organisation der Unternehmen, zum andern (bei den landwirtschaftlichen Genossenschaften) im Hinblick auf die ihnen gestellten Aufgaben — wettbewerbspolitisch akzeptiert werden kann?

Diese Frage hat mit der Vorstellung von der Notwendigkeit gegengewichtiger Marktmacht, über die wettbewerbspolitisch kein Wort zu verlieren ist, nicht das geringste zu tun[46]. Ebensowenig kann im Rahmen dieses Beitrags auch nur der Versuch gemacht werden, sie zu beantworten. Zur Diskussion stehen lediglich einige Ansatzpunkte wettbewerbspolitischer Intervention, zu der dieser Konzentrationsprozeß zweifellos herausgefordert hat und die bereits skizziert wurden.

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[44] *G. Klusak*, Marktintegration als Rechtsproblem, Korreferat und Berichterstattung, a. a. O., S. 45.

[45] *H. Stamer*, Länderbericht: Frankreich, Korreferat und Berichterstattung, a. a. O., S. 97.

[46] Vgl. *S. L. Gabriel*, Machtausgleich durch genossenschaftliche Abwehrkartelle?, WuW, Jg. 4 (1954), S. 599 f.

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Zusammenfassend kann man vielleicht sagen, daß horizontale Kooperationen, die auf lückenlosen Bezugs- und Absatzzwang abzielen, grundsätzlich nicht ermutigt werden sollten — auch nicht unter dem Gesichtspunkt, daß die Ablehnung derartiger Absprachen oder Zusammenschlüsse nur den — noch weniger wünschenswerten — Effekt haben könne, diese Gruppen in die Fusion zu treiben. Diese Alternative ist zwar gegeben — jedenfalls heute noch. Es darf aber nicht übersehen werden, daß das Zustandekommen einer Fusion häufig auf Widerstand stößt. Es kann also keine Rede davon sein, daß sich die Fusion de facto stets als eine mögliche gleichrangige Alternative anbiete. Daß diese Bremse — Ausdruck einer „rückschrittlichen Selbständigkeitsideologie" — in der Praxis von nicht geringer Bedeutung ist, läßt sich allein schon an den ständig wiederholten Appellen ablesen, die die Jahrestagungen genossenschaftlicher Verbände und anderer Gruppen begleiten. Vielleicht hat sogar gerade die Freiheit der Mitglieder, bei jedem Einkauf oder Verkauf zwischen dem Genossenschaftsbetrieb und dem privaten Handel wählen zu können, mehr für den Leistungsstand der Genossenschaften getan, als eine wirksame Filialisierung tun könnte.

Erwartungen, die man heute noch an eine weitere Konzentration auf der Nachfrageseite knüpft, werden sich früher oder später auch deshalb als Trugschluß erweisen, weil die „scharfe Konkurrenz auf der Produktionsseite und die Zusammenschlüsse auf der Abnehmerseite ... bei vielen Industriebetrieben den Wunsch nach Fusion oder Kooperation mit der Konkurrenz aufkommen" lassen. So haben z. B. allein im zweiten Halbjahr 1969 „bedeutende Fusionen in der Tiefkühl-, Konserven-, Fleischwaren- und Teigwarenbranche ... stattgefunden. Dieser Prozeß dürfte noch nicht zu Ende sein"[47].

Zu dieser von der REWE-Organisation ausgesprochenen Vermutung wäre höchstens zu bemerken, daß dieser Prozeß mit Sicherheit weitergehen wird, und zwar so lange, als auch die Konzentration im Handel weitergeht — innerhalb der einzelnen Einkaufsverbände und schließlich durch Fusion, sei es zwischen den beiden Nachfolgegesellschaften der Genossenschaften, zwischen freiwilligen Ketten oder nicht zuletzt auch zwischen den Filialunternehmen. Am Ende dieser Entwicklung stünde dann nicht nur die Vermachtung der betreffenden Märkte, sondern darüber hinaus noch eine forcierte, fast ausschließlich über Fusionen vollzogene vertikale Integration, die sich in der BRD bereits abzeichnet, in den USA dagegen schon einen erheblichen Umfang erreicht hat. Dort ist es zunächst der Handel gewesen, der allmählich in einzelne Bereiche der Produktion eingedrungen war, während die Ernährungsindustrie später,

[47] Aus dem Jahresbericht der REWE-Organisation für 1969, Zentralverband des genossenschaftlichen Groß- und Außenhandels, Jahrestagung in Bonn, 1970, S. 35.

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dann aber ungleich massiver zurückschlug, indem sie Filialunternehmen und Einkaufsgruppen durch Kauf oder finanzielle Beteiligung unter ihre Kontrolle gebracht hat[48].

Es bedarf daher zweifellos noch einer zweiten Bremse in der Form einer direkten Fusionskontrolle, die sowohl auf das Ausmaß der mit einer Fusion mutmaßlich verbundenen Wettbewerbsbeschränkung, als auch auf absolute Größen abstellen müßte. Zu dem zuletzt genannten Kriterium sei auf zwei interessante Beispiele verwiesen. So enthielt z. B. das japanische Gesetz über die landwirtschaftlichen Genossenschaften vom 19. November 1947 die gegen die Bildung marktbeherrschender Unternehmen gerichtete Vorschrift, daß genossenschaftliche Zentralen, die über das Gebiet einer Präfektur hinausgehen, weder den Absatz landwirtschaftlicher Produkte noch den Einkauf von landwirtschaftlichen Bedarfsgegenständen vornehmen dürfen[49]. Dasselbe gilt für Konsumvereine oder Zentralen von Konsumgenossenschaften, die, sofern sie über den Bereich einer Präfektur hinausgehen, nach dem Gesetz von 1948 weder im Handel noch in der Produktion tätig sein durften[50].

Nicht minder bemerkenswert war der Vorschlag der EWG-Kommission vom 21. 2. 1967, Erzeugergemeinschaften (oder deren Vereinigungen) aus wettbewerbspolitischen Gründen dann von der Anerkennung — und damit von jeder Förderung — auszuschließen, wenn sie mehr als 5 % der Gesamterzeugung eines landwirtschaftlichen Produkts innerhalb der EWG kontrollieren. In einem solchen Fall, so heißt es in der Begründung zu diesem Verordnungsentwurf, könne angenommen werden, daß die Tätigkeit dieser Erzeugergemeinschaften bei den von ihnen jeweils angebotenen Erzeugnissen für den gesamten Markt der Gemeinschaft oder für einen großen Teil dieses Marktes „von unmittelbarer Bedeutung" sei[51]. Der Umstand, daß die jüngste Fassung dieses Entwurfs (1970) diese Wettbewerbsklausel nicht mehr enthält, ist allerdings eher ein Indiz für die „unmittelbare Bedeutung" der davon betroffenen Verbände[52].

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[48] *W. F. Mueller* and *L. Garoian*, Changes in the Market Structure of Grocery Retailing, Madison 1961, S. 152 f.

[49] *B. Yamazaki*, Die japanische Genossenschaftsbewegung, Internationale Genossenschaftliche Rundschau, 1952, S. 115 ff.

[50] *S. Nakabayashi*, Die japanische Genossenschaftsbewegung, a. a. O., S. 38.

[51] Vorschlag für eine Verordnung des Rates betreffend die landwirtschaftlichen Erzeugergemeinschaften und ihre Vereinigungen, vorgelegt am 21. 2. 1967 (67/185/EWG), Amtsblatt der Europäischen Gemeinschaften vom 20. 3. 1967, S. 758.

[52] Ebenda, Nr. C 70/35 vom 12. 6. 1970.

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lieb, Stuttgart, Düsseldorf 1954, S. 209 ff. — *Salomon,* P., Genossenschaften und Wirtschaftsordnung (Diss.), St. Gallen 1957. — *Heeren,* E., Die Konzentration wirtschaftlicher Macht auf der Nachfrageseite (Diss.), Kiel 1958. — *Sölter,* A., Nachfragemacht und Wettbewerbsordnung, Schriftenreihe „Der Betrieb", Düsseldorf 1960². — *Ohm,* H., Integration, Integrationsformen und Kartellgesetz, 1962. — *Helmberger,* P., und *Hoos,* S., Cooperative Enterprise & Organization Theory, Journal of Farm Economics, Vol. 44 (1962), S. 275 ff. — *Weller,* Th., Das Problem der Nachfragemacht, Bl.f.G. (1963), S. 141 ff. — *Bouffier,* W., Probleme des Wettbewerbs und der Wettbewerbspolitik der Genossenschaften, ZfgG, Bd. 14 (1964), S. 211 ff. — *Diederichs,* E. H., Hauptprobleme der modernen Kooperation im Handel, in: Kooperation und Konzentration der Unternehmungen im Wettbewerb, Hrsg. Deutsche Gesellschaft für Betriebswirtschaft, Berlin 1964, S. 137 ff. — *Geisbüsch,* H.-G., Die organisierte Nachfrage, Organisation und Strategie marktbeeinflussender oder marktbeherrschender Nachfrager, FIW-Schriftenreihe, H. 18, Köln 1964. — *Internationales Arbeitsamt,* Die Rolle der Genossenschaften in der wirtschaftlichen und sozialen Entwicklung der Entwicklungsländer, Genf 1964. — *Gerl,* F., Konzentrationserscheinungen in den der Landwirtschaft vor- und nachgelagerten Wirtschaftsbereichen, in: Konzentration und Spezialisierung in der Landwirtschaft, Schriften der Gesellschaft für Wirtschafts- und Sozialwissenschaften des Landbaus, Bd. 2 (1965), S. 17 ff. — *Helmberger,* P. und *Hoos,* S., Cooperative Bargaining in Agriculture, Berkeley 1965. — *Schachtschabel,* H. G., Art. „Genossenschaften (III), soziologisch-volkswirtschaftliche Problematik", HdSW, 4. Bd. (1965), S. 379 ff. — *Schmitt,* G., Strukturwandlungen — Erscheinungsformen, Antriebskräfte, Konsequenzen und Probleme, in: Konzentration und Spezialisierung in der Landwirtschaft, Schriften der Gesellschaft für Wirtschafts- und Sozialwissenschaften des Landbaus, a. a. O., S. 161 ff. — *Helmberger,* P., und J. *Youde,* Membership Policies and Market Power of Farmer Cooperatives in the US., Research Bulletin, Nr. 267 (1966), Univ. of Wisconsin Agricultural Experiment Station, Madison. — *Trappe,* P., Genossenschaften, in: Entwicklungspolitik, hrsg. v. H. Besters und E. E. Bosch, Stuttgart, Berlin 1966, Sp. 1181 ff. — *Weber,* W., Genossenschaften als konkurrierende Marktverbände: Genossenschaften und Kartell, in: Neuere Tendenzen im Genossenschaftswesen, Wiener Studien des Forschungsinstituts für Genossenschaftswesen (NF), Bd. 1 (1966), S. 98 ff. — *Deppe,* H., Genossenschaften des Lebensmitteleinzelhandels und Kartellverbot, Quellen und Studien des Instituts für Genossenschaftswesen der Universität Münster, Bd. 17, Karlsruhe 1967. — *Lockhart,* J., Das landwirtschaftliche Genossenschaftswesen in der EWG, Kollektion Studien, Reihe Landwirtschaft, Nr. 21, Brüssel 1967. — *Boettcher,* E., Vertikale Integration und Wachstumschancen der Genossenschaften, in: Genossenschaften und Genossenschaftsforschung, Festschrift für G. Draheim, Göttingen 1968, S. 140 ff. — *Eli,* M., Die Nachfragekonzentration im Nahrungsmittelhandel, Ausmaß, Organisation und Auswirkungen, Schriftenreihe des Ifo-Instituts für Wirtschaftsforschung, Nr. 67, Berlin, München 1968. — *Schachtschabel,* H. G., Ordnungspolitische Funktionen der Genossenschaften, in: Festschrift für G. Draheim, a. a. O., S. 265 ff. — *Sors,* R., Genossenschaften und Wettbewerb (Diss.), Köln 1968. — *Fragner,* H., Genossenschaften und Erzeugergemeinschaften im Agrarbereich (Diss.), Gießen 1969. — *Weber,* W., Wettbewerbsfragen im österreichischen Genossenschaftswesen, in: Sozialwissenschaftliche Untersuchungen, Festschrift für G. Albrecht, Berlin 1969, S. 89 ff.

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Summary

Cooperatives and Concentration

Within the last years the concentration among cooperatives in the Federal Republic of Germany has been rapidly increasing in two ways: on the one hand through horizontal mergers at local and regional levels, mostly with the intention to reach sizes of optimum efficiency. On the other hand closer vertical integration is envisaged with the aim of concentrating decision powers at the top.

In order to strengthen the bargaining position vis à vis powerful suppliers and thus to gain the organizational advantages of chain-trade, the buying cooperatives are contemplating to establish exclusive requirement contracts among members and their central buying office.

However, owing to the uncertainty of the status of these contracts under the Antitrust laws, the setting up of new firms through mergers is under way thereby tightening the structure of the former cooperatives.

Facing the same fierce price competition from department stores and chains, the consumer cooperatives, in 1967, have also radically changed their organization which might even end up as a giant joint-stock company.

Finally, in view of the identical movement towards unification within the network of agricultural cooperatives it is argued that the optimum degree of centralization and market power must solely be determined by the functions the government might—or might not—delegate to these organizations.

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Gewerkschaften und Konzentration

Von *Heinz Markmann*, Düsseldorf

I. Die gewerkschaftliche Haltung gegenüber der Konzentration
II. Die Gewerkschaften in der Wirtschaft
III. Gewerkschaften und Politik
IV. Gewerkschaften und Mitbestimmung
V. Die gewerkschaftliche Publizistik
VI. Die Einnahmen und Vermögen der Gewerkschaften
VII. Die gewerkschaftlichen Wirtschaftsunternehmen
A. Bank für Gemeinwirtschaft
B. Unternehmensgruppe NEUE HEIMAT
C. Unternehmensgruppe Volksfürsorge
D. Großeinkaufs-Gesellschaft Deutscher Konsumgenossenschaften mbH
E. Unternehmensgruppe „co op"
F. Beamtenheimstättenwerk
G. Gemeinwirtschaftliche Bauunternehmen
H. Gemeinwirtschaftliches Unternehmen für Touristik

Die Darstellung von Sachverhalten, welche die Gewerkschaften zu einem interessanten Objekt der Konzentrationsforschung machen, knüpft an den Beitrag an, den *Wolkersdorf* im Jahre 1960 veröffentlicht hat[1]. So sehr sich auch die sozialökonomischen Gegebenheiten in dem inzwischen vergangenen Jahrzehnt gewandelt haben mögen; hinsichtlich der damals mitgeteilten Tatbestände hat sich prinzipiell nicht viel geändert. Selbstverständlich haben sich die quantitativen Größen weiterentwickelt, aber dies auch nur mehr oder weniger im Rahmen des allgemeinen wirtschaftlichen Wachstums.

I. Die gewerkschaftliche Haltung gegenüber der Konzentration

In dem am 23. 11. 1963 auf dem außerordentlichen Bundeskongreß in Düsseldorf verabschiedeten Grundsatzprogramm des DGB wird unter den „Zielen der Wirtschaftspolitik" die „Verhinderung des Mißbrauchs wirtschaftlicher Macht" aufgeführt. Dem demokratischen Staat wird die Verpflichtung zugewiesen, die in der Machtzusammenballung infolge des

[1] *Lorenz Wolkersdorf*, Gewerkschaften und Konzentration, in der 1. Auflage dieses Werkes.

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fortschreitenden Konzentrationsprozesses in der Wirtschaft liegende wachsende Gefahr des Machtmißbrauchs zu verhindern.

Die wirtschaftliche Macht soll nach Auffassung des DGB durch ein ganzes Bündel von Methoden und Maßnahmen kontrolliert und beschränkt werden. Gefordert werden fortlaufende Konzentrationserhebungen und die Veröffentlichung ihrer Ergebnisse; die Beseitigung konzentrationsfördernder Rechtsvorschriften, besonders im Steuerrecht; die wirtschaftliche Mitbestimmung der Arbeitnehmer und ihrer Gewerkschaften; die Demokratisierung und Neuordnung der Unternehmensverfassung; die Erweiterung der Publizitätspflicht; die wirkungsvolle Ausgestaltung der Monopol- und Kartellkontrolle; die Mobilisierung des Wettbewerbs u. a. durch öffentliche und gemeinwirtschaftliche Unternehmen; den Ausbau des Systems öffentlich gebundener Unternehmen und schließlich die Überführung von Schlüsselindustrien und markt- und wirtschaftsbeherrschenden Unternehmen in Gemeineigentum.

An anderer Stelle der wirtschaftspolitischen Grundsätze[2] des DGB wird gefordert, das Wettbewerbsrecht wirksamer zu gestalten, um Einschränkung und Ausschaltung des für notwendig erachteten Wettbewerbs durch Monopole und Kartelle zu verhindern. Für die Kartellgesetzgebung wünscht der DGB das Verbotsprinzip. Die Preisbindung der zweiten Hand soll verboten und die Verbraucheraufklärung verbessert werden. Noch einmal wird der Staat aufgerufen, monopolistisch beherrschte oder durchsetzte Märkte durch direkte Intervention im Interesse der Gesamtheit zu regulieren. Den gemeinwirtschaftlichen Unternehmen wird hierbei eine wesentliche Rolle zugewiesen. In den langwierigen und wechselvollen Auseinandersetzungen um die Novellierung des Gesetzes gegen Wettbewerbsbeschränkungen haben sich die Gewerkschaften wiederholt im Sinne der in ihrem Grundsatzprogramm niedergelegten Forderungen geäußert[3].

In jüngster Zeit hat sich die Aufmerksamkeit der Gewerkschaften auch den multinationalen Unternehmen und Unternehmenszusammenschlüssen zugewandt. Die zunehmenden Verflechtungen auf dem Gebiete der Europäischen Gemeinschaften machte es notwendig, eine neue übernationale gewerkschaftliche Strategie zu entwickeln, die sich nicht auf die Lohn- und Tarifpolitik beschränken kann, sondern die auch und gerade auf Machtkontrolle gerichtet sein muß. Der Internationale Bund Freier Gewerkschaften (IBFG), der Europäische Bund Freier Gewerkschaften (EBFG) in den sechs Ländern des Gemeinsamen Marktes und eine Reihe von gewerkschaftlichen Fachinternationalen, vor allem der Automobil- und Chemiearbeiter, haben schon entsprechende Initiativen ergriffen. In den Debatten um die bisher vom Ministerrat der Europä-

[2] Abschnitt „Planung und Wettbewerb" (II/7).
[3] Vgl. DGB-Nachrichtendienst, Jg. 1969 und 1970.

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ischen Gemeinschaften auf Vorschlag der Kommission erlassenen drei Programme für die mittelfristige Wirtschaftspolitik, um die Formulierung des Rechtes der Europäischen Handels- bzw. Aktiengesellschaft und um die Entwicklung einer europäischen Industriepolitik haben sich die Gewerkschaften in der BRD immer wieder kritisch zu den Absichten geäußert, Konzentrationsprozesse zu fördern, ohne auf die Interessen der Allgemeinheit und der Arbeitnehmer gebührend Rücksicht zu nehmen.

Die deutschen Gewerkschaften haben wirtschaftliche Konzentration niemals prinzipiell abgelehnt und bekämpft. Es ist sicherlich bemerkenswert, daß es gerade in den Wirtschaftszweigen, in denen die Aufsichtsräte der Unternehmen schon seit dem Jahre 1951 paritätisch besetzt sind, zu massiven Konzentrationen gekommen ist. Nun sind der Steinkohlenbergbau und die Eisen- und Stahlindustrie in der BRD in ganz besonderem Maße von strukturellen Wandlungen ihrer Märkte erfaßt worden. Die zur Bewältigung dieser Wandlungen notwendigen Maßnahmen sind von den Gewerkschaften und ihren Repräsentanten in den Unternehmen nicht nur nicht behindert, sondern sogar aktiv gefördert worden. Voraussetzung war allerdings die soziale und wirtschaftliche Sicherung der Arbeitnehmer in den von technischen und organisatorischen Rationalisierungen betroffenen Unternehmen und Betrieben. Der von der Sachverständigenkommission zur Auswertung der bisherigen Erfahrungen bei der Mitbestimmung vorgelegte Bericht über „Mitbestimmung im Unternehmen“[4] geht in Ziffer 47 auf die Auswirkungen der Mitbestimmung auf Konzentrationsvorgänge ein. Er bestätigt vollauf die hier getroffenen Feststellungen für die Bereiche Kohle und Stahl. Diese Feststellungen lassen sich durchaus verallgemeinern.

II. Die Gewerkschaften in der Wirtschaft

In den 16 Gewerkschaften, die den Deutschen Gewerkschaftsbund bilden, waren am Ende des Jahres 1969 rund 6,5 Millionen Arbeitnehmer organisiert. Deren Verteilung auf die einzelnen Gewerkschaften und Wirtschaftsbereiche und -zweige wird aus der Tabelle 1 ersichtlich. Demgegenüber fallen die konkurrierenden Arbeitnehmerorganisationen nicht sonderlich ins Gewicht, wie Tabelle 2 zeigt.

Allein die große Zahl ihrer Mitglieder macht die Gewerkschaften in der BRD zu einem der stärksten Machtfaktoren im wirtschaftlichen und gesellschaftlichen Bereich. Ihr Einfluß wird rechtlich abgesichert durch die Grundrechtsgarantie ihrer Autonomie im Artikel 9/3 des Grundgesetzes, durch das Tarifvertragsgesetz, durch das Betriebsverfassungsgesetz, durch das Montan-Mitbestimmungsgesetz, um nur die wichtigsten zu nennen.

[4] Bundestags-Drucksache VI/334 vom 4. 2. 1970 (sog. „Biedenkopf-Bericht“).

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Tabelle 1

Mitglieder der Gewerkschaften im DGB am 31. 12. 1969

	Gewerkschaftsmitglieder	Beschäftigte insgesamt (Arbeiter, Angestellte, Beamte)	Organisationsgrad (vH)
1. Industriegewerkschaft Bau, Steine, Erden, Frankfurt	496 953	2 150 000[a]	23,1
2. Industriegewerkschaft Bergbau	403 020	312 000[a]	—
3. Industriegewerkschaft Chemie, Papier, Keramik, Hannover	552 552	1 220 000[a]	45,3
4. Industriegewerkschaft Druck und Papier, Stuttgart	143 357	420 000	34,1
5. Gewerkschaft der Eisenbahner Deutschlands, Frankfurt	402 470	407 000	98,9
6. Gewerkschaft Erziehung und Wissenschaft, Frankfurt	112 853	490 000[b]	23,0
7. Gewerkschaft Gartenbau, Land- und Forstwirtschaft, Kassel	49 080	400 000	12,3
8. Gewerkschaft Handel, Banken und Versicherungen, Düsseldorf	148 462	3 220 000[c]	4,6
9. Gewerkschaft Holz und Kunststoff, Düsseldorf	129 836	560 000	23,2
10. Gewerkschaft Kunst, Düsseldorf	32 840	81 000[b]	40,5
11. Gewerkschaft Leder, Stuttgart	61 402	185 000	33,2
12. Industriegewerkschaft Metall, Frankfurt	2 070 980	5 500 000	37,7
13. Gewerkschaft Nahrung-Genuß-Gaststätten, Hamburg	243 255	1 430 000[d]	17,0
14. Gewerkschaft Öffentl. Dienste, Transport u. Verkehr, Stuttgart	969 755	3 350 000	28,9
15. Deutsche Postgewerkschaft Frankfurt	354 604	435 000	81,5
16. Gewerkschaft Textil-Bekleidung, Düsseldorf	310 971	1 070 000	29,1
DGB insgesamt	6 482 390	21 230 000	30,5
Vergleichszahlen 31. 12. 1968	6 375 972		
Vergleichszahlen 31. 12. 1967	6 407 733		

a) strittige Bereiche.
b) nicht genau abgrenzbar, insbes. gegenüber ÖTV.
c) strittige Bereiche (NGG/ÖTV).
d) strittige Bereiche (HBV/Chemie).
Quellen: Statistisches Jahrbuch 1970, S. 136; eigene Berechnungen.

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Tabelle 2

Gewerkschaftsmitglieder am 30. 9. 1969

Organisation	Mitglieder
Deutsche Angestellten-Gewerkschaft (DAG)	467 796
Deutscher Beamtenbund (DBB)	718 914
Deutscher Handels- und Industrieangestellten-verband (DHV)	61 138
Christlicher Gewerkschaftsbund	190 000[1]

Quelle: Statistisches Jahrbuch 1970, S. 136.

[1]) Mitte 1970; einschließlich Splittergruppen; Schätzung.

Der faktische Einfluß der Gewerkschaften auf die Gestaltung der Arbeits- und Lebensverhältnisse im weitesten Sinne kann nicht quantifiziert werden. Zwar gibt es eindrucksvolle Zusammenstellungen über die Beteiligung von Gewerkschaftsvertretern am Prozeß der Meinungs- und Willensbildung[5]. Zwar gibt es monographische Untersuchungen über die Einflußnahme der Gewerkschaften auf die Gesetzgebung[6]. Doch vermögen diese Darstellungen das tatsächliche Gewicht der Arbeitnehmerorganisationen nicht zu erfassen. Am deutlichsten manifestiert sich ihre Macht noch immer in der Tarifpolitik, dem zentralen Bereich des Kampfes um die Verteilung des Sozialproduktes. Zusammen mit der anderen Tarifvertragspartei, den Arbeitgeberverbänden oder einzelnen Unternehmensleitungen, entscheiden die Gewerkschaften autonom, d. h. ohne direkte staatliche Intervention, über die Entwicklung der Löhne und Gehälter, der Arbeitszeit, des Jahresurlaubs, der vermögenswirksamen Leistungen, über die Sicherung der Arbeitnehmer gegen die nachteiligen Folgen technisch-organisatorischer Wandlungen in den Betrieben.

In den Selbstverwaltungsorganen der verschiedenen Sparten des Systems der sozialen Sicherung gestalten die Gewerkschaften wesentlich die Lebenshaltung der noch nicht oder nicht mehr im Arbeitsprozeß stehenden Menschen mit. In allen wichtigen Gremien, durch welche sich die Parlamente und Verwaltungen in der BRD beraten lassen, haben gewerkschaftliche Experten Sitz und Stimme. Führende Gewerkschafter gehören dem Wirtschafts- und Sozialausschuß der EWG und dem Beratenden Ausschuß der EGKS an.

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[5] Vgl. *Joachim Hirsch,* Die öffentlichen Funktionen der Gewerkschaften Stuttgart 1966.

[6] Vgl. *Wolfgang Hirsch-Weber,* Gewerkschaften in der Politik, Köln 1959.

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III. Gewerkschaften und Politik

Einheitsorganisationen, wie der DGB und seine Gewerkschaften, die DAG, der DBB, sind ex definitione zu parteipolitischer Neutralität verpflichtet. Dies hindert ihre Mitglieder und Funktionäre jedoch nicht daran, sich als Staatsbürger parteipolitisch zu engagieren. Sichtbaren Ausdruck findet dieses Engagement in den Kandidaturen und schließlich in den Mandaten zu den Vertretungskörperschaften des Bundes, der Länder und Gemeinden. Wieviele der Abgeordneten in den Gemeinde- und Landesparlamenten gewerkschaftlich organisiert sind und wie sich diese auf die verschiedenen Fraktionen verteilen, ist nicht genau bekannt. Die unsystematische Beobachtung lehrt jedoch, daß in aller Regel die Vorsitzenden der DGB-Kreise und viele Vorsitzende örtlicher Gewerkschaftsorganisationen den Kommunal- und Kreisvertretungen angehören. Fast alle Mitglieder der SPD- und eine Minderheit der CDU-Landtagsfraktionen zahlen Gewerkschaftsbeiträge. Aktive Funktionäre konzentrieren erfahrungsgemäß ihre parlamentarischen Aktivitäten auf die Bereiche der Sozial- und Wirtschaftspolitik.

Von besonderem Interesse ist verständlicherweise die gewerkschaftliche Präsenz im Deutschen Bundestag. Eine sorgfältig erstellte Übersicht der Parlamentarischen Verbindungsstelle des DGB ergibt folgendes Bild[7]:

Tabelle 3

Gewerkschaftlich organisierte Bundestagsabgeordnete seit 1949

Bundestag	I 1949	II 1953	III 1957	IV 1961	V 1965	VI 1969
Zahl der Abgeordneten einschließlich Berlin	420	506	519	521	518	518
gewerkschaftlich organisiert	115	194	202	223	242	265
davon SPD	80	142	154	179	188	215
CDU/CSU	22	47	46	41	51	47
übrige Parteien ab 1961 nur F.D.P.	13	5	2	3	3	3
davon in DGB-Gewerkschaften	106	168	172	185	197	227
in anderen Gewerkschaften	9	26	30	38	45	38

Der Anteil der Abgeordneten mit dem Mitgliedsbuch einer Arbeitnehmerorganisation[8] hat sich von rd. 27 vH in der ersten Legislaturperiode

[7] *Kurt Hirche*, Gewerkschafter im VI. Deutschen Bundestag; Gewerkschaftliche Monatshefte Nr. 12 (1969), S. 716 ff.

[8] Die 23 Mitglieder des Deutschen Beamtenbundes gelten nicht als Gewerkschafter.

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stetig auf 51 vH im VI. Bundestag erhöht. Formal gesehen bildet also die Gruppe der Gewerkschafter die stärkste „Fraktion" im Parlament. Im Willensbildungs- und im Entscheidungsprozeß ist die eigentliche Machtposition der Gewerkschaften jedoch erheblich geringer, als sie sich rechnerisch darstellt. Dennoch sollte der gewerkschaftliche Einfluß im Parlament, und hier vor allem in den Ausschüssen, nicht unterschätzt werden.

Die folgende Tabelle 4 zeigt die Verteilung der gewerkschaftlich organisierten Abgeordneten des VI. Deutschen Bundestages auf die einzelnen Organisationen[9].

Tabelle 4

DGB-Gewerkschaften	SPD	CDU/ CSU	F.D.P.	Zusammen
IG Bau, Steine, Erden	9	2	—	11
IG Bergbau und Energie	9	1	1	11
IG Chemie, Papier, Keramik	2	—	—	2
IG Druck und Papier/Dt. Journalisten-Union	12	1	—	13
Gew. d. Eisenbahner	9	1	—	10
Gew. Erziehung u. Wissenschaft	28	—	—	28
Gew. Gartenbau, Land- u. Forstwirtschaft	3	1	—	4
Gew. Handel, Banken und Versicherungen	14	3	—	17
Gew. Holz und Kunststoff	1	—	—	1
IG Metall	27	5	—	32
Gew. Nahrung, Genuß, Gaststätten	2	—	—	2
ÖTV	86	5	—	91
Dt. Postgewerkschaft	2	—	—	2
Rundfunk- u. Fernseh-Union	2	—	—	2
IG Textil, Bekleidung	1	—	—	1
Insgesamt:	207	19	1	227
Andere Gewerkschaften:				
DAG	4	5	1	10
CGB	—	19	—	19
DJV	3	4	1	8
Gew. d. Polizei	1	—	—	1
	215	47	3	265

Unter diesen Abgeordneten befanden sich zu Beginn der Legislaturperiode 25 hauptamtliche Gewerkschaftsfunktionäre. Ihre Zahl ist geringer als vordem, wohl ein Zeichen für die Schwierigkeit, Doppelfunktionen mit ihren jeweiligen Belastungen auszuüben.

[9] *Hirche*, a. a. O., S. 721.

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Im Juni 1967 verabschiedete der Deutsche Bundestag das Gesetz zur Förderung des Wachstums und der Stabilität der Wirtschaft. Dieses Gesetz bildet die Grundlage der „Neuen Wirtschaftspolitik" der Bundesregierung. Ein wesentlicher Bestandteil dieser neuen Politik ist die Konzertierte Aktion, zu deren regelmäßigen Sitzungen der Bundeswirtschaftsminister die Repräsentanten der Unternehmer- und Arbeitnehmerorganisationen, den Sachverständigenrat zur Begutachtung der gesamtwirtschaftlichen Entwicklung, den Präsidenten der Deutschen Bundesbank, die Bundesminister der Finanzen und für Arbeit und Sozialordnung sowie gelegentlich den Präsidenten des Bundeskartellamtes einlädt. Die Konzertierte Aktion ist kein politisches Beschlußgremium. Sie dient lediglich in Form des „Runden Tisches der wirtschaftlichen Vernunft" (*Karl Schiller*) der wechselseitigen Information der Teilnehmer. Laut Stabilitätsgesetz stellt der Wirtschaftsminister dort im Falle des wirtschaftlichen Ungleichgewichtes seine auf die Wiederherstellung des Gleichgewichtes gerichtete Politik zur Diskussion. Zu diesem Zweck erstellt er gesamtwirtschaftliche Orientierungsdaten und wirbt dafür, daß die autonomen Kräfte in der Wirtschaft und unter ihnen besonders die Tarifvertragsparteien diese Orientierungsdaten bei ihren Entscheidungen beachten mögen.

Unter dem Gesichtspunkt der Entscheidungsmacht stellt die Konzertierte Aktion als spektakulärer Ausdruck der Neuen Wirtschaftspolitik die Gewerkschaften vor ein gewisses Dilemma: auf der einen Seite wird ihnen die Gelegenheit geboten, vor dem kompetentesten Kreise ihre Vorstellungen vorzutragen und die Meinungsbildung in ihrem Sinne zu beeinflussen; auf der anderen Seite stehen sie in der Gefahr, daß der Eckpfeiler ihrer Macht, nämlich die Tarifautonomie, de facto eingeschränkt wird. Wenn auch die Regierung noch so sehr den indikativen Charakter ihrer Orientierungsdaten für die Einkommensentwicklung und -verteilung betont, in der politischen Realität erhalten diese fast automatisch den Charakter restriktiver, gegen die Gewerkschaften auszulegender Lohnleitlinien.

IV. Gewerkschaften und Mitbestimmung

Im Rahmen dieses Beitrages kann die gesamte Problematik der Mitbestimmung im Betrieb, im Unternehmen und in der Wirtschaft („Überbetriebliche Mitbestimmung") nicht behandelt werden[10]. Geprüft werden muß lediglich die Frage, inwieweit die Mitbestimmung von Arbeitnehmervertretern in den Organen von Kapitalgesellschaften den Gewerk-

[10] Der Bericht der Sachverständigenkommission (sog. *Biedenkopf*-Bericht) enthält die gesamte Fülle der theoretischen Argumente und empirische Fakten zur Mitbestimmung, vgl. Anm. 4.

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schaften zu Einfluß und Macht verhilft, die über das Maß hinausgehen, welches den Organisationen ohnehin zukommt.

Von insgesamt 656 Aufsichtsratsmitgliedern in 42 Unternehmen, die unter die Mitbestimmungsgesetze und Abkommen für die Montanindustrie fallen, waren Anfang 1971 insgesamt 307 Arbeitnehmervertreter. In den Beiräten von vier Stahlunternehmen saßen 30 Arbeitnehmervertreter. Ihnen entsprach die gleiche Anzahl von Vertretern der Anteilseigner. In 26 Betrieben der Eisen und Stahl erzeugenden Industrie standen den Arbeitnehmervertretern 194, in 16 Unternehmen des Bergbaus 113 Aufsichtsratsmandate zu.

Im Eisen- und Stahlbereich waren Ende 1969 rd. 420 000 Arbeitnehmer beschäftigt, in den Bergbauunternehmen rd. 270 000 und in den Obergesellschaften (lt. Mitbestimmungs-Ergänzungsgesetz) rd. 116 000. Das Grundkapital der Unternehmen der Eisen- und Stahlindustrie betrug zur selben Zeit 4375 Mio. DM. Die Unternehmen des Bergbaus repräsentierten ein Grundkapital von rd. 1431 Mio. DM und die Obergesellschaften von 770 Mio. DM.

Nach Auskunft der Hans-Böckler-Gesellschaft, Düsseldorf, liegt die Zahl der nach dem Betriebsverfassungsgesetz in die Aufsichtsräte von Kapitalgesellschaften gewählten Arbeitnehmervertreter Anfang 1971 zwischen 5000 und 5500. Eine Aufschlüsselung nach Branchen, nach Betriebsangehörigen und „Betriebsfremden" ist gegenwärtig nicht möglich.

Die für unser Thema bedeutsame Frage, inwieweit die Arbeitnehmervertreter in den Aufsichtsräten und unter ihnen vor allem die außerbetrieblichen, vom DGB, von der DAG oder den einzelnen Gewerkschaften nominierten Mitglieder durch ihre Organisationen „ferngesteuert" seien, um eine einheitliche Strategie in den Unternehmensorganen zu erreichen, kann eindeutig verneint werden. Nach mancherlei Beobachtungen scheint sogar ein gewisser „Betriebsegoismus" zu bestehen. Die Mitbestimmungskommission hält den Verdacht der Fernsteuerung „als nicht verifizierbar"[11]. Als Instrument zentraler Wirtschaftslenkung sei die Mitbestimmung nicht geeignet.

Im Jahre 1968 wurden entsprechend dem Betriebsverfassungsgesetz in rd. 25 000 Betrieben rd. 142 400 Betriebsräte gewählt. Sie verteilen sich auf die verschiedenen Arbeitnehmerorganisationen wie folgt:

DGB 118 400 (83,1 vH), davon IG Bau-Steine-Erden 23 200, IG Bergbau und Energie 3500, IG Chemie-Papier-Keramik 10 200, IG Druck und Papier 5500, Gewerkschaft der Eisenbahner Deutschlands 152, Gewerkschaft Gartenbau, Land- und Forstwirtschaft 123, Gewerkschaft Handel,

[11] a. a. O., S. 81, Ziffer 65.

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Banken und Versicherungen 3900, Gewerkschaft Holz und Kunststoff 4700, Gewerkschaft Leder 1600, IG Metall 43 300, Gewerkschaft Nahrung-Genuß-Gaststätten 7200, Gewerkschaft Öffentliche Dienste, Transport und Verkehr 3600, Gewerkschaft Textil-Bekleidung 11 300. Die DAG erreichte 4260 Mandate (3,0 vH), der CGB und andere Splittergruppen 700 (0,5 vH). 19 000 Betriebsräte (13,4 vH) gehörten keiner Organisation an[12].

Diese imponierenden Zahlen könnten bei oberflächlicher Betrachtung den Eindruck erwecken, als verfügten die Gewerkschaften in den Betriebsvertretungen über ein umfassendes Machtreservoir, mit dessen Hilfe ihr Einfluß in der Wirtschaft mühelos durchgesetzt werden könnte. Zwanzigjährige Praxis hat jedoch das Gegenteil demonstriert: Die auf Wahrung des Betriebsfriedens und auf Partnerschaft zwischen Unternehmensleitung und Belegschaftsvertretung abzielenden Vorschriften des Betriebsverfassungsgesetzes; die Friedenspflicht, welche gewerkschaftliche Kampfmaßnahmen während der Laufzeit von Tarifverträgen ausschließt; die häufig zu beobachtende größere Loyalität der Betriebsräte gegenüber dem Unternehmen als gegenüber der Gewerkschaft; das häufig hoch entwickelte Selbstbewußtsein von Betriebsräten gegenüber dem gewerkschaftlichen Apparat — alle diese Faktoren relativieren den Einfluß der Arbeitnehmerorganisationen auf die Betriebsvertretungen und damit auf die Unternehmenspolitik. Angesichts dieser Tatsache bemühen sich die Gewerkschaften um den Aufbau und Ausbau von Vertrauensleuteorganisationen als ihren eigentlichen verlängerten Arm in die Betriebe bis zur Basis der Mitglieder. Die zentrale Forderung der Gewerkschaften zur Reform des Betriebsverfassungsgesetzes ist konsequenterweise darauf gerichtet, die Präsenz und den Einfluß der Organisationen in den Betrieben rechtlich zu sichern. In die gleiche Richtung zielen die Bestrebungen, die gewerkschaftlichen Vertrauensleute in den Betrieben gegenüber den Unternehmensleitungen ähnlich abzusichern wie die Betriebsräte. Inwieweit es den Gewerkschaften gelingen wird, den Gesetzgeber von der Richtigkeit ihrer Forderungen zu überzeugen, kann zu Anfang des Jahres 1971 noch nicht gesagt werden.

V. Die gewerkschaftliche Publizistik

Vom DGB und seinen Gewerkschaften wurden im Jahre 1970 rd. 80 Publikationen veröffentlicht. Sie erreichten zusammen eine monatliche Auflagenhöhe zwischen 13 und 14 Millionen Exemplaren. Dafür dürften die Gewerkschaften zwischen 28 und 31 Mill. DM aufgewendet haben[13].

[12] Die Zahlen wurden von der Abteilung Organisation des DGB-Bundesvorstandes ermittelt.

[13] Genaue Zahlen sind nicht zu ermitteln, da nicht alle Gewerkschaften regelmäßig über den Umfang und die Kosten ihrer publizistischen Aktivitäten

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In diesen Zahlen sind die teilweise nur unregelmäßig erscheinenden Presse- und Informationsdienste des DGB und der Einzelgewerkschaften sowie die von regionalen und lokalen Organisationen herausgegebenen Publikationen nicht enthalten. Ihr Umfang und die von ihnen verursachten Aufwendungen sind nicht zu erfassen. Auch die Aufwendungen für Werbung in ihren verschiedenen Formen sind nicht genau zu ermitteln. Ihr Umfang schwankt von Jahr zu Jahr, da häufig die Mittel auf Schwerpunkte konzentriert werden, die je nach den kurzfristigen Zielen der Gewerkschaftspolitik wechseln.

Schon seit langem wird bei den Gewerkschaften darüber diskutiert, ob es nicht sinnvoll sei, das vielfältig gegliederte, um nicht zu sagen zersplitterte, Pressewesen zu konzentrieren. Die Befürworter einer Zentralisierung der publizistischen Medien haben sicher Recht, wenn sie auf die Kostenvorteile hinweisen und darüber hinaus auch eine erhöhte Wirkung auf die Bildung der öffentlichen Meinung erwarten. Gelegentliche Initiativen zur Konzentration der gewerkschaftlichen Publizistik sind bisher erfolglos geblieben.

Wieweit die Gewerkschaftspresse tatsächlich zur Meinungsbildung der Mitglieder, an die sie sich vornehmlich wendet, beiträgt, ist schwer zu sagen. Umfragen einzelner Organisationen haben zwar ergeben, daß ihre Publikationen bei den Lesern gut „ankommen". Ob sich diese Leser jedoch mit den politischen Aussagen in ihren Verbandsblättern jeweils identifizieren, bleibt weiterhin unklar.

Die Pressedienste der Gewerkschaften, mit denen die „amtlichen" Äußerungen ihrer Spitzen an die Massenmedien weitervermittelt werden, finden starke Beachtung. Kommuniqués, etwa über Beschlüsse von Vorständen, haben unmittelbare politische Wirkungen.

VI. Die Einnahmen und Vermögen der Gewerkschaften

Die schärfste Waffe der Gewerkschaften für die Durchsetzung ihrer Forderungen ist der Streik. Sie müssen daher daran interessiert sein, daß ihre Kampffonds so gut ausgestattet sind, daß sie auch lange und harte Streiks finanziell durchstehen können. Außerdem verursacht die Verwaltung von Massenorganisationen hohe laufende Aufwendungen. Die Gewerkschaften sind deshalb auf die Beitragszahlungen möglichst vieler Mitglieder angewiesen.

Die Finanzhoheit liegt bei den einzelnen Gewerkschaften im DGB. Nach den Satzungen der Gewerkschaften sollen die Arbeiter in der Regel

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berichten. Die dem Verfasser zugänglichen Informationen stimmen jedoch einigermaßen mit den Angaben überein, die in der Wirtschaftswoche, Nr. 5 (1971), S. 13 ff. mitgeteilt wurden.

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einen (tariflichen) Stundenlohn pro Woche als Beitrag entrichten. Die Beiträge der Angestellten liegen im Durchschnitt bei etwa zwei Prozent der Bruttomonatsgehälter. An diesen Schlüsseln hat sich seit vielen Jahren nichts geändert. Lediglich die absolute Höhe der Beiträge wurde auf den Gewerkschaftskongressen von Zeit zu Zeit dem gestiegenen Einkommensniveau angeglichen. Seit 1953 müssen die Gewerkschaften an den DGB alljährlich 12 vH ihrer Beitragseinnahmen abführen.

Nach den Kassenberichten der Gewerkschaften im DGB betrugen die Einnahmen aus Beiträgen im Jahre 1969 annähernd 470 Mill. DM. Nach dem Kassenbericht des DGB errechnet sich für das gleiche Jahr die Summe von rd. 460 Mill. DM (55,4 Mill. DM = 12 vH der Gesamtbeiträge). Die Beitragseinnahmen der IG Metall betrugen 155,1 Mill. DM, der Gewerkschaft Öffentliche Dienste, Transport und Verkehr 63,3 Mill. DM, der IG Bau-Steine-Erden 48,3 Mill. DM, der IG Chemie-Papier-Keramik 37,4 Mill. DM, der IG Bergbau und Energie 31,7 Mill. DM, der Gewerkschaft der Eisenbahner Deutschlands 30,8 Mill. DM, der Deutschen Postgewerkschaft 23,0 Mill. DM, der Gewerkschaft Textil-Bekleidung 16,8 Mill. DM, der Gewerkschaft Nahrung-Genuß-Gaststätten 15,9 Mill. DM, der IG Druck und Papier 15,3 Mill. DM, der Gewerkschaft Handel, Banken und Versicherungen 9,8 Mill. DM, der Gewerkschaft Holz und Kunststoff 7,8 Mill. DM, der Gewerkschaft Erziehung und Wissenschaft 5,5 Mill. DM, der Gewerkschaft Gartenbau, Land- und Forstwirtschaft 3,6 Mill. DM, der Gewerkschaft Leder 3,0 Mill. DM und der Gewerkschaft Kunst schätzungsweise 2,3 Mill. DM.

Zu diesen Einnahmen aus Mitgliedsbeiträgen kommen weitere Erträge aus Zinsen, Skonti und weiteren Quellen, die als „sonstige" oder „außerordentliche" Erträge in den Kassen- und Geschäftsberichten ausgewiesen werden. Diese Mittel beliefen sich beim DGB-Bundesvorstand im Jahre 1969 auf rd. 6,4 Mill. DM. Für die drei Jahre von 1965 bis 1967 weist die IG Metall weitere Erträge in Höhe von rd. 51,5 Mill. DM aus. Für das Jahr 1967 ergeben sich bei der Gewerkschaft Öffentliche Dienste, Transport und Verkehr: 1,4 Mill., bei Chemie-Papier-Keramik für die Jahre 1966 bis 1968: 8,7 Mill., bei Bergbau und Energie im Jahre 1969: 5,6 Mill., bei der Gewerkschaft der Eisenbahner für die Jahre 1965 bis 1967: rd. 1,3 Mill., bei Druck und Papier im Jahre 1967: 1,9 Mill., bei Leder im Jahre 1967: 0,55 Mill. und bei Gartenbau, Land- und Forstwirtschaft 0,36 Mill. DM.

Über das Treuhandvermögen der gewerkschaftlichen Vermögensverwaltungsgesellschaften gibt die folgende Tabelle 5 Auskunft.

Einnahmeüberschüsse werden entsprechend den Satzungen der Gewerkschaften in erster Linie den Kampffonds zugeführt. Da diese in den

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Tabelle 5

Das Treuhandvermögen der gewerkschaftlichen Vermögensverwaltungsgesellschaften (in 1000 DM)

	VTG des DGB	IG Bau	IG Chemie	IG Druck	GdED	Gew. Leder	IG Metall	ÖTV	DPG
	31. 12. 1969	31. 12. 68	31. 12. 68	31. 12. 67	31. 12. 68	31. 12. 66	31. 12. 67	31. 12. 67	31. 12. 67
1. Grundstücke	90 700	23 333	—	12 707		735	55 574	15 926	13 215
2. Beteiligungen	48 600	23 868	—	4 486	12 174	2 136	51 440	59 544	1 596
3. Sonst. Anlagevermögen	300	21 953	—	814		—	1 419	—	389
4. Umlaufvermögen	9 100	5 043	—	1 102	3 409	90	6 355	6 401	—
5. Bilanzsumme	148 700	74 197	—	19 109	15 583	2 961	144 788	81 871	—
6. % Verbindlichkeiten u. Rückstellungen	37 600	450	—	1 184	103			13	897
7. Treuhand-Reinvermögen	111 100	73 747	30 474	17 925	15 480			81 858	15 776

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vergangenen Jahren wegen der geringen Zahl von Streiks bei allen Gewerkschaften wenig in Anspruch genommen wurden, wurden erhebliche Überschußbeträge für die Verbesserung der sozialen Sicherung der Mitglieder aufgewandt. Über die Verwendung von Überschüssen enthalten die veröffentlichten Geschäftsberichte der Gewerkschaftsvorstände keine Angaben. Eine Ausnahme macht die IG Metall, die für die Jahre 1965 bis 1967 einen Vermögenszuwachs von mehr als 120 Mill. DM ausweist. Die sonst nicht übliche Scheu vor der Publizität erklärt sich daraus, daß es dem Gegner verwehrt sein soll, aus der Höhe der Rücklagen und Vermögen Schlüsse auf die finanzielle Kampfstärke der Gewerkschaften zu ziehen.

Aus ihren Beteiligungen an gemeinwirtschaftlichen und sonstigen Wirtschaftsunternehmen fließen dem DGB und seinen Gewerkschaften zusätzliche Erträge zu. Über den Umfang der Beteiligungen am 1. 1. 1970 gibt Tabelle 6 Auskunft (Anteile in vH).

VII. Die gewerkschaftlichen Wirtschaftsunternehmen

Über die Grundsätze und die Praxis der Gemeinwirtschaft liegt eine Fülle von Literatur vor[14]. Es erübrigt sich daher, an dieser Stelle Begriff und Wesen der Gemeinwirtschaft ausführlich darzustellen. Soviel kann jedoch gesagt werden: Freie Gemeinwirtschaft hat neue Aktualität gewonnen, da die Bewältigung der Probleme der Infrastruktur und der Versorgung der Bürger mit Sozialgütern in das Bewußtsein der Öffentlichkeit gerückt ist. Das privatwirtschaftlich-kapitalistische Prinzip verliert an Bedeutung, je weiter die Transformation unserer Wirtschaftsordnung in Richtung auf Globalsteuerung und Rahmenplanung fortschreitet. Gemeinwirtschaft muß die kapitalistische Ordnung überall dort ergänzen und korrigieren, wo die Interessen und Bedürfnisse der

[14] *Kurt Hirche,* Die Wirtschaftsunternehmen der Gewerkschaften, Düsseldorf, Wien 1966; *Walter Hesselbach,* Die gemeinwirtschaftlichen Unternehmen, Frankfurt/Main (1966) 1971²; *ders.,* Gemeinwirtschaftliche Konzeptionsentwürfe und Unternehmenstypen (Prof. Dr. Bruno Gleitze zu seinem 65. Geburtstag gewidmet), WWI-Mitteilungen, Nr. 7/8 (1968); *Hubertus Müller,* Wirtschaftliche Betätigung und Vermögen der DGB-Gewerkschaften, Berichte des Deutschen Industrieinstituts zu Gewerkschaftsfragen Nr. 7 (1969); *Wilfried Scharnagl,* Das Groschenimperium. Gewerkschaften als Unternehmer, München 1970; *Theo Thiemeyer,* Gemeinwirtschaftlichkeit als Ordnungsprinzip, Berlin 1970; *Gerhard Weisser,* Archiv für öffentliche und freigemeinnützige Unternehmen, Göttingen 1969; *DGB* (Hrsg.), Weshalb gibt es gemeinwirtschaftliche Unternehmen? Fragen und Antworten über die Gemeinwirtschaft, Düsseldorf 1967; ferner in der Schriftenreihe Gemeinwirtschaft, hrsg. v. der Bank für Gemeinwirtschaft AG: *Walter Hesselbach,* Die Bedeutung der Gemeinwirtschaft in der deutschen Volkswirtschaft, Frankfurt/M. 1970 (Nr. 1); *ders.,* Die gemeinwirtschaftlichen Unternehmen, Frankfurt/M. 1970 (Nr. 4); *Gerhard Neuenkirch,* Die Zusammenarbeit in der Gemeinwirtschaft, Frankfurt/M. 1970 (Nr. 2).

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Tabelle 6

Beteiligungen des DGB und der ihm angeschlossenen Gewerkschaften
(Stand 1. 1. 1970)

Gewerkschaft	Bank für Gemeinwirtschaft	Neue Heimat Städte- u. Wohnungsbau	Büchergilde	Neue Heimat Städtebau	Publaris Reisen GmbH	Beamtenheimstättenwerk
VTG/DGB[a)]	19,6	33,38	50,0	1,0	—	50,0
Metall	23,8	18,16	—	25,0	12,5	—
ÖTV[b)]	7,4	3,25	—	6,0	—	—
Chemie	4,1	2,5	—	5,0	—	—
Bau	5,8	25,0	—	25,0	8,0	—
Bergbau	19,4	6,5	—	15,0	12,5	—
Eisenbahner	1,0	2,5	—	5,0	54,1	—
Textil	2,8	0,75	—	1,0	—	—
NGG	1,5	2,125	—	5,0	—	—
Post	1,7	0,975	—	2,0	—	—
HBV	0,03	0,25	—	0,5	—	—
Leder	1,2	0,5	—	1,0	—	—
Druck	1,8	1,6	50,0	3,0	—	—
GEW	0,1	—	—	—	—	—
Gartenbau	0,01	—	—	—	—	—
Holz	2,1	2,5	—	5,0	—	—
Kunst	0,2	—	—	—	—	—
Anteile der Einzelgew. insg.	72,9	66,6	50,0	99,0		—
VTG/DGB	19,6	33,4	50,0	1,0		50,0
Summe	92,5	100,0	100,0	100,0		50,0
sonst. Anteile bei:						
GEG	7,1	—	—	—	—	—
Bank für Arbeit und Wirtschaft, Wien	0,4	—	—	—	—	—
Deutscher Beamtenwirtschaftsbund	—	—	—	—	—	50,0
	100,0	100,0	100,0	100,0		100,0

a) Der DGB ist über die VTG an folgenden Einrichtungen beteiligt:
Ruhrfestspiele 50,0 vH; Messe Köln 1,0 vH; DPA 0,4 vH; Gesellschaft für Jugendheime 100,0 vH; Bund-Verlag 100,0 vH; WWI 100,0 vH; Briefschule 100,0 vH; Berufsfortbildungswerk des DGB 100,0 vH bzw. seit Herbst 1970 50,0 vH.

b) Dazu kommt eine Beteiligung an der Lufthansa GmbH.

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Allgemeinheit zugunsten des Prinzips der Gewinnmaximierung und der privatwirtschaftlichen Gewinnverwendung mißachtet werden. Insofern erfüllt sie eine wesentliche Ordnungsfunktion. Sie trägt dazu bei, den Mißbrauch privatwirtschaftlicher Macht mit marktkonformen Mitteln zu bekämpfen. Die gemeinwirtschaftlichen Unternehmen werden also dem Auftrag gerecht, den ihnen das Düsseldorfer Grundsatzprogramm des DGB zur Erreichung wirtschaftspolitischer Ziele zuweist.

A. Bank für Gemeinwirtschaft (BfG)

Die BfG erzielte im Jahre 1969 ein Geschäftsvolumen — Bilanzsumme und Indossamentsverbindlichkeiten — von 10,75 Mrd. DM. Die Konzernbilanzsumme erreichte zu Ende des Jahres 1969 insgesamt 14,75 Mrd. D-Mark. Die Ausleihungen an Wirtschaftsunternehmen, an Private und an den öffentlichen Bereich betrugen im selben Jahre 4,64 Mrd. DM. Es ist kennzeichnend für die Geschäftspolitik der BfG, daß sie ihre Kredite breiter streut als die anderen großen Geschäftsbanken. Nach dem Geschäftsbericht für das Jahr 1969 reichte die Mittelverwendung vom Konsumkredit bis zur Städtebaufinanzierung. „Wir finanzierten neue technische Entwicklungen, stellten Mittel bereit für kleine, mittlere und große Industrieobjekte im In- und Ausland sowie Objekte in Grenzgebieten, welche der Erhaltung von Arbeitsplätzen dienen“[15]. Rund 54 vH der vergebenen Kredite lagen in der Größenklasse von über 1000 bis 10 000 DM. Rund 34 vH waren Kleinkredite bis 1000 DM. In die Größenklasse von über 10 000 bis 100 000 DM fielen 9,5 vH und in die Größenklasse zwischen über 100 000 und 1 Mill. DM 2,1 vH aller Kredite. Nur 724 Kredite (0,4 vH von insgesamt 174,406) fielen in die Größenordnung von über 1 Mill. DM. Die langfristigen Ausleihungen standen hierbei im Vordergrund.

Entsprechend ihrer Verpflichtung auf gemeinwirtschaftliche Prinzipien hat die BfG den Wettbewerb in den Sparten Kleinkredit bis 2000 DM und Anschaffungsdarlehen bis 20 000 DM durch die Gewährung günstiger Konditionen deutlich belebt. Deren Volumen wurde von 1968 auf 1969 mit 323 Mill. DM um mehr als 50 vH ausgeweitet. Der Durchschnittsbetrag der insgesamt rd. 108 000 Kleinkredite und Anschaffungsdarlehen beläuft sich auf annähernd 3000 DM.

Trotz konjunkturbedingter Abschwächung der Anlageneigung erreichten die Verbindlichkeiten der BfG gegenüber Nichtbanken ein Volumen von fast 5 Mrd. DM. Die Spareinlagen betrugen rd. 760 Mill. D-Mark. Mit der Einführung des Kapitalsparbuchs und der Sparschuldverschreibung sowie verstärkter Aktivität der Tochtergesellschaft Bank

[15] BfG-Jahresbericht 1969, Frankfurt/M. 1970, S. 16 f.

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für Sparanlagen und Vermögensbildung stellt sich die BfG noch stärker als zuvor in den Dienst der Vermögenspolitik, die seit der Mitte der 60er Jahre auch in der gewerkschaftlichen Tarif- und Einkommenspolitik ständig an Bedeutung zunahm.

Das Grundkapital der BfG wurde im Jahre 1969 auf 190 Mill. DM erhöht. Die Bank verfügte am Jahresende über eigene Mittel in Höhe von 323 Mill. DM. Im Berichtsjahr wurde ihre 200. Geschäftsstelle eröffnet. Die Zahl der Beschäftigten stieg auf 5100 Personen.

Über die Beteiligungen der Gemeinwirtschaftsbank zu Beginn des Jahres 1970 gibt Tabelle 7 Aufschluß.

Für sich gesehen stellt die Bank für Gemeinwirtschaft mit ihren Tochtergesellschaften und Beteiligungen ein recht beachtliches Unternehmen dar. Vom Standpunkt der Konzentration wirtschaftlicher Macht aus betrachtet ist die BfG jedoch kein Instrument, mit dessen Hilfe etwa die Gewerkschaften auf das wirtschaftliche Geschehen in der BRD nachhaltigen und spürbaren Einfluß nehmen könnten. Verglichen mit der Bilanzsumme von 322 Kreditbanken in Höhe von rd. 177,5 Mrd. DM. im Jahre 1969[16] nimmt sich die Konzernbilanzsumme der BfG bescheiden aus. Der Einfluß jeder der drei großen westdeutschen Geschäftsbanken geht mit Hilfe finanzieller und personeller Verflechtungen quer durch die Wirtschaft weit über das hinaus, was die BfG aufzuweisen hat. Welche Macht den Großbanken allein durch das Depotstimmrecht zuwächst, ist bekannt. Die Häufung von Aufsichtsratsmandaten bei den Vorstandsmitgliedern der Banken kommt hinzu. Beide Quellen von Einfluß und Macht fließen für die BfG nur sehr spärlich.

Die BfG kann und will nicht nur die Hausbank der Gewerkschaften, der gemeinwirtschaftlichen Unternehmen und der Konsumgenossenschaften sein[17]. Sie wird ihrer Funktion desto besser gerecht, je geringer der Hausbankanteil am Gesamtgeschäft ist. *Hesselbach* vergleicht die Struktur der BfG mit drei konzentrischen Kreisen[18]: der innerste Kreis ist die Hausbank der Gewerkschaften und der Gemeinwirtschaft; den zweiten Kreis bildet die BfG als allgemeine Geschäftsbank mit verzweigtem Niederlassungsnetz; der dritte Kreis, in letzter Zeit besonders ausgebaut, besteht aus Beteiligungen an anderen Banken und Spezialkreditinstituten im In- und Auslande. Schon infolge dieser Struktur verbietet es sich, daß sich die BfG — etwa in ihrer Kreditpolitik — einseitig orientiert und engagiert.

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[16] Statistisches Jahrbuch für die BRD 1970, S. 331.
[17] *Walter Hesselbach*, Die gemeinwirtschaftlichen Unternehmen, Frankfurt/M. 1971, S. 119 ff.
[18] Ebenda, S. 121.

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Tabelle 7

Beteiligungen BfG (Stand 1. 1. 1970)

A. Tochtergesellschaften	Kapital	
1. Bank für Sparanlagen und Vermögensbildung AG (BSV), Frankfurt/Main	7 Mio. DM	
2. Brake & Co GmbH, Frankfurt/Main	120 TDM	
3. Volksfürsorge Deutsche Sachversicherung AG, Hamburg	4,8 Mio. DM	
4. g-u-t gemeinschaftliches unternehmen für touristik verwaltungsgesellschaft mbH, Frankfurt/Main	20 TDM	
5. WTB Westdeutsche Teilzahlungsbank GmbH, Köln	10 Mio. DM	
6. Union Treuhand GmbH, Frankfurt/Main	20 TDM	
7. Gemeinwirtschaftliche Grundstücksverwaltung GmbH, Frankfurt/Main	20 TDM	
8. Gemeinwirtschaftliche Wohnungs-Gesellschaft mbH, Düsseldorf	150 TDM	
9. Kaiserkeller-Bauträger GmbH, Frankfurt/Main	20 TDM	
10. Kaiserkeller-Bauträger GmbH & Co Grundstücks-Kommanditgesellschaft, Frankfurt/Main	198 TDM Kommanditkapital	
11. Union Treuhand GmbH & Co Grundstücksgesellschaft, Frankfurt/Main	100 TDM	
12. Bau- und Handelsbank AG, Frankfurt/Main	10 Mio. DM	95 % BfG 5 % bei 6.
13. Hausgesellschaft Kaiserkeller-Schauspielhaus GmbH, Frankfurt/Main		
14. Co-op Spedition GmbH, Hamburg	1 Mio. DM	nicht konsolidiert
15. Grundstücksverwaltung Neue Mainzer Straße 25 GmbH, Frankfurt/Main	20 TDM	95 % bei 12., 5 % bei 6.
16. Grundstücksverwaltungsgesellschaft Oberursel, Königsteiner Straße 24 mbH, Frankfurt/Main	20 TDM	95 % bei 6., 5 % bei 2.
17. Grundstücksverwaltung Savignystraße 43 GmbH, Frankfurt/Main	20 TDM	95 % bei B. 1., 5 % bei 6.
18. WTB Leasing GmbH, Köln		indirekt 100 %

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B. über 50 % bis unter 100 %

1. Allgemeine Hypothekenbank AG, Frankfurt/Main	67 %	15 Mio. DM	
2. Bank der Deutschen Arbeit AG i. L., Berlin/Düsseldorf	90 %		
3. Bankhaus Märklin & Co, Frankfurt/Main	(100 % des Kdit.-Kap.)	2,075 Mio. DM	nicht konsolidiert
4. Hamburgische Kaufmannsbank Nettobohm & Co. AG, Hamburg	63,4 %	6 Mio. DM	
5. Volksfürsorge Lebensversicherung AG, Hamburg	51 %	5 Mio. DM	
6. ISL Industrial Service Co. Ltd., Tel Aviv	99,9 %		nicht konsolidiert
7. BAHOT Badische Hotelgesellschaft mbH, Karlsruhe	33 % aber Stimmenmehrheit	1,5 Mio. DM	nicht konsolidiert
8. „Brema" Kolonialwarenverkauf AG, Bremen			mittelbar Mehrheit nicht konsolidiert
9. Gesellschaft für Gießerei und Eisenverarbeitung GmbH, Frankfurt/Main		2,5 Mio. DM	Mehrheit bei A. 6. nicht konsolidiert
10. Hamburger Internationale Rückversicherungs AG, Hamburg			mittelbar Mehrheit
11. IRIS Bau- und Grundstücksverwaltungs-Gesellschaft mbH, Hamburg			mittelbar Mehrheit
12. Unterstützungskasse der WTB Westdeutsche Teilzahlungsbank GmbH, Köln			mittelbar Mehrheit nicht konsolidiert
13. Volksfürsorge Rechtsschutz-Versicherung AG, Hamburg			mittelbar Mehrheit
14. Bankgeschäft Otto Kleesattel & Co, Düsseldorf		225 TDM Kompl. 300 TDM Kommdit.	100 % bei A. 6. 100 % bei B. 4.

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C. 25 % bis 50 %

1.	Braunschweig-Hannoversche Hypothekenbank, Hannover	31,9 %	12 Mio. DM
2.	CO-OP Immobilien-Fonds-Verwaltung AG, Hamburg	30 %	1 Mio. DM
3.	Investitions- und Handelsbank AG, Frankfurt/Main	26 %	84 Mio. DM
4.	WKV Warenkredit-Verkehrsbank GmbH, Köln	50 %	7 Mio. DM
5.	Hollandse Koopmansbank Lippmann Rosenthal N.V., Amsterdam	50 %	
6.	Internationale Genossenschaftsbank AG, Basel	31,5 %	
7.	Banque de 1'Union Coopérateurs Luxembourgeois, Luxemburg	50 %	
8.	Beteiligungsgesellschaft für Industrie-ansiedlungsunternehmen mbH, Hamburg	25 %	
9.	g-u-t gemeinwirtschaftliches unternehmen für touristik gmbh & co, Frankfurt/Main	50 % (des Kdit.-Kap.)	1 Mio. DM
10.	GEG Großeinkaufs-Gesellschaft Deutscher Konsumgenossenschaften mbH, Frankfurt/Main	25,4 % (= 8 % der Stimmen)	33,5 Mio. DM
11.	Internationale Handels- und Treuhand-GmbH, Wien	33,3 %	
	Badenia Bausparkasse GmbH, Karlsruhe (Angabe in 1970 bis auf weniger als 5 %)	25 %	

D. Beteiligungen unter 25 %

Bank für Arbeit und Wirtschaft AG, Wien
Credit Immobilier Européenne S.A., Paris
Ausfuhrkredit-Gesellschaft mbH (AKA), Frankfurt/Main
Société Nationale d'Investissement, Tunis
International Investment Corporation for Yugoslavia S.A., (IIC), Luxemburg

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B. Unternehmensgruppe „NEUE HEIMAT" (NH)

Die Unternehmensgruppe umfaßt die miteinander kooperierenden Gesellschaften einmal aus dem gemeinnützigen Wohnungsbaubereich mit der Muttergesellschaft „Neue Heimat" Hamburg, zum anderen aus dem freigemeinwirtschaftlichen Städtebaubereich mit der Muttergesellschaft „Neue Heimat Städtebau" Hamburg. Die der Unternehmensgruppe von ihren gewerkschaftlichen und gemeinwirtschaftlichen Anteilseignern übertragene Aufgabe ist die Hebung des Wohn- und Lebensstandards der Bevölkerung, in erster Linie der Arbeitnehmer und Rentner in den unteren und mittleren Einkommensgruppen. Dementsprechend konzentriert sich ihre Aktivität im Wohnungsbau auf die Schwerpunkte des sozialen und strukturellen Bedarfs und in zunehmendem Maße — nach Gründung der „Neuen Heimat Kommunal" im Jahre 1963 — auf den Städtebau.

Die Unternehmensgruppe betätigt sich nicht nur als Bauherr und Wohnungsverwalter: Mit einer Tochtergesellschaft, der Gesellschaft für Industrieansiedlung, erschließt und finanziert sie Industriegelände, berät und plant sie für interessierte Firmen vor allem unter dem Gesichtspunkt optimaler Standortwahl. Darüber stellt die NH ein nach Umfang und Qualität wohl einmaliges Dienstleistungsangebot bereit. Es erstreckt sich auf städtebauliche Grundlagenforschung, auf regionale Strukturanalysen und -prognosen sowie wohnungswirtschaftliche Marktforschung, auf Beratung bei der Aufstellung von regionalen und kommunalen Entwicklungsprogrammen, auf die Realisierung solcher Programme und auf die Durchführung und Betreuung von Einzelvorhaben aller Größenordnungen.

Der Gesamtumsatz der Unternehmensgruppe NH in Bautätigkeit und Verwaltung erreichte im Jahre 1969 rd. 2,01 Mrd. DM. Davon entfielen 1,36 Mrd. DM (rd. 68 vH) auf Bauumsätze und 656 Mill. DM (rd. 32 vH) auf Verwaltungsumsätze. Bei der Wohnungs- und Gebäudebewirtschaftung stand wie in den vergangenen Jahren die Hebung des Wohnungsstandards durch Modernisierung und städtebauliche Maßnahmen, wie nachträgliche Errichtung von Gemeinschaftsbauten, im Vordergrund. Am Jahresende 1969 bewirtschafteten die Gesellschaften der NH einschließlich der Betreuung für Dritte annähernd 300 000 Einheiten. Im eigenen Bestande befanden sich mehr als 227 000 Wohnungen mit 13,2 Mill. qm Wohnfläche, mehr als 15 000 Garagen, rd. 6800 Einstellplätze und 2120 gewerbliche Objekte mit rd. 700 000 qm Nutzfläche. Hinzu kamen rd. 6500 noch aufzulassende Kaufeigenheime und Häuser mit 1330 Eigentumswohnungen. Von den im Eigentum der NH befindlichen Mietwohnungen waren 94 vH öffentlich geförderte und Altbauwohnungen und 6 vH steuerbegünstigte Wohnungen. Die durchschnittliche Woh-

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nungsgröße betrug 58 bzw. 50 qm, die durchschnittliche monatliche Quadratmetermiete 2,52 bzw. 3,39 DM. Bei der Unternehmensgruppe waren Ende 1969 insgesamt rd. 4000 Personen beschäftigt.

Die Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft mbH (Stammkapital 1969 = 40 Mill. DM) erzielte im Jahre 1969 einen Gesamtumsatz von 93,5 Mill. DM. Davon entfielen 61 vH auf Bauumsätze und 39 vH auf Verwaltungsumsätze. In der Bilanz zum 31. 12. 1969 standen Miethäuser mit 120,5 Mill. DM, Beteiligungen mit 201 Mill. DM, noch nicht abgerechnete Bauten mit 10,9 Mill. DM und unbebaute Grundstücke mit 1,6 Mill. DM als Anlagevermögen zu Buche. Bei einer Bilanzsumme von rd. 615 Mill. DM wies die Gesellschaft einen Gewinn von rd. 1,6 Mill. DM aus.

Tabelle 8 enthält die Beteiligungen der Muttergesellschaft:

Tabelle 8

Beteiligungen der Neuen Heimat, Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Hamburg

(Stand 31. 3. 1970)

1. Neue Heimat Nord Gemeinnützige Wohnungsbaugesellschaft m.b.H., Hamburg	25 Mio. DM	99,9 % direkt, Rest indirekt
2. Neue Heimat Bremen Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Bremen	26 Mio. DM	99 % direkt, Rest indirekt
3. Neue Heimat Nordrhein-Westfalen Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., D'dorf	37 Mio. DM	100 %
4. Neue Heimat Südwest Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Frankfurt/Main	21 Mio. DM	99 %, 1 % Fremdbet.
5. Neue Heimat Bayern Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., München	28,5 Mio. DM	100 %
6. Neue Heimat Baden-Württemberg Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Stuttgart	15 Mio. DM	26 % direkt, Rest indirekt
7. Neue Heimat Berlin Gemeinnützige Wohnungsgesellschaft m.b.H., Berlin	14,3 Mio. DM	100 %
8. Neue Heimat International, Wohnungs- und Siedlungsgesellschaft m.b.H., Hamburg	2 Mio. DM	50 % Rest NH Städtebau
Unterbeteiligungen zu 1.		
„Ageka" Gesellschaft für gemeinnützigen Kleinwohnungsbau m.b.H., Hamburg	13 Mio. DM	

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Gewog Gemeinnützige Wohnstättengesellschaft von 1910 m.b.H., Hamburg	4 Mio. DM
Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft im Lande Schleswig-Holstein G.m.b.H., Kiel	8 Mio. DM
Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Lübeck	4 Mio. DM
Gesellschaft für „Landsiedlung“ m.b.H., Kiel	100 TDM

Unterbeteiligungen zu 2.

Gemeinnützige Bau- und Siedlungs- gesellschaft „Nordsee“ G.m.b.H., Bremerhaven	11 Mio. DM
Gemeinnützige Wohnungsbaugesellschaft „Hafen“ m.b.H., Bremen	600 TDM
Hanseatische Wohnungsbau- und Treuhandgesellschaft in Bremen, Gemeinnützige G.m.b.H., Bremen	350 TDM
„Neue Heimat“ Gemeinnützige Wohnungs- und Sied- lungsgesellschaft m.b.H., Hannover	23 Mio. DM
„Neue Heimat“ Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Weser-Ems, Oldenburg i. O.	12 Mio. DM

Unterbeteiligungen zu 3.

Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Münster	5,5 Mio. DM
Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Essen	7 Mio. DM
Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Remscheid	7,5 Mio. DM
Neue Heimat Dortmund Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Dortmund	5 Mio. DM
Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft mbH, Köln	1 Mio. DM

Unterbeteiligungen zu 4.

Neue Heimat Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Kassel	7 Mio. DM

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„Neue Heimat" Hessen Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Frankfurt/Main	8 Mio. DM
Neue Heimat Rheinland-Pfalz Gemeinnützige Wohnungsbaugesellschaft m.b.H., Mainz	4 Mio. DM

Unterbeteiligungen zu 5.

Gewog Gemeinnützige Wohnungsbaugesellschaft m.b.H., München	24 Mio. DM
Neue Heimat Schwaben Gemeinnützige Wohnungs- und Siedlungsgesellschaft m.b.H., Augsburg	3 Mio. DM

Unterbeteiligungen zu 6.

„Gewag" Gemeinnützige Wohnungsbaugesellschaft m. b. H., Karlsruhe	28,5 Mio. DM
Fränkische Gemeinnützige Wohnungsbaugesellschaft m.b.H., Tauberbischofsheim	5 Mio. DM

Die Neue Heimat Städtebau GmbH wurde im Jahre 1969 mit einem Stammkapital von 10 Mill. DM gegründet. Gesellschafter sind wie bei der „Neuen Heimat Wohnungsbau" die Vermögensverwaltungen der Gewerkschaften und des DGB. Mit ihren Tochter- und Beteiligungsgesellschaften verfügt sie über ein Instrumentarium, mit welchem sie alle städtebaulichen Maßnahmen zu planen, zu finanzieren und auszuführen vermag.

Im ersten Jahre ihrer Tätigkeit hat sich die Neue Heimat Städtebau auf die Betreuung ihrer Tochter- und Beteiligungsgesellschaften konzentriert, und zwar auf den Gebieten der Finanzierung, der Grundstückswirtschaft, der Betriebswirtschaft und Datenverarbeitung, der Struktur- und Marktforschung, der Öffentlichkeitsarbeit, der Städteplanung und der Bautechnik. Die Bilanz des Rumpf-Geschäftsjahres schließt mit einer Summe von rd. 30 Mill. DM ab.

In Tabelle 9 sind die Beteiligungen der „Neuen Heimat Städtebau" aufgeführt.

Wichtigstes Ziel der Aktivität der Unternehmensgruppe Neue Heimat ist die Bekämpfung überhöhter Differentialgewinne, die sich infolge von Wanderungsbewegungen der Bevölkerung in die Ballungsräume, infolge der unelastischen Grundstücks- und Baumärkte und infolge der steigen-

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Tabelle 9

Beteiligungen der Neuen Heimat Städtebau GmbH, Hamburg

(Stand 31. 3. 1970)

1.	Neue Heimat Norddeutscher Städtebau GmbH, Hamburg	500 TDM	100 %
2.	Neue Heimat Städtebau Bremen GmbH, Bremen	500 TDM	100 %
3.	Neue Heimat Städtebau Niedersachsen GmbH, Hannover	500 TDM	100 %
4.	Neue Heimat Städtebau Nordrhein-Westfalen GmbH, Düsseldorf	500 TDM	100 %
5.	Neue Heimat Städtebau Südwest GmbH, Frankfurt	500 TDM	100 %
6.	Neue Heimat Städtebau Bayern GmbH, München	500 TDM	100 %
7.	Neue Heimat Städtebau Baden-Württemberg GmbH, Stuttgart	500 TDM	100 %
8.	Neue Heimat Städtebau Berlin GmbH, Berlin	500 TDM	100 %
9.	GVG Grundstücksfinanz- und Verwaltungs GmbH, Hamburg	20 TDM	100 %
10.	Neue Heimat Kommunal, Gesellschaft zum Bau öffentlicher und sozialer Einrichtungen m.b.H., Hamburg	1 Mio. DM	100 %
11.	Neue Heimat Hamburg International, Wohnungs- und Siedlungsgesellschaft m.b.H., Hamburg	2 Mio. DM	50 %, Rest NH Hamburg

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12. Gesellschaft für Industrieansiedlung m.b.H., Hamburg	5 Mio. DM	40 %, Rest BfG, Commerzbank, Dredner Bank, Deutsche Bank
13. Gewerbebauträger Gesellschaft m.b.H., Hamburg	2 Mio. DM	indirekt Mehrheit
14. Beratungsgesellschaft für Gewerbebau m.b.H., Hamburg	20 TDM	indirekt Mehrheit

Unterbeteiligungen zu 11.

Infrabau GmbH, Wien
SOCOFA Société de Construction Franco-Allemande, Paris
CA'NOVA S.p.A. Società Italo Tedesca, Mailand
MANERA SA., Paris
IFRA Société Immobilière Franco-Allemande, Paris
S. C. I. L'OULIVETO, Cannes
Immobiliare Italia 70 S.p.A., Florenz
MORASH LTD., Tel Aviv
Mountain Place LTD., Montreal Kanada
Promotora Venezolana Alemana S.A., Caracas Venezuela

Unterbeteiligungen zu 13.

VHH Vereinigte Hotel Holding GmbH, Frankfurt/Main
acon, Gesellschaft für Werbung und Kommunikationen m.b.H., Köln

Unterbeteiligungen zu 14.

Städtebaufinanz-Holding Zug (Schweiz)
Gewerbebau-Holding GmbH, Zug (Schweiz)
GEWOS GmbH, Hamburg

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den Ansprüche an das Wohnen allgemein bilden[19]. Da sich die gemeinnützigen Wohnungsunternehmen an der jeweiligen Kostenmiete orientieren müssen, können sie keine Marktlagengewinne machen. Damit wirken sie als Regulative für die Baupreise und Mieten. Zur Hebung des Wohnungsstandards hat die NH seit Kriegsende erheblich beigetragen. Sie verzichtet vielfach darauf, ihre Mieter selbst auszusuchen, sondern stellt vor allem in den Brennpunkten der Wohnungsknappheit ihr Angebot den örtlichen Behörden zur Verfügung. Die Mieter der NH sind durch ein faktisches Dauerwohnrecht vor willkürlicher Kündigung geschützt. Die Zukunftsaufgabe, den Wohnungsbau in den Städtebau zu integrieren, ist von der NH bereits in Angriff genommen worden.

C. Unternehmensgruppe Volksfürsorge

Die Volksfürsorge Lebensversicherung, bis 1968 Alte Volksfürsorge Gewerkschaftlich-Genossenschaftliche Lebensversicherung AG, ist nach der Zahl der Versicherungsverträge die größte deutsche Lebensversicherung. Nach der Versicherungssumme steht sie in der BRD an dritter Stelle. Am Kapital der Gesellschaft sind die BfG mit 51 vH und die Konsumgenossenschaften mit 49 vH beteiligt.

Die Volksfürsorge verfügte Ende 1969 über einen Versicherungsbestand von 5,1 Mill. Verträgen mit einer Versicherungssumme von 11,64 Mrd. DM. Der durchschnittliche Jahresbeitrag betrug rd. 137 DM, die durchschnittliche Versicherungssumme 2259 DM. Die Gesellschaft nahm rd. 602 Mill. DM an Beiträgen ein. Ihre Vermögenserträge beliefen sich auf rd. 205 Mill. DM. Die Versicherungsleistungen betrugen rd. 199 Mill. DM. Insgesamt zahlte die Volksfürsorge im Jahre 1969 für Todes-, Heirats- und Erlebensfälle, für Rückkäufe einschließlich Überschußanteile rd. 299 Mill. DM aus. Die Bilanz für das Geschäftsjahr 1969 schloß mit einer Summe von rd. 3,4 Mrd. DM ab. Die Kapitalanlagen verteilten sich Ende 1969 wie folgt: Hypotheken-, Grundschuld- und Rentenschuldforderungen 1,043 Mill. DM (rd. 42 vH); Grundstücke 754 Mill. DM (rd. 22,5 vH); Schuldscheinforderungen und Darlehen 726 Mill. DM (rd. 22 vH); Wertpapiere einschließlich Aktien und Kapitalanlage 337 Mill. DM (rd. 11 vH).

Die Volksfürsorge Lebensversicherung verfügte über 93 Geschäftsstellen mit 629 Organisationsbezirken. Rund 3700 Beschäftigte waren hauptberuflich und nicht weniger als nahezu 33 000 Personen nebenberuflich für die Gesellschaft tätig. Gerade in diesem enggeflochtenen Außendienstnetz liegt eine der Stärken der Volksfürsorge. Es rekrutiert sich weitgehend aus Mitgliedern und örtlichen Funktionären der

[19] *Walter Hesselbach*, a. a. O., S. 105 f.

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Gewerkschaften und Konsumgenossenschaften und arbeitet effizient und kostengünstig. Die Gesellschaft bietet nur wenige Standardtarife an und kann deshalb ihre Verwaltung relativ einfach halten. Sie konnte ihren Versicherten seit der Währungsreform in der Klein- und Großlebensversicherung einen Gewinnanteil von 20 vH der Jahresprämie zahlen.

Das gemeinwirtschaftliche Prinzip manifestiert sich bei der Volksfürsorge Lebensversicherung darin, daß die Prämiensätze vergleichsweise niedrig sind und der Erhöhung des allgemeinen Preisniveaus nicht angepaßt werden und daß die Todesfall-Mehrleistung für Altversicherte freiwillig weit über die amtlich festgesetzte Frist hinaus gewährt wird. Das gleiche gilt für die Kapitalanlagepolitik: Es wurden dem sozialen Wohnungsbau erhebliche Mittel zu günstigen Konditionen zur Verfügung gestellt.

So gewichtig auch das Geschäftsvolumen der Volksfürsorge Lebensversicherung ist, gemessen an dem Bestand von rd. 55,4 Mill. Versicherungsverträgen bei 102 Lebensversicherungsunternehmen mit einer Versicherungssumme von rd. 210 Mrd. DM im Jahre 1969, mit Beitragseinnahmen von rd. 8,7 Mrd. DM und Zahlungen von insgesamt rd. 3,2 Mrd. D-Mark[20] kann von einer marktbeherrschenden Stellung der Volksfürsorge nicht gesprochen werden. Dem steht auch die oben geschilderte Geschäftspolitik der Gesellschaftsorgane entgegen.

Die Volksfürsorge Deutsche Sachversicherung AG ist auf den wichtigsten Gebieten der Schadensversicherung tätig. Sie nahm im Geschäftsjahr 1969 insgesamt 148,6 Mill. DM an Beiträgen ein, davon im direkten Geschäft 144,2 Mill. DM. Daran waren die verschiedenen Sachversicherungssparten mit rd. 33 vH, die Haftpflicht-, Unfall- und Kraftfahrversicherung mit rd. 67 vH beteiligt. Auf die Kfz-Versicherung allein entfielen rd. 48 vH der Beitragseinnahmen. Der Versicherungsbestand umfaßte Ende 1969 rd. 6,2 Mill. Versicherungen, denen annähernd 3 Mill. Verträge zugrunde lagen.

Im Jahre 1969 wurden rd. 243 000 Schadensfälle gemeldet. Die Gesellschaft leistete für die Versicherungsfälle des Geschäftsjahres brutto rd. 97 Mill. DM, für Versicherungsfälle der Vorjahre brutto rd. 64 Mill. DM. Aus der Bilanz ergibt sich im gleichen Jahr ein Gewinn von rd. 2,8 Mill. D-Mark.

Das Vermögen in Höhe von 91,6 Mill. DM war zu 68 vH in Wertpapieren, zu rd. 18 vH in Schuldscheinforderungen und Darlehen, zu rd. 6 vH in Hypotheken, zu 3,6 vH (3,3 Mill. DM) in Beteiligungen, zu 2,5 vH in Ausgleichsforderungen und zu 2 vH in Grundstücken angelegt.

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[20] Bericht über das Geschäftsjahr 1969, Hamburg 1970, S. 8 ff.

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D. Großeinkaufs-Gesellschaft Deutscher Konsumgenossenschaften mbH (GEG)

An dem Stammkapital der GEG von 35,5 Mill. sind die Gewerkschaften über die BfG mit 25,37 vH beteiligt. Es besteht allerdings eine Stimmrechtsbeschränkung auf 8 vH. Außer einem kleinen Anteil der Volksfürsorge wird die große Mehrheit des Kapitals von den Konsumgenossenschaften gehalten. Die GEG arbeitet in enger Partnerschaft mit der Unternehmensgruppe „co op"; sie bildet die Wirtschaftszentrale der Konsumgenossenschaften. Ihre Aufgabe sieht sie darin, der co-op-Gruppe ein verbraucherorientiertes Sortiment an Lebensmitteln und Gebrauchsgütern aus Eigenprodukten, Handel und Import zu beschaffen. In 35 Produktionsbetrieben erzeugt die GEG ein umfangreiches Eigenmarkenprogramm. Unter Beteiligung der Genossenschaften in der EWG sollen über die „Euro-Coop" in Brüssel supranationale Produktionsstätten errichtet werden. Die GEG beschäftigte im Jahre 1969 insgesamt 11 500 Personen. Ihr Umsatz betrug 2,46 Mrd. DM, davon 69 vH im Handelsbereich, 31 vH in der Eigenproduktion. Die Bilanzsumme betrug rd. 502 Mill. DM. Das Anlagevermögen in Höhe von rd. 153 Mill. DM war zu rd. 80 vH durch Eigenkapital gedeckt.

Über die „plaza-SB-Warenhausberatungs- und Betreuungs-GmbH" arbeitet die GEG mit co op an der Errichtung und im Betrieb von Großraum-Verkaufsstätten, Selbstbedienungsmärkten und Einkaufszentren zusammen. Die GEG ist der größte Lebensmittel-Großhändler und der drittgrößte Hersteller von Nahrungs- und Genußmitteln in der BRD. Angesichts des scharfen Wettbewerbs ist das Unternehmen straff gegliedert. Es bemüht sich vor allem im Handel alle sich bietenden Marktchancen zu nutzen.

E. Unternehmensgruppe „co op"

Der direkte Einfluß der Gewerkschaften auf die co-op-Gruppe ist gering: Er besteht nur über eine kleine Beteiligung der BfG am Bund deutscher Konsumgenossenschaften. Mit den Gewerkschaften sind die Konsumgenossenschaften Träger der Volksfürsorge und der Bank für Gemeinwirtschaft. Dennoch fördern sich die gemeinwirtschaftlichen und genossenschaftlichen Unternehmen gegenseitig auf vielfältige Weise. Insofern wirkt ihr gemeinsamer Ursprung als Selbsthilfeeinrichtung der Arbeitnehmer und ihrer Interessenorganisationen bis heute nach.

Im Jahre 1969 gab es 154 Konsumgenossenschaften mit 2,23 Mill. Mitgliedern und rd. 5700 Läden. Die durchschnittliche Zahl der Läden je Konsumgenossenschaft betrug rd. 37. Von den Läden waren annähernd 5000 Selbstbedienungs- und knapp 600 Bedienungsläden. Hinzu kamen 21 Einkaufs-Center. Die gesamte Verkaufsfläche betrug fast 1 Mill. qm,

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die Verkaufsfläche je Laden 162 qm. Der Einzelhandelsumsatz der gesamten Gruppe betrug rd. 5,1 Mrd. DM, der Umsatz der Konsumgenossenschaften rd. 4,83 Mrd. DM; davon 99 vH Ladenumsatz. Die Eigenerzeugung der Genossenschaften belief sich auf rd. 630 Mill. DM, das sind 13 vH des Gesamtumsatzes. Bei co op waren rd 56 000 Arbeitnehmer beschäftigt.

Der harte Wettbewerb um den Verbraucher hat im Einzelhandel zu starken Konzentrationsbewegungen geführt. Dieser Tendenz trugen die Konsumgenossenschaften Rechnung, zumal sie begleitet wurde von einem Schwinden der traditionellen Ideologie des Genossenschaftswesens, indem sie im Jahre 1967 den Bund deutscher Konsumgenossenschaften (BdK) gründeten. Dieser Bund ist das Entscheidungszentrum des Verbandes. Er hat Richtlinienkompetenz für die Führung der Unternehmensgruppe. In letzter Zeit erstreckt sich die Reformdiskussion auf die Frage der Umwandlung des BdK in eine andere Rechtsform als die der GmbH. Gedacht ist an die Umwandlung in eine Aktiengesellschaft.

F. Beamtenheimstättenwerk (BHW)

Das Stammkapital des Beamtenheimstättenwerks — Gemeinnützige Bausparkasse für den öffentlichen Dienst GmbH wird je zur Hälfte von der Vermögens- und Treuhandgesellschaft des DGB und vom Deutschen Beamtenwirtschaftsbund des Deutschen Beamtenbundes gehalten. Die Gesellschaft wurde 1955 von der Bundesregierung als Organ der staatlichen Wohnungspolitik anerkannt. Im Jahre 1969 wurde ein eingelöstes Neugeschäft von rd. 190 000 Verträgen mit einer Bausparsumme von rd. 5,43 Mrd. DM gemeldet. Der Vertragsbestand belief sich damit auf 924 000 Verträge mit 21,76 Mrd. DM Bausparsumme. Die Spareinlagen betrugen 3,16 Mrd. DM, das Spar- und Tilgungsaufkommen 1,54 Mrd. D-Mark. Im Geschäftsjahr 1969 wurden 73 300 Verträge mit 1,46 Mrd. D-Mark Bausparsumme zugeteilt. Die Finanzierungsleistung des Beamtenheimstättenwerks erreichte insgesamt in diesem Jahre 1,62 Mrd. D-Mark. Die Bilanz schloß mit einer Summe von 4,15 Mrd. DM ab.

Seit der Währungsreform förderte das BHW ungefähr 190 000 Bauvorhaben mit 222 640 Wohnungseinheiten, 32 000 Wohnungseinheiten wurden mitfinanziert. Dafür stellte die Gesellschaft 7,38 Mrd. DM bereit. Die Finanzierungsleistung betrug seit 1948 insgesamt rd. 8,62 Mrd. DM.

Mit diesem Geschäftsvolumen steht das Beamtenheimstättenwerk an dritter Stelle unter den Bausparkassen in der BRD.

G. Gemeinwirtschaftliche Bauunternehmen

Aus organisatorischen Gründen wurde der „Verband sozialer Baubetriebe“ als Zusammenschluß der Bauhütten im Jahre 1958 in die

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„Deutsche Bauhütten GmbH" umgewandelt. Im Jahre 1964 trat die BfG neben der IG Bau-Steine-Erden, der IG Metall, der Gewerkschaft Holz und Kunststoff, der Gewerkschaft Nahrung-Genuß-Gaststätten und dem DGB als neue Gesellschafterin ein. Mit der Übernahme von 60 vH des Aktienkapitals der Boswau & Knauer AG durch die Bauhütten im Jahre 1965 begann ein neuer Abschnitt in der Entwicklung der gewerkschaftlich-gemeinwirtschaftlichen Baubetriebe. Nach mehrfachen Umschichtungen der Besitzverhältnisse befanden sich 1969 unter dem Dach der Boswau & Knauer AG die Deutsche Bauhütten GmbH mit ihren Beteiligungen im Bereiche des Fertigbaus, die Saar-Bauindustrie GmbH und die französische Travaux Hydrauliques et Entreprises Générales S. A.

Die Bilanzsumme der Gruppe belief sich auf rd. 156,8 Mill. DM. Die Außenumsatzerlöse betrugen rd. 196 Mill. DM. Allerdings entstand ein Konzernverlust von rd. 17 Mill. DM.

Angesichts des nach wie vor starken Interesses der Gewerkschaften und ihrer Unternehmen an eigenen Baubetrieben werden die Schwierigkeiten der Gruppe Boswau & Knauer bald überwunden sein. Schon jetzt gehört die Gruppe zu den größten und leistungsfähigsten Bauunternehmen der BRD.

H. Gemeinwirtschaftliches Unternehmen für Touristik (g-u-t)

Das Unternehmen wurde im April 1969 gegründet. Das Stammkapital der g-u-t GmbH & Co. in Höhe von 1 Mill. DM wird zu 52 vH von der BfG und zu 48 vH von verschiedenen gewerkschaftlichen Freizeit- und Touristikunternehmen gehalten. Die Gewerkschaften versprechen sich einen angemessenen Anteil an einem zwar hart umkämpften, aber zukunftsträchtigen Markt. Der Start des Unternehmens wird gefördert durch die Werbung über die Gewerkschaftsorganisation und durch den Vertrieb von Reisebuchungen über die Schalter der BfG und die Läden von co op.

Summary

Trade Unions and Concentration

One of the objectives of trade union policy is the control of economic power which especially arises from processes of concentration. Beside of active competition policy co-determination of the employees and their trade unions are to prevent the abuse of economic and hence social and political power. By their influence which is based on voluntary mass membership and their legally guaranteed autonomy the trade unions intervene in the distribution process, in the shaping of the living and working conditions, and in the formation of public opinion and the political will. The enforcement of the ideas

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and claims of the trade unions can rest on a widely ramified publicity. In 1969 in the Federal Republic of Germany, the members of the DGB trade unions alone raised between DM 460 million and DM 470 million in subscriptions. The trust property of the DGB and her trade unions which is given account of in the business records amounts to about DM 464 million.

Substantial parts of the surplus receipts go into the strike fund of the trade unions but recently they go more intensely into the welfare centres of the members.

The unionist-social economic enterprises in the spheres of banking, construction and insurance belong to the largest and most efficient in the Federal Republic of Germany. In observing, of course, the principle of profitableness they work as a corrective in a private capitalistic society. Their social economic mandate does not allow unionist-cooperative enterprises to misuse their power where their power-position is strong.

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Öffentliche Unternehmen und Konzentration

Von *Hans Lauffs*, Bonn

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V. Zusammenfassung

I. Allgemeine Problematik

Die Vielfalt und Vielschichtigkeit der öffentlichen Aufgaben bringt es mit sich, daß die öffentliche Hand in großem Umfange Unternehmen mit den verschiedensten Zielsetzungen betreibt. Das gilt sowohl für den Bund als auch für die Länder, Gemeinden und Gemeindeverbände. Die Vermögenskonzentration im weitesten Sinne ist daher bei der öffentlichen Hand — rein formal gesehen — sehr beträchtlich. Gleichwohl sind bedeutsame und grundsätzliche Unterschiede zur Vermögensballung in Privathand festzustellen.

Im allgemeinen entspringt die unternehmerische Betätigung der öffentlichen Hand völlig anderen Motiven als die der Privatwirtschaft. Die Aufgaben des Staates und der öffentlich-rechtlichen Gemeinwesen sind in erster Linie hoheitlicher Art. Daneben spielen aber auch gemeinwirtschaftliche Aufgaben eine überragende Rolle. Dagegen treten — im Gegensatz zur privaten Sphäre — die erwerbswirtschaftlichen Interessen bei der öffentlichen Hand eindeutig in den Hintergrund.

Es versteht sich von selbst, daß im Rahmen einer Konzentrationsuntersuchung alle Bereiche öffentlicher Betätigung auszuklammern sind, die nicht oder zumindesten nicht primär wirtschaftlicher Natur sind. Die Unterhaltung öffentlicher Einrichtungen des Bildungswesens (z. B. Schu-

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len, Museen, Bibliotheken, Theater), der Wohlfahrts- und der Krankenpflege (z. B. Krankenhäuser, Altersheime, Kindergärten) u. a. scheiden für die vorliegenden Betrachtungen selbst dann aus, wenn sie in Form privatrechtlicher Gesellschaften betrieben werden und Leistungsentgelte beanspruchen. Auszunehmen sind ferner die großen Sondervermögen des Bundes, Deutsche Bundespost und Deutsche Bundesbahn, während die Beteiligungen dieser Sondervermögen in den Beobachtungsbereich einbezogen werden.

Hiernach ist klargestellt, daß Gegenstand der folgenden Untersuchungen nur die Wirtschaftsunternehmen der öffentlichen Hand einschließlich der Versorgungs- und Verkehrsunternehmen sein soll. Dabei werden die Verhältnisse beim Bund, bei den Ländern und bei den Gemeinden getrennt behandelt. Eine solche Gliederung ist nicht nur wegen der Unterschiedlichkeit der vorhandenen Gegebenheiten und Probleme, sondern auch wegen der Verschiedenheit der Vermögensträger unerläßlich.

II. Unternehmenskonzentration beim Bund

A. Art, Umfang und Bedeutung der Bundesunternehmen

1. Gesamtüberblick

Die in den folgenden Ausführungen verwendeten Klammerzahlen beziehen sich ausnahmslos auf das Jahr 1959. Der damit geschaffene 10-Jahres-Vergleichszeitraum erlaubt im Rahmen der anschließenden Konzentrationsbetrachtungen zuverlässigere Rückschlüsse auf etwaige Konzentrationstendenzen beim Bund.

Der Bund ist z. Z. unmittelbar an 97 (82) Gesellschaften mit Geschäftsbetrieb (ohne Sondervermögen) und 18 (49) ruhenden oder in Liquidation befindlichen Unternehmen beteiligt.

Der Gesamtrechnungswert dieser Bundesbeteiligungen mit Geschäftsbetrieb beträgt nach dem Stand vom 31. 12. 1969 rd. 3,20 Mrd. DM (2,67 Mrd. DM). Das ist die Summe, mit der die Beteiligungen in der Vermögensrechnung des Bundes geführt werden. Dabei wurden, um eine bessere Vergleichbarkeit zu ermöglichen, börsenmäßige Kurse, die erfahrungsgemäß im Laufe größerer Zeitabstände beträchtlichen Schwankungen ausgesetzt sind, außer Ansatz gelassen.

Der Rechnungswert wird nach den Bestimmungen der Buchführungs- und Rechnungslegungsordnung über das Vermögen des Bundes vom 16. 3. 1953 (VBRO) festgestellt. Er ist im allgemeinen aus den Bilanzziffern der einzelnen Gesellschaften zu errechnen, ohne daß dabei etwa vorhandene stille Reserven erfaßt werden. Die Beteiligungen werden mit ihrem Nennkapital zuzüglich der in der letzten vorliegenden Bilanz

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ausgewiesenen Rücklagen abzüglich etwaiger Kapitalentwertungs- und -verlustkonten bewertet. Bei Beteiligungen an in Liquidation befindlichen Gesellschaften wird der anteilige Unterschiedsbetrag zwischen den Aktiven und Passiven am letzten Bilanzstichtag als Rechnungswert eingesetzt. Bei den gemeinnützigen Gesellschaften wird nur der Anteil am Grundkapital angesetzt, weil nur dieser Teil im Falle einer Liquidation oder Veräußerung dem Bunde zufließt.

Die zahlen- und vermögensmäßige Entwicklung der unmittelbaren Bundesgesellschaften hat in den letzten Jahren nach der Vermögensrechnung des Bundes folgenden Verlauf genommen:

	1959	1969	Unterschiedsbetrag
	Unternehmen mit Geschäftsbetrieb		
Zahl der Unternehmen	82	97	+ 15
Höhe des Nennkapitals in Mio. DM	2125	5387	+ 3262
Anteil des Bundes am Nennbetrag in Mio. DM	1725	2902	+ 1177
Anteil des Bundes am buchmäßigen Eigenvermögen (Rechnungswert) in Mio. DM	2669	3203	+ 534
	Ruhende oder in Liquidation befindliche Unternehmen		
Zahl der Unternehmen	49	18	— 31
Rechnungswert in Mio. DM	8,5	0,076	— 8,424

Legt man an Stelle des Bundesanteils am buchmäßigen Eigenvermögen die entsprechenden Börsenkurswerte, soweit sie vorhanden sind (das ist bei der VEBA AG, bei der Volkswagen AG und bei der Deutschen Lufthansa AG der Fall) zugrunde, so müßten in 1969 rd. 1 Mrd. DM für die Aktien des Bundes an der VEBA AG, der Volkswagenwerk AG und der Deutschen Lufthansa AG hinzugerechnet werden. Ein Vergleich mit 1959 entfällt, weil diese Gesellschaften erst in der Folgezeit teilprivatisiert wurden, so daß ein Börsenkurs überhaupt noch nicht vorhanden war. Außerdem ist die Volkswagenwerk AG in der Aufstellung für 1959 noch nicht enthalten, weil die Eigentumsverhältnisse s. Z. noch umstritten waren.

Die mit Stichtag vom 31. 12. 1969 in der Vermögensrechnung des Bundes ausgewiesenen Beteiligungen setzen sich folgendermaßen zusammen:

a) 8 (13) industrielle Unternehmen mit einem Nennkapital von 2590 Mio. DM (1496 Mio. DM), einem Anteil des Bundes von 1332 Mio. DM (1394 Mio. DM) und einem Rechnungswert von 2096 Mio. DM (2282 Mio. DM).

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Zu ihnen gehören vor allem die großen Dachgesellschaften des Bundes Saarbergwerke AG, Salzgitter AG, VEBA AG, Vereinigte Industrieunternehmungen AG und die weitestgehend privatisierte Volkswagenwerk AG, ferner die Industrieverwaltungsgesellschaft mbH sowie die beiden konzernfreien Gesellschaften Bayerischer Lloyd Schiffahrts AG und Prakla Gesellschaft für praktische Lagerstättenforschung GmbH.

Das industrielle Bundesvermögen, das naturgemäß das Kernstück der Konzentrationsuntersuchungen bildet, wird in einem besonderen Kapitel behandelt.

b) 5 (6) Unternehmen des öffentlichen Rechts mit einem Nennkapital von 1394 Mio. DM (85 Mio. DM), einem Anteil des Bundes von 816 Mio. DM (840 Mio. DM) und einem Rechnungswert von 192 Mio. DM (122 Mio. DM).

An öffentlich-rechtlichen Unternehmen seien besonders die Deutsche Siedlungs- und Landesrentenbank, die Deutsche Pfandbriefanstalt und die Kreditanstalt für Wiederaufbau genannt.

c) 20 (22) verkehrswirtschaftliche Unternehmen mit einem Nennkapital von 890 Mio. DM (371 Mio. DM), einem Anteil des Bundes von 540 Mio. DM (210 Mio. DM) und einem Rechnungswert von 663 Mio. DM (190 Mio. DM).

Die Beteiligungen des Bundes (ohne Sondervermögen) an verkehrswirtschaftlichen Unternehmen mit Geschäftsbetrieb umfassen 2 (4) Eisenbahngesellschaften, 10 (8) Hafen- und Wasserstraßengesellschaften, unter ihnen die Rhein-Main-Donau AG und die Neckar AG, 4 (6) Flughafengesellschaften und 4 (5) sonstige verkehrswirtschaftliche Unternehmen, darunter als bedeutendste Gesellschaft des Verkehrsbereichs die Deutsche Lufthansa AG. Außerdem ist der Bund an 6 (13) verkehrswirtschaftlichen Unternehmen beteiligt, die sich in Liquidation befinden, oder bei denen der Betrieb ruht.

d) 27 (16) wohnungswirtschaftliche Unternehmen mit einem Nennkapital von 359 Mio. DM (102 Mio. DM), einem Anteil des Bundes von 92 Mio. DM (44 Mio. DM) und einem Rechnungswert von 108 Mio. DM (45 Mio. DM).

Die wohnungswirtschaftlichen Beteiligungen mit Geschäftsbetrieb (ohne Sondervermögen) umfassen außer 2 — bereits unter b) erfaßten — Körperschaften des öffentlichen Rechts (Deutsche Pfandbriefanstalt und Deutsche Siedlungs- und Landesrentenbank), ein Kreditinstitut (Deutsche Bau- und Bodenbank AG), 8 (6) Wohnungsbaugesellschaften, 9 (5) Heimstätten und 3 (4) sonstige wohnungswirt-

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schaftliche Unternehmen. 2 (2) weitere wohnungswirtschaftliche Unternehmen sind ohne Geschäftsbetrieb und befinden sich in Liquidation.

e) 10 (11) landwirtschaftliche Siedlungs- und Erschließungsunternehmen mit einem Nennkapital von 24 Mio. DM (17 Mio. DM), einem Anteil des Bundes von 5 Mio. DM (8 Mio. DM) und einem Rechnungswert von 7 Mio. DM (7 Mio. DM).

Der Bund ist hier an einer Anstalt des öffentlichen Rechts (die bereits unter b) erfaßte und unter d) genannte Deutsche Siedlungs- und Landesrentenbank), 7 (9) tätigen Siedlungsgesellschaften, 3 (2) Landgewinnungs- und Erschließungsunternehmen und 4 (6) ruhenden Gesellschaften beteiligt. 4 (6) Beteiligungen sind ohne Geschäftsbetrieb. Hierbei handelt es sich um ehemalige Reichsbeteiligungen.

f) 4 Unternehmen für wirtschaftliche Zusammenarbeit mit einem Nennkapital von 115 Mio. DM (—), einem Anteil des Bundes von 115 Mio. DM (—) und einem Rechnungswert von 95 Mio. DM (—).

Wichtigstes Unternehmen ist die Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft) mbH, die allein ein Stammkapital von 115 Mio. DM besitzt.

g) 8 Unternehmen für wissenschaftliche Forschung mit einem Nennkapital von 2 Mio. DM (—), einem Anteil des Bundes von 1 Mio. DM (—) und einem Rechnungswert von 23 Mio. DM (—).

Bedeutendstes Unternehmen aus diesem Bereich ist die Gesellschaft für Kernforschung mbH, an deren buchmäßigem Eigenvermögen der Bund mit 22 Mio. DM beteiligt ist.

h) 21 (14) sonstige Unternehmen mit einem Nennkapital von 12 Mio. DM (53 Mio. DM), einem Anteil des Bundes von 9 Mio. DM (21 Mio. DM) und einem Rechnungswert von 14 Mio. DM (18 Mio. DM).

Hierzu gehören an bedeutenden Gesellschaften die Deutsche Gesellschaft für öffentliche Arbeiten AG (ÖFFA), die nach dem Verkehrsfinanzgesetz 1955 mit der Finanzierung des Baus von Bundesautobahnen nach Maßgabe des mit der Bundesrepublik Deutschland abgeschlossenen Geschäftsversorgungsvertrages beauftragt ist, sowie die Deutsche Revisions- und Treuhand AG, die als Prüfungsinstitut für den Bund von besonderer Bedeutung ist.

i) Die oben erwähnten 18 (49) ruhenden oder in Liquidation befindlichen Gesellschaften mit einem Rechnungswert von 76 Mio. DM (8,5 Mio. DM) sind für Konzentrationsbetrachtungen ohne Bedeutung, da für diese Gesellschaften lediglich Verwaltungs- oder Abwicklungsmaßnahmen für vorhandene Vermögensmassen durchgeführt werden. Die Gesellschaften selbst spielen im Wirtschaftsprozeß keine

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Rolle mehr. Überdies konnte die Liquidation der 3 bedeutendsten Unternehmen, der Wirtschaftlichen Forschungsgesellschaft mbH, der AG für Binnenschiffahrt und der Deutschen Golddiskontbank, inzwischen abgeschlossen werden. Dadurch ging der Rechnungswert von 76 Mio. DM um 61 Mio. DM auf 15 Mio. DM zurück.

Sieht man sich die Gesamtübersicht an, so ist — unbeschadet späterer Einzeluntersuchungen — bemerkenswert, daß die Gesellschaften ihr Nennkapital zwar insgesamt um 3,262 Mrd. DM erhöht haben. Der Bund ist hieran aber nur mit 1,177 Mrd.DM beteiligt. Das buchmäßige Eigenvermögen hat sich sogar insgesamt nur um 534 Mio. DM erhöht. Berücksichtigt man, daß die Beteiligung des Bundes an der Volkswagenwerk AG in den Zahlen für 1959 noch nicht einmal enthalten ist, so folgt schon aus der Gesamtrechnung, daß der Bundeseinfluß auf die Unternehmen beträchtlich zurückgegangen ist.

2. Das industrielle Bundesvermögen

Der industrielle Beteiligungsbesitz des Bundes umfaßt eine große Anzahl wertvoller und volkswirtschaftlich bedeutender Unternehmen. Bevor Einzelfragen zur Unternehmenskonzentration bei diesen Gesellschaften untersucht werden sollen, erscheint angebracht, einen kurzen Überblick über die Entstehung dieser Gesellschaften in der Hand des Bundes bzw. des Reichs zu geben:

In keinem Falle hat der Bund seine Beteiligungen etwa aus dem Wunsch wirtschaftlicher Betätigung oder aus bürokratischem Machtstreben heraus erworben. Die Unternehmen sind vielmehr dem Bund als Erbstücke des Deutschen Reichs und des ehemaligen Landes Preußen zugefallen. Nach Artikel 134 und 135 des Grundgesetzes gehen die Beteiligungen des Reichs und des früheren Landes Preußen an den Unternehmen des privaten Rechts auf den Bund über. Das nach Artikel 134 Abs. 4 und Artikel 135 Abs. 5 Grundgesetz hierfür vorgesehene Ausführungsgesetz ist das Gesetz zur Regelung der Rechtsverhältnisse des Reichsvermögens und der preußischen Beteiligungen vom 16. 5. 1961 (BGBl. I S. 597). Hiernach sind die meisten Beteiligungen des Reichs und des ehemaligen Landes Preußen auf den Bund übergegangen. Lediglich die im einzelnen genannten Gesellschaften regionaler Bedeutung gingen in das Eigentum der Länder über.

Für die Entstehung der Beteiligungen in der Hand des Reichs und des Landes Preußen waren im wesentlichen drei Ursachen maßgebend, und zwar das Preußische Bergrecht, die Notwendigkeiten der Rüstung in den beiden Weltkriegen und der Zwang, den Zusammenbruch privater

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Betriebe in wirtschaftlichen Notzeiten wegen der sozial und wirtschaftlich schädlichen Rückwirkungen zu verhüten. Daneben sind es aber auch in Einzelfällen Kapitalknappheit oder die Furcht vor wirtschaftlichen Risiken seitens der privaten Industrie gewesen, die die Staatsbeteiligung veranlaßt haben.

Sowohl vermögensmäßig als auch volkswirtschaftlich nehmen innerhalb der Bundesbeteiligungen die großen Bundeskonzerne den breitesten Raum ein. Bei diesen großen Industriekomplexen handelt es sich um folgende Unternehmen:

a) *VEBA AG*

Die Gesellschaft, die bisher Vereinigte Elektrizitäts- und Bergwerks-AG firmierte, wurde im Jahre 1929 als Dachgesellschaft für alle Beteiligungen des Preußischen Staates gegründet. Ihre Aufgabe war, die Konzerntöchter Preußische Elektrizitätswerke AG (Preußenelektra), die Preußische Bergwerks- und Hütten-AG (heute Preußag AG) und die Bergwerksgesellschaft Hibernia AG zu betreuen und durch Einsatz ihrer eigenen Finanzkraft zu unterstützen.
Seit Ausgliederung des Steinkohlenbergbaus sind in der VEBA AG Unternehmen der Elektrizitätswirtschaft, der Chemie und Glaserzeugung sowie des Handels und Verkehrs über folgende Konzerntöchter zusammengefaßt:

Preussische Elektrizitäts AG,
Kapital 500 Mio. DM, VEBA-Anteil 86,3 % (Energieversorgung)
VEBA Kraftwerke Ruhr GmbH,
Kapital 100 Mio. DM, VEBA-Anteil 100 % (industrielle Kraftwirtschaft)
VEBA-Chemie AG,
Kapital 250 Mio. DM, VEBA-Anteil 100 % (Chemie)
VEBA-Glas AG,
Kapital 100 Mio. DM, VEBA-Anteil 100 % (Glas)
Hugo Stinnes AG,
Kapital 130 Mio. DM VEBA-Anteil 98,2 % (Handel/Verkehr/Dienstleistungen)

Das Grundkapital der VEBA beträgt 825 Mio. DM, der Konzernumsatz belief sich im Jahre 1969 auf 6 942 Mio. DM. Die VEBA beschäftigte vor Ausgliederung ihres Steinkohlenbergbaus über 70 000 Mitarbeiter, nach der Ausgliederung über 50 000 Mitarbeiter.

b) *Vereinigte Industrie-Unternehmungen AG*

Die Beschaffung von kriegswichtigen Rohstoffen zwang das Reich während des 1. Weltkrieges zu schnellem Aufbau kriegswichtiger Industrien. Ihm verdankt die deutsche Aluminium-Industrie im 1. Weltkrieg weitgehend ihr Entstehen, und gleichzeitig mit ihr wuchsen auch die gewaltigen Kraftwerke, die für die Aluminium-

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Jahre 1923 wurden diese sowie andere Betriebe, die bis dahin vom Reichsschatzministerium unmittelbar verwaltet wurden, in die für diesen Zweck gegründete Vereinigte Industrie-Unternehmungen AG eingebracht, die — ebenso wie die VEBA für die preußischen Beteiligungen — die Aufgabe hatte, den Geldausgleich unter den Tochtergesellschaften und die Befriedigung des Finanzierungsbedarfs dieser Gesellschaften sicherzustellen.

Die VIAG ist auch heute noch eine echte Holding-Gesellschaft, in der im wesentlichen elektrizitätswirtschaftliche und elektrochemische Beteiligungen zu einem organischen Verbund zusammengefaßt sind. Wirtschaftliche Grundlage für die stromintensive Aluminium- und Kalkstickstoffproduktion bildet die überwiegend auf Wasserkraft und auf Kohle-(insbesondere Braunkohle-)basis beruhende Elektrizitätserzeugung.

Die VIAG selbst besitzt ein Grundkapital von 304 Mio. DM. Der Konzernumsatz betrug im Jahre 1969 1508 Mio. DM. Die Beschäftigtenzahl war Ende 1969 21 712 Personen.

c) *Salzgitter AG*

Die Salzgitter AG wurde im Jahre 1937 aus wirtschaftspolitischen Erwägungen gegründet, um die sauren Erze des Salzgitter-Gebietes abzubauen und zu verhütten. Der ursprüngliche Plan, die Erzfelder in Salzgitter mit Hilfe der Ruhr zu erschließen, mußte angesichts des Industrie als dem großen Stromverbraucher notwendig sind. Im Widerstandes der Ruhr-Industrie aufgegeben werden. Inzwischen hat sich die Salzgitter AG, die nach dem Kriege zunächst Aktiengesellschaft für Berg- und Hüttenbetriebe firmierte, im Verlauf von über 30 Jahren zu einem Konzern mit weitverzweigter Verbundwirtschaft entwickelt.

Zu den wichtigsten Beteiligungsgesellschaften gehören die im Jahre 1970 durch Fusion der Salzgitter Hüttenwerk AG mit der Ilseder Hütte entstandenen Stahlwerke Peine — Salzgitter AG (Salzgitter-Anteil über 75 %), ferner die Howaldtswerke — Deutsche Werft AG (Salzgitter-Anteil 50 %) und die Büssing Automobilwerke AG (Salzgitter-Anteil 50 %).

Die Salzgitter AG hat ein Grundkapital von 300 Mio. DM. Der Konzernumsatz betrug im Jahre 1969 rd. 3,4 Mrd. DM. Die Zahl der Beschäftigten verminderte sich durch die Einbringung der beiden Zechengesellschaften Ewald-Kohle AG und Märkische Steinkohlengewerkschaft in die Ruhrkohle AG auf rd. 44 800 Personen.

d) *Saarbergwerke AG*

Die Saarbergwerke AG ging im wesentlichen aus der früheren Saargruben AG hervor, die sich bereits voll im Eigentum des Deutschen

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Reiches (bis zum 1. Weltkrieg im Besitz des preußischen Staates), vorübergehend aber auch in französischer Hand befunden hatte. So wurden die Gruben im Jahre 1920 als Reparationsleistungen an Frankreich abgetreten, bei der Rückgliederung des Saarlandes im Jahre 1935 vom Deutschen Reich für 150 Mio. Goldmark zurückerworben. Nach dem 2. Weltkrieg kamen die Saargruben erneut unter französische Kontrolle und Verwaltung. Bei der Rückgliederung des Saarlandes wurden die Eigentumsverhältnisse an der Gesellschaft neu geregelt. Nach dem Gesetz über die Einbringung der Steinkohlenbergwerke im Saarland in eine Aktiengesellschaft vom 27. 7. 1957 (BGBl. I S. 1103) wurde dem Saarland eine Beteiligung an der neuen Gesellschaft in Höhe von 26 % eingeräumt. Die restlichen 74 % wurden Bundesbesitz.

Angesichts der bekannten Schwierigkeiten im Bergbaubereich bemüht sich die Gesellschaft um eine Umstrukturierung. Sie hat ihre Tätigkeit deshalb auf die Erzeugung von Mineralölprodukten, chemischen Produkten und die Bearbeitung von Kunststoffen, ferner auf die Herstellung von Werkzeugen und Holzbearbeitung sowie auf den Handel mit den genannten Produkten ausgedehnt. Ihr Grundkapital beträgt 350 Mio. DM. Der Konzernumsatz belief sich im Jahre 1969 auf 1564 Mio. DM. Rund 27 000 Personen wurden Ende 1969 in den Betrieben beschäftigt.

e) *Volkswagenwerk AG*

An der Volkswagenwerk AG ist der Bund noch mit 16 % beteiligt. Weitere 20 % werden vom Lande Niedersachsen gehalten. 4 % besitzt die Stiftung Volkswagenwerk, der auch die Dividendenerträge des Bundes aufgrund eines Nutznießungsvertrages zufließen. Der Rest ist im Zuge der Privatisierungsmaßnahmen des Bundes im Jahre 1961 breitgestreut.

Die Volkswagenwerk AG (Grundkapital 900 Mio. DM) ist mit einem Konzernumsatz von 11 Mrd. DM das größte Unternehmen der Bundesrepublik Deutschland (Umsatz des Gesamtunternehmens 13,9 Mrd. Deutsche Mark).

f) Von den übrigen Gesellschaften des industriellen Bundesvermögens ist noch die Industrieverwaltungsgesellschaft mbH mit einem Grundkapital von 50 Mio. DM zu nennen, die einen umfangreichen Liegenschaftsbesitz verwaltet, Mineralöl lagert und transportiert sowie verschiedene Beteiligungen hält, sowie die Prakla Gesellschaft für praktische Lagerstättenforschung GmbH (Grundkapital 6 Mio. DM), die geophysikalische Untersuchungen zur Auffindung nutzbarer Lagerstätten, insbesondere Erdöl und Erdgas, im Inland und Ausland durchführt.

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Die Bundeskonzerne sind ihrerseits an über 300 Gesellschaften unmittelbar oder mittelbar beteiligt. Aus der großen Anzahl sind jedoch besondere Erkenntnisse in bezug auf Konzentrationstendenzen schon deshalb nicht zu gewinnen, weil nicht nur die Größe und Bedeutung dieser Gesellschaften, sondern auch der gesellschaftsrechtliche Einfluß ganz unterschiedlich sind. Die mittelbaren Gesellschaften sind kapitalmäßig in den jeweiligen Obergesellschaften enthalten, und diese Schachtelung kann generell auch nicht eliminiert werden, weil sie in jedem Einzelfall verschieden groß ist (Schachtelbeteiligungen bis zum 6. Grad). Eine kapitalmäßige Zusammenzählung aller Gesellschaften würde daher zu ebenso unrichtigen Ergebnissen führen wie etwa ein schematischer Abzug des jeweiligen Kapitals der Untergesellschaft von dem ihrer Muttergesellschaft.

Um einen besseren Einblick in die Vermögensverhältnisse der Gesellschaften zu vermitteln, sind die Konzerne seit Jahren dazu übergegangen, konsolidierte Bilanzen und konsolidierte Gewinn- und Verlustrechnungen aufzustellen, bei denen durch Auflösung der in den Beteiligungswerten liegenden stillen Reserven nicht nur eine bessere Beurteilung der in den einzelnen Gesellschaften arbeitenden Werte ermöglicht, sondern auch die strukturelle Gliederung des Gesamtvermögens der Konzerne offengelegt wird.

Auf die Entwicklung der Vermögens- und Kapitalstruktur der Bundeskonzerne wird unter Zugrundelegung der konsolidierten Bilanzen bei den speziellen Konzentrationsuntersuchungen besonders einzugehen sein.

3. Sonstige Beteiligungen

Das industrielle Bundesvermögen ist, wie sich aus Kapitel II A 1 ergibt, fast ausschließlich in den großen Konzernen erfaßt. Demgegenüber handelt es sich — von wenigen Ausnahmen abgesehen — bei den übrigen Gesellschaften, die zahlen- und wertmäßig ebenfalls unter II A, 1 genannt wurden, um Einzelgesellschaften, die verwaltungsmäßig insgesamt 12 verschiedenen Bundesministerien unterstehen.

a) *Bundesbeteiligungen aus dem Bereich des Bundesministers für Verkehr und für das Post- und Fernmeldewesen*

Die Verkehrsunternehmen befinden sich in der Regel nicht mit Privatbetrieben im Wettbewerb. Sie erfüllen fast ausnahmslos gesamtwirtschaftliche und verkehrspolitische Aufgaben der öffentlichen Hand und arbeiten — mit wenigen Ausnahmen — ohne Gewinn oder mit Verlusten. Eine Ausnahme stellt die Deutsche Lufthansa AG mit einem Grundkapital von 400 Mio. DM dar, die nach erwerbswirtschaftlichen Gesichtspunkten geführt wird. Das Unter-

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nehmen wurde anläßlich der letzten Kapitalerhöhung zu rd. 25 % teilprivatisiert.

b) *Bundesbeteiligungen aus dem Bereich des Bundesministers für Städtebau und Wohnungswesen*

Der Bund besitzt hier bei nur 5 Gesellschaften die Kapitalmehrheit. Bei 9 Gesellschaften hält er die Sperrminorität, und bei weiteren 9 Unternehmen hat er nur Minderheitsanteile. Die Kreditinstitute erfüllen Aufgaben der Wohnungsbaufinanzierung. Die Beteiligungen an den Wohnungsbaugesellschaften dienen der Förderung des Wohnungsbaus, die Heimstätten sind Organe der Länder zur Durchführung der ihnen obliegenden Aufgaben im Wohnungsbau und Siedlungswesen. Mit den Beteiligungen des Bundes wird eine Einflußnahme auf die Betreuungstätigkeit der Heimstätten und damit die Wohnungspolitik der Länder angestrebt. Insbesondere soll damit die Verwirklichung der im 2. Wohnungsbaugesetz verankerten wohnungspolitischen Ziele und die Durchführung überregionaler Sonderbauprogramme verfolgt werden. Die Deutsche Baurevision ist als Prüfungsinstitut der Wohnungswirtschaft für den Bund von besonderer Bedeutung.

Die Mehrzahl der wohnungswirtschaftlichen Unternehmen, an denen der Bund beteiligt ist, ist gemeinnützig. Die Gewinnausschüttung ist bei diesen Gesellschaften nach § 9 des Wohnungsgemeinnützigkeitsgesetzes auf höchstens 4 v. H. des Nennkapitals beschränkt.

c) *Bundesbeteiligungen aus dem Bereich des Bundesministers für Ernährung, Landwirtschaft und Forsten*

Sämtliche Gesellschaften des landwirtschaftlichen Bereichs sind gemeinnützig und arbeiten bei der Durchführung ihrer Aufgaben zu einem beträchtlichen Teil mit Haushaltsmitteln des Bundes. Soweit Dividende ausgeschüttet wird, ist sie nach den jeweiligen Gesellschaftsverträgen auf höchstens 4 % des Nennkapitals beschränkt.

d) *Bundesbeteiligungen aus dem Bereich des Bundesministers für wirtschaftliche Zusammenarbeit*

Die 4 Gesellschaften, an denen der Bund beteiligt ist, stehen ausschließlich im Dienst der Entwicklungshilfe. Davon übt 1 Unternehmen eine bankähnliche Tätigkeit aus; 2 weitere Gesellschaften erfüllen Ausbildungsaufgaben und eine vierte dient dem Einsatz von Freiwilligen in Entwicklungsländern.

e) *Bundesbeteiligungen aus dem Bereich des Bundesministers für Bildung und Wissenschaft*

Der Bund hat — größtenteils gemeinsam mit den jeweiligen Sitzländern — als Rechtsträger für Einrichtungen der Großforschung

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sowie für Management-Aufgaben auf dem Gebiet der Weltraumforschung bisher insgesamt 8 Unternehmen in der Rechtsform der Gesellschaft mit beschränkter Haftung gegründet oder Stammanteile von diesen erworben. Aufgrund von Vereinbarungen mit den Ländern sollen die überregionalen Großforschungseinrichtungen außerhalb der Hochschulforschung überwiegend vom Bund getragen werden. Sämtliche Gesellschaften sind gemeinnützig und im Rahmen der Förderprogramme des Bundesministers für Bildung und Wissenschaft tätig.

4. Die Beteiligungen der Sondervermögen des Bundes

Als Beteiligungen der Sondervermögen des Bundes sind die des ERP-Sondervermögens, der Deutschen Bundespost und der Deutschen Bundesbahn zu verstehen. Sie dienen der unmittelbaren oder mittelbaren Erfüllung von Aufgaben dieser Sondervermögen und werden in keinem Falle lediglich als Kapitalanlagen gehalten.

a) *Die Beteiligungen des ERP-Sondervermögens*

Hier sind es im wesentlichen 3 Beteiligungen, die Berliner Industriebank AG, die Lastenausgleichsbank und die Kreditanstalt für Wiederaufbau.

Die Berliner Industriebank, an deren Grundkapital von 50 Mio. DM das ERP-Sondervermögen mit 68 % beteiligt ist, hat als Finanzierungsinstitut zur Förderung der Berliner Wirtschaft und Treuhänderin des ERP-Sondervermögens in Berlin eine besondere Bedeutung. Das Institut ist mit der überwiegenden Durchführung des ERP-Investitionsprogramms in Berlin betraut.

Ein besonderes Gewicht hat die Tätigkeit der Bank als Treuhänderin des ERP-Sondervermögens bei der Verwaltung der Beteiligungen an Berliner Unternehmen, und zwar in Form echter und stiller Beteiligungen im Rahmen des Eigenkapitalfinanzierungsprogramms.

Die Lastenausgleichsbank (Bank für Vertriebene und Geschädigte) hat nach dem Gesetz über die Lastenausgleichsbank vom 28. Oktober 1954 als Hauptaufgabe die Förderung der durch den Krieg und seine Folgen betroffenen Personen, insbesondere der Vertriebenen, Flüchtlinge und Kriegsgeschädigten, und zwar durch Kredite, Darlehen, Beihilfen, Garantien und Bürgschaften, ferner die Ausführung bankmäßiger Aufgaben für den Lastenausgleich. Das Nennkapital der Lastenausgleichsbank befindet sich zu 100 % im Besitz des Bundes. Von den 25 Mio. DM Grundkapital stehen 3 Mio. DM dem ERP-Sondervermögen und 22 Mio. DM dem Sondervermögen „Ausgleichsfonds" der Bundesrepublik Deutschland zu.

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Die Kreditanstalt für Wiederaufbau wurde durch Gesetz vom 5. November 1948 (letzte Neufassung vom 23. Juni 1969) gegründet. Die Anstalt wurde zu dem Zwecke errichtet, für Vorhaben, die dem Wiederaufbau oder der Förderung der deutschen Wirtschaft dienen, mittel- und langfristige Darlehen zu gewähren, soweit andere Kreditinstitute nicht in der Lage sind, hierfür die erforderlichen Mittel aufzubringen. Das Grundkapital der Kreditanstalt beträgt 1 Mrd. DM. Daran sind der Bund mit 800 Mio. DM und die Länder mit 200 Mio. DM beteiligt. Von diesem Grundkapital wurden bisher aber nur 15 %, d. h. 150 Mio. DM, eingezahlt; die restlichen 850 Mio. DM sind erst auf Beschluß des Verwaltungsrates zur Verfügung zu stellen, soweit es zur Erfüllung der Verbindlichkeiten der Anstalt erforderlich ist. Von dem bisher vom Bund mit 120 Mio. DM eingezahlten Grundkapital steht dem ERP-Sondervermögen 90 Mio. DM zu.

Im Rahmen der Eigenkapitalfinanzierung werden vom ERP-Sondervermögen in Berlin 5 echte Beteiligungen mit rd. 66 Mio. DM und 24 stille Beteiligungen mit rd. 85 Mio. DM gehalten. Rolle und Bedeutung des EKF-Programms für die wirtschaftliche Entwicklung Berlins wurden im Jahre 1966 einer breiteren Öffentlichkeit durch den am 9. August 1966 geschlossenen Vertrag über den Zusammenschluß von 7 Berliner Maschinenbauunternehmen in der Deutschen Industrieanlagen GmbH (DIAG) bekannt. An dem Stammkapital der DIAG in Höhe von 65 Mio. DM ist die Berliner Industriebank treuhänderisch für das ERP-Sondervermögen mit 90 % = 58,50 Mio. DM beteiligt.

b) *Beteiligungen der Deutschen Bundespost*

Die Deutsche Bundespost ist an 2 Unternehmen des öffentlichen Rechts (Wasserbeschaffungsverband Wilhelmsdorf Kreis Usingen und Wasserverband „Großer Feldberg" Niedereisenberg [Taunus]) und an 22 Unternehmen des privaten Rechts beteiligt. Rund 88 % des Beteiligungsvermögens entfallen auf Anteile an gemeinnützigen Wohnungsgesellschaften, der Rest auf Anteile an Unternehmen, die u. a. betrieblichen Aufgaben der Deutschen Bundespost dienen. Außer diesen Beteiligungen besitzt die Deutsche Bundespost Geschäftsanteile an sozialen Einrichtungen sowie an Elektrizitäts- und Wasserleitungsgenossenschaften, die im Einzelfalle nicht mehr als 800 DM und insgesamt nur 2020 DM betragen.

c) *Beteiligungen der Deutschen Bundesbahn*

Die Deutsche Bundesbahn hält ihre Beteiligungen vor allem zu dem Zweck, bestimmte Aufgaben ihres Geschäftsbereiches in rechtlich

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selbständiger Form nach privatwirtschaftlichen Grundsätzen erfüllen zu können. Ende 1969 war die Deutsche Bundesbahn an einem Unternehmen des öffentlichen Rechts (Deutsche Pfandbriefanstalt mit 1,2 %) und an 59 Unternehmen des privaten Rechts beteiligt. Die 59 Gesellschaften des privaten Rechts umfassen 34 verkehrswirtschaftliche und andere den Verkehrsbelangen dienende Unternehmen sowie 25 Wohnungsgesellschaften. Die Beteiligungen waren am 31. Dezember 1969 mit einem Beteiligungskapital von rd. 266 Mio. DM in der Bilanz der Deutschen Bundesbahn aktiviert. Annähernd 53 % des aktiven Beteiligungskapitals entfallen dabei auf gemeinnützige Wohnungsunternehmen, deren Aufgabe es ist, den Wohnungsbedarf des Personals der Deutschen Bundesbahn zu möglichst günstigen Bedingungen zu decken. Eine nennenswerte Gewinnausschüttung wird von ihnen nicht erwartet.

B. Konzentration bei den Unternehmen des Bundes

Die vorstehenden Ausführungen dienten der „Bestandsaufnahme". Man kann nun fragen, ob eine derartige Bestandsaufnahme im Rahmen einer Konzentrationsuntersuchung überhaupt sinnvoll ist. Ich meine, daß sie zum Verständnis der Zusammenhänge nicht nur sinnvoll, sondern sogar notwendig ist. Ein Sachverhalt läßt sich erst zuverlässig beurteilen, wenn man ihn kennt.

Es besteht kein Zweifel, daß die Vermögenskonzentration des Bundes, wenn man das gesamte Verwaltungsvermögen und das wenig bedeutende Grundvermögen des Bundes ausnimmt, sich also auf die Beteiligungen beschränkt, mit einem Buchwert von 3,2 Mrd. DM zwar ansehnlich, im Vergleich zum gesamten Produktionskapital aber nicht übertrieben hoch ist. Für einen Zeitraum von 10 Jahren (1959 bis 1969) liegt die Zuwachsrate mit 534 Mio. DM = 16,5 % sogar ausgesprochen niedrig.

Bei der Beurteilung der Vermögenskonzentration ist besonders zu berücksichtigen, daß das gesamte Beteiligungsvermögen des Bundes mit Ausnahme des industriellen Bundesvermögens fast ausschließlich hoheitlichen, mindestens aber gemeinwirtschaftlichen Zwecken gewidmet ist. Das zeigt sich besonders deutlich am Ausmaß der Gewinne aus diesem Vermögen. Der größte Teil der Bundesbeteiligungen, insbesondere die meisten verkehrswirtschaftlichen Unternehmen und die Gesellschaften auf dem Gebiete der Kernenergie, der Entwicklungshilfe und der Forschung, dient nicht erwerbswirtschaftlichen Zielen. Lediglich für das industrielle Bundesvermögen gilt in vollem Umfange der Grundsatz, daß sich die Unternehmen nach erwerbswirtschaftlichen Gesichtspunkten zu betätigen haben. Diese Gegebenheit bringt mit sich, daß die

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Einkommenskonzentration beim Bund sehr minimal ist. Das Bruttodividendenaufkommen betrug — vor Abzug der Kapitalertragsteuer — im Jahre 1969 107,9 Mio. DM. Das ist bezogen auf den Anteil des Bundes am Nennkapital der Gesellschaften in Höhe von 2,9 Mrd. DM lediglich 3,1 %. Dabei hat sich in den Dividendeneinnahmen das industrielle Bundesvermögen mit einer Gesamtgewinnausschüttung von 91,3 Mio. DM und einer Durchschnittsverzinsung von 8,5 % entscheidend ausgewirkt.

Die Entwicklung der Vermögenskonzentration des Bundes im industriellen Bereich ist im wesentlichen durch Gegenüberstellung der Vermögens- und Kapitalstruktur der Bundeskonzerne unter Zugrundelegung ihrer konsolidierten Bilanzen der Jahre 1960 und 1969 zu erkennen. Hiernach ergibt sich folgendes Bild:

	1960		1969	
	Mio. DM	v. H.	Mio. DM	v. H.
Vermögensstruktur				
Anlagevermögen	5 665	68,6	4 527	63,6
Umlaufvermögen	2 592	31,4	2 588	36,4
	8 257	100,0	7 115	100,0
Kapitalstruktur				
Eigenmittel	3 514	42,6	2 119	29,8
Fremdmittel	4 743	47,4	4 996	70,2
	8 257	100,0	7 115	100,0

Der Vergleich der Eigenmittel in den Jahren 1960 und 1969 läßt erkennen, daß das in den Konzernen arbeitende Vermögen des Bundes (einschließlich einer nicht eliminierten 26 %igen Beteiligung des Saarlandes an der Saarbergwerk AG) um 1,395 Mrd. DM zurückgegangen ist. Gleichzeitig hat sich die Eigenfinanzierung der Bundeskonzerne um 12,8 % zugunsten der Fremdfinanzierung ermäßigt.

In der Übersicht wirken sich die in den letzten 10 Jahren durchgeführten Privatisierungsmaßnahmen der Bundesregierung aus. Bekanntlich ist die Preussag AG inzwischen voll privatisiert. Bei der Volkswagenwerk AG ist der Bund nur noch mit 16 % und an der VEBA AG mit 40,23 % beteiligt.

In welch großen Ausmaß die bisher durchgeführten Privatisierungsmaßnahmen der Bundesregierung sich niedergeschlagen haben, geht aus folgender Gegenüberstellung der Förder- und Erzeugungszahlen der Bundesgesellschaften sowie ihrer Anteile an der Gesamterzeugung in der Bundesrepublik in den Jahren 1959 und 1969 hervor. Die Umsätze sind insoweit erfaßt, als sie von Gesellschaften getätigt sind, die sich unmittelbar oder mittelbar mindestens zu 50 % im Bundesbesitz befunden haben

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Die Übersicht zeigt, daß der Anteil der Bundesunternehmen an der Gesamterzeugung der Bundesrepublik auf vielen Gebieten entscheidend zurückgegangen ist, so bei Steinkohle und Koks infolge der Einbringung der Zechengesellschaften in die Ruhrkohle AG sowie bei Primärstickstoff, Strom und Kraftwagenbau infolge der Privatisierungsmaßnahmen:

	Gesamterzeugung der Bundesrepublik		Anteil der Bundesgesellschaften			
	1959	1969	1959	1969	1959 v. H.	1969 v. H.
	in 1000 t					
Eisenerz	18 063	7 451	6 549	3 342	36,3	44,8
Steinkohle	141 687	111 630	34 870	11 075	24,6	9,9
Braunkohle	93 652	107 424	8 415	5 510	9,0	5,1
Koks	42 967	39 010	6 369	1 917	14,8	4,9
Erdöl	5 103	7 876	307	667	6,0	8,5
Hüttenaluminium	151	263	109	197	72,2	74,9
Roheisen	21 602	33 764	1 310	2 262	6,1	6,7
Rohstahl	28 868	45 316	1 487	2 481	5,1	5,5
	in 1 000 t N					
Primärstickstoff	1 093	1 940	224	—	20,4	—
	in 1 000 BRT					
Schiffbau	1 251	1 693	349	—	27,9	—
	in Mio. kWh					
Strom	106 206	226 049	17 723	13 378	16,7	5,9
	in 1 000 Stück					
Personenkraftwagen	1 356	2 936	605	—	44,8	—

Der Schiffbau ist in der Übersicht nicht mehr enthalten, weil der gesellschaftsrechtliche Anteil des Bundes an der Howaldtswerke — Deutsche Werft AG nur noch 50 % beträgt.

Bisher hat sich der Bund nicht als „Konzernherr" im unternehmenspolitischen Sinne betätigt. Das bedeutet, daß die Konzerne sehr selbständig und untereinander nicht verklammert waren. Es bedeutet ferner, daß der Bund seine Machtstellung als Eigner und Unternehmer nicht ausgenutzt hat. Im Gegenteil. In den letzten Jahren hat sich der Bund sehr nachdrücklich um eine enge Kooperation seiner Gesellschaften mit der Privatwirtschaft bemüht. Als Beispiele seien die Verbindungen zwischen Büssing und MAN sowie zwischen Howaldtswerke Kiel und der Deutschen Werft gesagt.

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Neuerdings sind Untersuchungen über eine zweckmäßigere Neugliederung des industriellen Bundesvermögens im Gange. Ob und in welcher Form eine Umgruppierung mehrerer Beteiligungen sowie eine weitere Privatisierung von industriellem Bundesvermögen stattfinden, wird Gegenstand parlamentarischer Beratungen sein.

III. Unternehmenskonzentration bei den Ländern[1]

A. Art und Bedeutung der Unternehmen der Länder

Naturgemäß liegen die Verhältnisse bei den Ländern wegen der anders gelagerten Zuständigkeiten anders als beim Bund. Ein gewichtiger Unterschied besteht ferner darin, daß sich der Bund als einheitlicher Rechtsträger darstellt, während es sich bei den Ländern um 11 verschiedene Rechtssubjekte handelt, von denen 3 — Berlin, Hamburg und Bremen — reine Stadtstaaten sind und kommunale Wesenszüge tragen.

Sieht man sich die Wirtschaftsunternehmen, die im Eigentum der Länder stehen oder an deren Kapital die Länder beteiligt sind, näher an, so stößt man auf 3 Hauptformen von Länderunternehmen:

a) Die Forsten und Domänen, die keine eigene Rechtsform haben und deren Ausgaben und Einnahmen brutto in den jeweiligen Haushalten veranschlagt werden.
b) Die Unternehmen in der in § 18 des Haushaltsgrundsätzegesetz genannten Rechtsform (sog. Monopolbetriebe). Sie haben einen Wirtschaftsplan aufzustellen, wenn ein Wirtschaften nach Einnahmen und Ausgaben des Haushaltsplanes nicht zweckmäßig ist. Der Wirtschaftsplan oder eine Übersicht über den Wirtschaftsplan ist im Haushaltsplan als Anlage beizufügen oder in die Erläuterungen aufzunehmen. Im Haushaltsplan sind nur die Zuführungen oder die Ablieferungen zu veranschlagen.
c) Die Unternehmen in öffentlicher oder privater Rechtsform, an deren Kapital die Länder mit einem mehr oder minder hohen Prozentsatz beteiligt sind.

Die Domänen und Forsten sind zwar wichtige Gebiete wirtschaftlicher Betätigung und zugleich wichtige Einnahmequellen der Länder geblieben. Ihre Bedeutung für Konzentrationsuntersuchungen ist indessen gering. Das gleiche gilt für die Betriebe nach § 18 HGrG (Gesetz über die Grundsätze des Haushaltsrechtes des Bundes und der Länder vom 19.

[1] Unter teilweiser Verwendung des Beitrags von *Kurt A. Herrmann* †, „Unternehmenskonzentration bei den Ländern, in der ersten Auflage des vorliegenden Werks. Bd. I, S. 547 ff.

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August 1969, BGBl. I, S. 1273). Zahl und Bedeutung dieser Unternehmen sind, insbesondere was das investierte Kapital und die Gewinne anbelangt, nur gering. Als Beispiele für die Monopolbetriebe seien die Staatsbäder (z. B. die Hessischen Staatsbäder, Staatliche Bäderverwaltung Badenweiler), soweit sie nicht in der Rechtsform privatrechtlicher Gesellschaften betrieben werden, ferner in Bayern das Staatliche Hofbräuhaus und die Staatsbrauerei Weihenstephan, in Baden-Württemberg die Staatlichen Salinen, die Hafenverwaltung Mannheim und das staatliche Fernheiz-, Elektrizitäts- und Wasserwerk in Karlsruhe erwähnt.

Auch bei den Landesunternehmen verdienen das größte Interesse die Beteiligungen an gewerblichen Betrieben. Branchenmäßig sind es die gleichen 4 Gebiete, die beim Bund eine Rolle spielen, die Staats- und Landesbanken, Energie, Verkehr und das Wohnungswesen. Für die einzelnen Länder gelten dabei folgende Schwerpunkte:

Bayern hat sich von jeher am Ausbau der Wasserwege und an der Stromgewinnung aus Wasserkraft beteiligt. So ist der Freistaat Bayern mit 60 % an der Bayernwerk AG (Grundkapital 293 Mio. DM), mit 33,3 % an der Bayerischen Wasserkraftwerke AG (Grundkapital 30 Mio. DM) und mit 34,59 % an der Rhein-Main-Donau-AG (Grundkapital 155 Mio. DM) beteiligt. Hervorzuheben sind aber auch die jeweils 100%igen Beteiligungen des Bayerischen Staates an den 3 Banken Bayerische Staatsbank (Grundkapital 40 Mio. DM), Bayerische Landesbodenkreditanstalt (Grundkapital 200 Mio. DM) und Bayerische Landesanstalt für Aufbaufinanzierung (Grundkapital 50 Mio. DM).

Eine starke Bankenbeteiligung des Staates findet sich auch in Baden-Württemberg. Hier ist das Land u. a. mit je 100 % an der Badischen Landeskreditanstalt (Grundkapital 60 Mio. DM) und an der Württembergischen Landeskreditanstalt (Grundkapital 65 Mio. DM) beteiligt, außerdem mit 59,4 % an der Badischen Bank (Grundkapital 15 Mio. DM) und mit 66,46 % an der Württembergischen Bank (Grundkapital 12 Mio. DM). Die starke Bankenbeteiligung der beiden Länder Bayern und Baden-Württemberg geht insbesondere auf die Besonderheit in der Organisation der staatlichen Wohnungsbaufinanzierung zurück, die den schon vor dem Kriege bestehenden Landeskreditanstalten bzw. Landesbodenkreditanstalten übertragen ist. Im Elektrizitätsbereich sind die Beteiligungen des Landes Baden-Württemberg mit 100 % an der Badenwerk AG (Grundkapital 190 Mio. DM), mit 25 % an der Gasversorgung Süddeutschland GmbH (Stammkapital 80 Mio. DM) sowie mit 10,36 % an der Energieversorgung Schwaben AG (Grundkapital 200 Mio. DM) zu erwähnen.

Die herausragenden Beteiligungen des Landes Niedersachsen sind die 20%ige Beteiligung an der Volkswagenwerk AG mit 180 Mio. DM und

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die 60%ige Beteiligung an der Niedersächsischen Landesbank — Girozentrale — mit 120 Mio. DM sowie die 50%ige Beteiligung an der Flughafen Hannover-Langenhagen GmbH mit 30 Mio. DM.

Das Land Nordrhein-Westfalen besitzt ansehnliche Beteiligungen an Kreditinstituten, so die 33%ige Beteiligung an der Westdeutschen Landesbank — Girozentrale — (Grundkapital 400 Mio. DM) und an Wohnungsbauunternehmen, so die 100%ige Beteiligung an der Wohnungsbauförderungsanstalt des Landes Nordrhein-Westfalen (Kapital 100 Mio. DM) und die 53,23%ige Beteiligung an der Landesentwicklungsgesellschaft Nordrhein-Westfalen mbH (Stammkapital 55,347 Mio. DM).

Wichtige Beteiligungen des Landes Hessen liegen vor an der Flughafen Frankfurt/M AG (45,24 %, Grundkapital 120 Mio. DM), an der Hessischen Landesbank — Girozentrale — (50 %, Grundkapital 145 Mio. DM), an der Messe- und Ausstellungsgesellschaft mbH (40 %, Stammkapital 37,5 Mio. DM) sowie an der Hessischen Heimstätte GmbH (74,37 %, Stammkapital 21,624 Mio. DM) und an der Nassauischen Heimstätte GmbH (40,39 %, Stammkapital 41 Mio. DM).

Das Land Schleswig-Holstein hat seinen Schwerpunkt im Bankenbereich. Hier ist die 50%ige Beteiligung des Landes an der Landesbank und Girozentrale Schleswig-Holstein (Grundkapital 100 Mio. DM) und die 90,1%ige Beteiligung an der Wohnungsbau-Kreditanstalt Schleswig-Holstein (Grundkapital 30 Mio. DM) besonders zu erwähnen.

An Beteiligungen des Landens Rheinland-Pfalz sind die 50%ige Beteiligung an der Landesbank und Girozentrale Rheinland-Pfalz (Grundkapital 80 Mio. DM) und die 52,03%ige Beteiligung an der Heimstätte Rheinland-Pfalz GmbH (Stammkapital 7,2324 Mio. DM) hervorzuheben.

Wichtigste Beteiligungen des Saarlandes sind die an der Saarbergwerke AG (26 %, Grundkapital 350 Mio. DM) und Saarländische Investitionskreditbank AG (51 %, Grundkapital 6,75 Mio. DM).

Die beiden großen Stadtstaaten Berlin und Hamburg haben ihren Schwerpunkt im Verkehrs- und Versorgungsbereich. Während jedoch Hamburg sich der privatrechtlichen Rechtsform bedient, sind die maßgebenden Verkehrs- und Versorgungsbetriebe der Stadt Berlin — außer der Bewag — Eigenbetriebe. Die Stammkapitalien der Eigenbetriebe der Stadt Berlin betragen allein über 2 Mrd. DM (BVG 1080 Mio. DM, Gaswerk 170 Mio. DM, Wasserwerk 110 Mio. DM, Städtische Entwässerung 600 Mio. DM, Hafen 20 Mio. DM, Stadtreinigung 12 Mio. DM und Berliner Ausstellung 20 Mio. DM). Eine Ausnahme macht lediglich die Berliner Kraft- und Licht (BEWAG)-AG, an deren Grundkapital von 300 Mio. DM das Land Berlin mit 59,3 % beteiligt ist. An bedeutenden

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Versorgungs- und Verkehrsunternehmen der Stadt Hamburg sind zu nennen die Hamburgische Elektricitätswerke AG (75,1 %, Grundkapital 312,5 Mio. DM), Hamburger Gaswerke GmbH (100 %, Stammkapital 150 Mio. DM), Hamburger Wasserwerke GmbH (100 %, Stammkapital 80 Mio. DM) sowie Hamburger Hochbahn AG (85,1 %, Grundkapital 110,035 Mio. DM). Im übrigen seien die jeweils 100%igen Beteiligungen des Landes Hamburg an der Hamburgischen Landesbank — Girozentrale — (Grundkapital 60 Mio. DM), an der Gemeinnützigen Siedlungs-AG (Grundkapital 26 Mio. DM), an der Gemeinnützigen Wohnungsunternehmen Freie Stadt GmbH (Stammkapital 22 Mio. DM), an der Gemeinnützigen Wohnungsunternehmen Neues Hamburg GmbH (Stammkapital 50 Mio. DM) und an der Hamburger Hafen- und Lagerhaus AG (Grundkapital 99,3 Mio. DM) zu nennen.

Bedeutendste Unternehmen der Stadt Bremen sind die Stadtwerke Bremen AG (100 %, Grundkapital 110 Mio. DM), die Bremer Landesbank (50 %, Grundkapital 20 Mio. DM) und die Bremer Straßenbahn AG (75 %, Grundkapital 20 Mio. DM).

Die Tabelle auf S. 565 gibt eine Übersicht über die Beteiligungen der Länder an Unternehmen des öffentlichen und privaten Rechts. Die Klammerzahlen beziehen sich auf das Jahr 1959. Man erkennt, daß die Beteiligungen der Länder sich in den letzten 10 Jahren kapitalmäßig stark erhöht haben und gegenwärtig einen Nominalwert von 4,298 Mrd. DM besitzen. Zählt man die Eigenbetriebe des Landes Berlin mit 2,012 Mrd. DM dazu, so beträgt der Nominalwert der Beteiligungen 6,310 Mrd. DM (1959: 2,086 Mrd. DM).

B. Konzentration bei den Unternehmen der Länder

Die Eigentumskonzentration bei den Unternehmen der Länder hat im Gegensatz zum Bund eine ansteigende Tendenz. Dabei ist jedoch zu beachten, daß sich nicht nennenswert die Anzahl der einzelnen Unternehmen erhöht haben, sondern daß das jeweilige Kapital der Gesellschaften größer geworden ist. Herausragende Bereiche sind die Bankinstitute, die Verkehrs- und Versorgungsunternehmen sowie die Wohnungsbaugesellschaften. Die Verkehrs- und Versorgungsunternehmen spielen besonders bei den beiden großen Stadtstaaten Berlin und Hamburg eine überragende Rolle. In den übrigen gewerblichen Bereichen ist die Tätigkeit der Länder wenig bedeutend. Gegenüber den Verhältnissen beim Bund besteht ein weiterer grundlegender Unterschied darin, daß es sich bei den Ländern um 11 verschiedene Rechtsträger handelt. Dadurch wird die Eigentumskonzentration wesentlich schwächer als beim Bund.

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Beteiligungen der Länder an Unternehmen des öffentlichen und privaten Rechts

	Banken	Verk.	Versorg.	Wohn.-Bau	Sonst.	Gesamt
Bayern	326,1 (100,4)	59,8 (5,2)	208,8 (131,4)	11,7 (9,0)	48,9 (31,1)	655,3 (277,1)
B.-Württemberg	(173,0) (128,0)	23,5 (7,8)	288,7 (138,6)	38,6 (13,8)	21,6 (10,9)	495,4 (300,1)
Niedersachsen	167,4 (30,1)	46,6 (17,7)	3,0 (1,3)	9,0 (9,5)	205,2 (49,9)	431,2 (108,5)
NR.-Westfalen	204,8 (28,9)	31,1 (16,1)	— (—)	133,1 (23,6)	1,3 (0,7)	370,3 (69,3)
Hessen	75,6 (7,9)	56,5 (16,0)	14,3 (4,7)	56,9 (0,4)	23,1 (34,5)	226,4 (63,5)
Schlesw.-Holst.	98,8 (15,3)	2,4 (1,3)	1,8 (1,6)	5,7 (10,5)	11,3 10,3	120,0 (39,0)
Saarland[a])	7,5	3,0	4,2	1,5	93,6	109,8
Rh.-Pfalz	55,2 (6,2)	9,6 (—)	4,5 (—)	11,7 (1,9)	16,0 (4,1)	97,0 (12,2)
Hamburg	86,7 (30,0)	206,9 (93,3)	464,6 (294,0)	121,0 (51,6)	118,5 (3,0)	997,7 (471,9)
Berlin	43,3 (22,3)	1,5 (252,5)[b])	177,9 (412,0)[b])	349,7 (52,0)	68,1 (3,1)	640,6 (741,9)[b])
Bremen	9,1 (0,1)	17,9 (0,6)	110,0 —	7,0 (0,7)	(10,3) (1,5)	154,3 (2,9)
	1 247,6 (369,2)	458,8 (984,6)	1 227,8 (410,5)	745,9 (173,0)	619,9 (149,1)	4 298,0 (2 086,4)

[a]) Vergleichszahlen 1959 liegen für das Saarland nicht vor. — [b]) Einschließlich 516,2 Mio. DM Stammkapital der 4 großen Eigenbetriebe Gas, Wasser, Verkehr und Hafen.

Eine Zusammenfassung von Unternehmen, entsprechend den Konzernen des Bundes, kommt auf Länderebene so gut wie nicht vor. Die Eigentumskonzentration hat sich infolgedessen bei den Ländern nicht zu einer Unternehmenskonzentration erweitert. Alle Gesellschaften sind in sich selbständig und ohne Anlehnung.

Art und Umfang der Länderbeteiligungen zeigen, daß es den Ländern nicht an wirtschaftlicher Betätigung oder an der Erzielung von Gewinnen gelegen ist. Im Vordergrund der Überlegungen steht vielmehr — ebenso wie beim Bund — die Durchsetzung und Sicherstellung hoheitlicher Aufgaben zu möglichst günstigen Preisen. Dabei wird in erster Linie eine Kostendeckung angestrebt; der Gedanke an eine zusätzliche Gewinnerzielung tritt — anders als bei privaten Unternehmern — in den Hintergrund. Eine gemeinsame Erfolgsbilanz für alle ländereigenen Gesellschaften würde daher keine ins Gewicht fallende Rendite erbringen.

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Eine Ausnahme bilden die Forsten. Hier sind die Einnahmen der Länder bedeutend, zumal auch der Anteil der Länder am staatlichen Waldbesitz hoch ist. Sie übersteigen bei weitem die Einkünfte der Länder aus allen anderen Wirtschaftsunternehmen.

Ein Vergleich des jeweiligen Beteiligungsvermögens zwischen den einzelnen Ländern zeigt, daß für alle Länder drei Arten von Unternehmen typisch sind: die eigenen Staatsbanken bzw. die Beteiligung (gemeinsam mit den Sparkassen- und Giroorganisationen) an den Landesbanken, die Verkehrsunternehmen mit lokaler Bedeutung (Kreisbahnen) und — als Träger der staatlichen Wohnungsbaupolitik — die Wohnungsgesellschaften. Dagegen spielen — ebenso wie neuerdings beim Bund — Bergbaubetriebe auf Länderebene keine große Rolle mehr. Auch die übrigen Wirtschaftsbereiche, vor allem die Industrie, sind unter den Unternehmen der Länder oder mit Länderbeteiligung nur mit geringem staatlichen Kapitalbesitz vertreten.

Bei den drei Stadtstaaten Berlin, Hamburg und Bremen sind zwei Schwerpunkte der wirtschaftlichen Betätigung erkennbar. Einmal kommt der kommunale Charakter dieser Länder in den umfangreichen Versorgungs- und Verkehrsbetrieben zum Ausdruck; andererseits zeigt sich der staatliche Charakter der Stadtstaaten in ihren Wohnungsgesellschaften und in den landeseigenen Banken.

IV. Unternehmenskonzentration bei den Gemeinden[2]

A. Art und Bedeutung der Unternehmen der Gemeinden

Für die Untersuchung der Unternehmenskonzentration bei den Gemeinden gelten naturgemäß die in den vorstehenden Abschnitten bereits enthaltenen allgemeinen Ausführungen bezüglich der Abgrenzung. Die Grenzen zwischen hoheitlicher und unternehmerischer Betätigung sind sehr flüssig, und auch die Rechtsform ist oft zufällig oder historisch bedingt. Gehören die Wasserwerke noch zum Beobachtungsbereich, die Müllabfuhr aber nicht mehr? Ähnliche Fragen ergeben sich für die städtischen Bühnen, für Museen oder für Parkhäuser, die teils in selbständiger, teils in unselbständiger Rechtsform betrieben werden.

In die Betrachtung einzubeziehen sind sicherlich auch die Verhältnisse bei den Gemeindeverbänden, also bei den Landkreisen und bei den regionalen Gemeindeverbänden, wenn auch die unternehmerische Tätigkeit der Gemeindeverbände von weit geringerem Umfang ist als die der Gemeinden selbst, insbesondere als die der Städte.

[2] Unter teilweiser Verwendung des Beitrags von *Peter van Aubel* und *Paul Münch*, Unternehmenskonzentration bei den Gemeinden, in der ersten Auflage des vorliegenden Werks, Bd. I, S. 555 ff.

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Nach den Vorschriften der deutschen Gemeindeordnung dürfen die Gemeinden wirtschaftliche Unternehmen nur errichten oder wesentlich erweitern, wenn

a) der öffentliche Zweck das Unternehmen rechtfertigt,
b) das Unternehmen nach Art und Umfang in einem angemessenen Verhältnis zur Leistungsfähigkeit der Gemeinde und zum voraussichtlichen Bedarf steht,
c) der Zweck nicht besser und wirtschaftlicher durch einen anderen erfüllt wird oder erfüllt werden kann.

Zu den Unternehmen, auf die diese Voraussetzungen zutreffen, gehören nach heutiger unbestrittener Auffassung folgende Unternehmenszweige:

Versorgungsunternehmen (Strom-, Gas-, Wasserversorgung),
Verkehrsunternehmen (einschließlich Häfen),
Wohnungsunternehmen,
Sparkassen.

Sie allein sind unter Konzentrationsgesichtspunkten von Bedeutung. Soweit darüber hinaus noch Unternehmen anderer Wirtschaftszweige von den Gemeinden unterhalten werden, handelt es sich um Einzelfälle ohne praktische Bedeutung.

Eine statistische Erfassung des Gesamtbestandes an wirtschaftlichen Unternehmen der Gemeinden fehlt. Das ist für unsere Konzentrationsuntersuchungen wegen der Verschiedenheit der Rechtssubjekte aber kein allzu großes Unglück.

Die Vielfalt der kommunalen Aufgaben bringt es mit sich, daß von vielen Gemeinden wirtschaftliche Unternehmen der verschiedensten Sparten betrieben werden. Bei jeder einzelnen Gemeinde bietet die Gesamtheit dieser Unternehmen das Bild einer Vermögenskonzentration. Dabei darf man aber nicht übersehen, daß diese Konzentration nicht mehr ist als die Addition der Vermögenswerte einer Reihe von Unternehmen, die zwar demselben Eigentümer gehören, die aber sehr verschiedenen Motiven — größtenteils gesamtheitlicher Art — ihre Entstehung verdanken und die nach sehr verschiedenen Grundsätzen geführt werden (Elektrizitätswerke im Gegensatz zu gemeinnützigen Wohnungsunternehmen). Die Vermögenskonzentration als Ganzes ist nicht erwerbswirtschaftlich orientiert, mag auch bei Einzelkomplexen die Absicht der Gewinnerzielung eine Rolle spielen oder gespielt haben. Damit unterscheidet sich die Vermögenskonzentration bei den Gemeinden wesensmäßig von privater Vermögensballung.

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Hinzu kommt aber noch, daß eine Zusammenfassung aller Wirtschaftsunternehmen, soweit sie sich im Kommunalbesitz befinden, für Konzentrationsuntersuchungen schon deshalb nichts hergibt, weil die einzelnen Gemeinden und Gemeindeverbände selbständige Rechtssubjekte sind, die miteinander nur soviel gemeinsam haben, als sie der öffentlichen Hand zugeordnet werden und häufig im Gegensatz zu Privatunternehmen genannt und behandelt werden.

Immerhin hat das Statistische Bundesamt — zuletzt für 1966 — für die Eigenbetriebe (allerdings nur in Gemeinden mit mehr als 10 000 Einwohnern), die Eigengesellschaften und die kommunalen Beteiligungen in der Versorgungs- und Verkehrswirtschaft Erhebungen angestellt, die einen ausreichenden Überblick über die Gesamtsituation geben. Um wenigstens die Größenordnung, um die es sich bei den Versorgungs- und Verkehrsunternehmen handelt, aufzuzeigen, seien die statistischen Ergebnisse nachstehend wiedergegeben:

	Zahl	Eigenkapital Mio. DM
a) Eigenbetriebe	738	4 911,0
kommunale Gesellschaften	270	8 786,4
staatl. Gesellschaften	39	1 357,8
insgesamt	1 047	15 055,2

	Zahl	*Eigenkapital*
b) Versorgungsunternehmen	778	10 474,7
Straßenverkehrsunternehmen	112	1 514,9
Schiffahrts- Hafen- und Flughafenunternehmen	48	504,7
kombinierte Versorgungs- und Verkehrsunternehmen	109	2 560,9
insgesamt	1 047	15 055,2

Aus der vorstehenden Tabelle geht hervor, daß die Städte und Kommunen im Verkehrs- und Versorgungsbereich 1008 Eigenbetriebe und Gesellschaften mit einem Eigenkapital von rd. 13,7 Mrd. DM besitzen. Dieses statistische Material gestattet allerdings keine Aufgliederung nach Unternehmensgrößen oder Gemeindegrößen und keine Berechnung des Ausmaßes der relativen oder absoluten Konzentration. Die Aufstellung unterstreicht aber nachdrücklich das außerordentliche Gewicht der Versorgungs- und Verkehrswirtschaft im Rahmen der unternehmerischen Gemeindewirtschaft.

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Demgegenüber sind die Anteile der Gemeinden an Wohnungsunternehmen und Sparkassen ungleich geringer. Der Anteil der Gemeinden an Wohnungsunternehmen betrug lange Zeit rd. 30 %. Der Prozentsatz der Summe der Kapitalbeteiligungen ist aber im Laufe der Zeit langsam zurückgegangen. Das Kapital der Wohnungsbaugesellschaften ist in den letzten Jahren bedeutend erhöht worden. Dabei haben die Gemeinden ihren Kapitalanteil nicht ausgedehnt, sondern nur knapp mit den Kapitalerhöhungen der Gesellschaften mithalten können.

Die kommunalen Sparkassen waren früher meist unselbständige Einrichtungen ihrer Gewährsverbände, nämlich der Gemeinden und Gemeindeverbände. Durch die Notverordnung vom 6. 10. 1931 erhielten sie eigene Rechtspersönlichkeit. Die öffentlich-rechtliche Gewährsträgerhaftung, die das fehlende Nominalkapital ersetzt, blieb dabei erhalten; sie bildet auch heute den Rückhalt der Sparkassenorganisation und bei dem kommunalen Willen zur Selbstverwaltung die Gewähr für den Fortbestand der heutigen Dezentralisation. Zusammenschlüsse sind aus bankbetrieblichen Gründen oder im Gegenzug zu Konzentrationsbewegungen anderer entstanden.

Erwähnenswert ist die häufige horizontale Zusammenfassung kleiner und kleinster Amts-, Gemeinde- und Stadtsparkassen zu Kreissparkassen und die Zusammenfassung mehrerer Sparkassen zu einer Zweckverbandsparkasse. Diese Bewegung geht auf Rentabilitätsgesichtspunkte zurück und macht im wesentlichen an den Grenzen der Stadt- und Landkreise halt.

Eine bedeutsamere Rolle spielt im Sparkassenwesen die vertikale Konzentration. Die deutsche Sparkassenorganisation ist eine dreistufige Kreditinstitutsgruppe. Den Unterbau bilden die öffentlichen Sparkassen, den Mittelbau die regionalen Girozentralen, als Oberbau fungiert die Deutsche Girozentrale — Deutsche Kommunalbank —. Kapitalmäßige Verflechtungen zwischen den einzelnen Stufen sind im allgemeinen nicht vorhanden. Eine kapitalmäßige und rechtliche Abhängigkeit der unteren Stufen von den oberen besteht im Sparkassenwesen nicht. In ihrer Geschäftspolitik sind die Einheiten jeder einzelnen Stufe autonom.

Das bestehende Sparkassensystem verbindet den Gedanken einer kommunalen Dezentralisation mit dem einer kommunalgemäßen Konzentration. Dezentral und autonom blieb die Kreditgewährung auf jeder einzelnen Stufe, zentral und vertikal wurde eine Guthabenkonzentration durch Liquiditätsverbund der einzelnen Stufen geschaffen. Bargeldloser Zahlungsverkehr und vertikaler Liquiditätsverbund verschafften der Sparkassenorganisation einen Kreditfonds, der im Grundsatz wiederum nach dezentralen und mittelstandspolitischen Gesichtspunkten nutzbar gemacht wird.

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B. Konzentration bei den Unternehmen der Gemeinden

Die Ausführungen zum Sachverhalt zeigen, daß die Vermögenskonzentration der Gemeinden und Gemeindeverbände nur gesamtheitlich gesehen bedeutend ist. Bei einer Verteilung auf die einzelnen Rechtsträger ist eine auffällige Konzentration nicht feststellbar. Das vorhandene Material zeigt ferner, daß die wirtschaftliche Tätigkeit der Gemeinden sich auf wenige Gebiete — Versorgung und Nahverkehr, Wohnungswirtschaft und Sparkassen — beschränkt. In den wichtigsten dieser Bereiche, namentlich in der Versorgungs- und Sparkassenwirtschaft, wirkt die Existenz der kommunalen Unternehmen in Richtung auf eine Milderung des Grades der Unternehmenskonzentration.

Die Zusammenfassung der Versorgungs- und Verkehrsbetriebe im Ortsbereich zu einheitlichen Unternehmen (zum Querverbund), sei es in Form des Eigenbetriebes, sei es in Gesellschaftsform, ist ein Charakteristikum der kommunalen Wirtschaft. Diese Unternehmenskonzentration auf der Ortsstufe bringt Kostenvorteile mit sich und ermöglicht unter Umständen einen Kostenausgleich bei unzulänglichen Preisen und Tarifen.

Insgesamt ist für den gemeindlichen Bereich festzustellen, daß die Konzentration von Vermögen in Form wirtschaftlicher Unternehmen bei der Gesamtheit der Gemeinden beträchtlich ist. Jedoch verteilt sich diese Vermögensmasse auf viele Gemeinden, und ihr Entstehen geht im allgemeinen nicht auf die Absicht zurück, Gewinn zu erzielen. Die in der Deutschen Gemeindeordnung verankerte Gemeindeverfassung wirkt damit ausgesprochen konzentrationswidrig.

V. Zusammenfassung

Dem mitgeteilten Material ist zu entnehmen, daß es Unternehmenskonzentrationstendenzen weder beim Bund noch bei den Ländern oder Gemeinden gibt. Hinsichtlich seines industriellen Bundesvermögens hat sich der Bund nachhaltig in den letzten Jahren um eine wirksame Eigentumsdekonzentration durch Auflockerung der Eigentumsverhältnisse und durch Schaffung breitgestreuten Eigentums in der Hand weiter Bevölkerungsschichten, die bisher nicht oder nur in geringem Umfange Vermögen gebildet haben, bemüht. Die Folge dieser Privatisierungspolitik ist ein deutlicher Rückgang des Einflusses der öffentlichen Hand in vielen Wirtschaftsbereichen. Eine Ausweitung der wirtschaftlichen Betätigung des Bundes ist nur dort festzustellen, wo Verluste im wirtschaftlichen Bereich unvermeidbar oder mindestens zu befürchten sind (wie z. B. Entwicklungshilfe, Forschungs- und Entwicklungsaufgaben, Infrastrukturvorhaben usw.).

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In neuerer Zeit mehren sich die Fälle der Kooperation zwischen den öffentlichen und privaten Unternehmen. Das gilt insbesondere auch für den Verkehrs- und Versorgungssektor. Aus dem Bestreben heraus, optimale Betriebsgrößen zu entwickeln und alle Kostendegressionsmöglichkeiten auszuschöpfen, werden Unternehmen mit der Wirkung zusammengefaßt, daß die Gesellschafterrechte sich auf einen größeren Kreis der Beteiligten verteilen. Je größer der Kreis der Anteilseigner und je niedriger die Höhe ihrer Beteiligung wird, um so mehr verlagert sich die wirtschaftliche Machtstellung zum Management hin. Die öffentliche Hand versucht zwar, dieser Tendenz durch eine angemessene Vertretung in den Überwachungsorganen (Verwaltungsrat, Aufsichtsrat) zu begegnen. Es erscheint jedoch zweifelhaft, ob dies in allen Fällen gelingt.

Die wirtschaftliche Entwicklung der Bundesrepublik in der Nachkriegszeit berechtigt zu der Schlußfolgerung, daß Wachstum und Konzentration im öffentlichen Bereich eine sehr bescheidene Rolle gespielt haben.

Quellenverzeichnis: Allgemeine Vorbemerkungen zum Entwurf des Bundeshaushaltsplans 1960, Anlage zur Drucksache III/1400; — *Bundesministerium für Finanzen* (Hrsg.), Beteiligungen des Bundes 1969, Anhang zum Finanzbericht 1971, Bonn 1970; — *Statistisches Bundesamt* (Hrsg.), Statistisches Jahrbuch für die Bundesrepublik Deutschland 1960, Stuttgart und Mainz 1960; — dasselbe 1970; — *Hoppenstedt,* Wirtschaftliche und finanzielle Verflechtungen in Schaubildern IV — staatliche und öffentliche Gruppen —.

Summary

Public Enterprises and Concentration

Tendencies of economic concentration in the Federal Republic of Germany are—if one disregards a global concentration of wealth—neither ascertainable with the federal government (Bund) nor the state governments (Länder) nor communities. Business concentration with the federal government has been decreasing very much during the last ten years due to the partial denationalization of Preussag AG, VEBA AG and of Volkswagenwerk AG. Meanwhile Preussag AG has been eliminated out of property of the federal government indirectly, too. As far as the federal government has interests in other spheres (e.g. traffic, research and development, and housing construction) aspects of profits do not play a part in it. With the federal states and communities the degree of business concentration and concentration of wealth is very small because it refers to very many legal entities.

Common to them is merely the term "public authorities". Public transport and public utilities, banks and savings banks just as house-building societies are in the foreground. There are no cross connections. Kind and scope of interests show that the states and communities do not aim at economic activities or realization of profits; the efficient enforcement and securing of public wants is decisive rather.

The public authorities do not act as "rulers of business combination" in the sense of managerial policy; the societies are independent rather and are not interlaced mutually.

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Konzentration bei den Trägern der Sozialen Sicherung

Von *Hartmut Hensen*, Bonn

I. Institutionelle Gliederung des Sozialhaushalts
II. Zeitliche, sachliche und räumliche Abgrenzung der Rechnung
III. Reinausgaben für die Soziale Sicherung nach dem Erfüllungsprinzip
IV. Reinausgaben nach den wichtigsten sozialen Bereichen und nach Ausgabearten
V. Aufbringung der Mittel für die Soziale Sicherung
VI. Vermögensbildung bei den Sozialversicherungsträgern
VII. Ergebnisse

I. Institutionelle Gliederung des Sozialhaushalts

Das Sozialsystem der Bundesrepublik Deutschland muß als historisch gewachsenes Konglomerat der verschiedensten Sicherungseinrichtungen verstanden werden, das mit den Elementen der Versicherung, der Versorgung und der Fürsorge vielfältig durchsetzt ist. Seine erste, noch heute maßgebende institutionelle Gliederung erfuhr das System im ausgehenden 19. Jahrhundert mit der Einführung der Sozialversicherung. Ihre Konzeption beruhte auf der Erkenntnis, daß mit zunehmender Industrialisierung eine wachsende Schicht eigentumsloser Arbeiter die Existenzgrundlage verlor, wenn infolge von gesamtwirtschaftlichen Störungen das Erwerbseinkommen ausfiel. Nicht viel später, kurz vor dem 1. Weltkrieg, verlangte auch die soziale Situation der erst neu entstandenen Angestelltenschicht staatliche Hilfe, die mit der Einführung der Angestelltenversicherung ihre institutionelle Sanktion fand. Ein Jahrzehnt später löste die knappschaftliche Rentenversicherung die genossenschaftlichen Selbsthilfeeinrichtungen der Bergarbeiter ab; gleichzeitig wurde versucht, den schädigenden Wirkungen der industriellen Krisen durch die Einrichtung der Arbeitslosenversicherung entgegenzutreten. Krankheit und Unfall waren wegen der kausalen Betrachtungsweise der deutschen Sozialpolitik von Anfang an als unterschiedliche Risiken angesehen worden; folglich wurde ihre Bekämpfung getrennten Versicherungszweigen zur Aufgabe gestellt.

Die offizielle Antwort auf neue soziale Situationen bestimmter Bevölkerungskreise bestand im wesentlichen darin, den Katalog gedeckter

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Risiken zu erweitern, den Umfang des geschätzten Personenkreises auszudehnen, den Staat mehr und mehr an den Aufgaben der sozialen Sicherung zu beteiligen und dabei die Maßnahmen der Sozialhilfe zu institutionalisieren. An diesen Prinzipien wurde auch festgehalten, als die beiden Weltkriege mit ihren Folgen neue Sozialprobleme aufwarfen, die sich mit den Mitteln der vorhandenen Einrichtungen nicht mehr lösen ließen. Wiederum wurden die neuen Notstände auf ihre Ursachen zurückgeführt und entsprechend differenziert bekämpft, teils unter der Verlagerung von Funktionen bereits bestehender Sicherungszweige, teils unter Schaffung neuer Träger der Sicherung.

Das Ergebnis dieser Entwicklung ist das Nebeneinander einer großen Zahl von Sicherungseinrichtungen, die je nach ihrem administrativen Aufbau mehr oder weniger selbständig sind. An der Durchführung der sozialen Sicherung sind heute neben den Organen der sozialen Selbstverwaltung in der Sozialversicherung alle Gebietskörperschaften beteiligt, entweder unmittelbar — wie die Gemeinden und Gemeindeverbände als Träger der öffentlichen Fürsorge — oder mittelbar durch die Ausübung der Dienstaufsicht oder die Übernahme finanzieller Lasten. Die institutionellen Eigenarten der verschiedenen Sozialleistungsträger und das ungleiche Ausmaß ihrer Beziehungen zu den Gebietskörperschaften brauchen indessen eine zusammenfassende Behandlung nicht zu erschweren. Gemeinsam ist allen Institutionen der sozialen Sicherung, daß sie als Träger der sozialpolitisch motivierten zweiten Einkommensverteilung jährlich bestimmte Teile des Sozialprodukts umlenken, indem sie mit Hilfe von Steuern und Beiträgen die Leistungseinkommen beschneiden und die dabei gewonnenen Mittel als Sozialleistungen wieder freisetzen. Im Rahmen einer ökonomischen Betrachtung, die auf die Größenordnung und Zusammensetzung der durch die sozialen Institutionen gebundenen Einnahme- und Ausgabeströme gerichtet ist, kann infolgedessen von der Gesamtheit aller Träger der sozialen Sicherung und ihrem Finanzvolumen als Sozialhaushalt gesprochen werden.

II. Zeitliche, sachliche und räumliche Abgrenzung der Rechnung

Für die Darstellung der Konzentration bei den Trägeren der Sozialen Sicherung wurde der Zeitraum 1950 bis 1969 gewählt.

Die Ergebnisse für das Jahr 1969 sind weitgehend vorläufige Ergebnisse.

Die sachliche Abgrenzung der Rechnungsergebnisse wurde durch das Fehlen eines verbindlichen Begriffs der sozialen Leistungen erschwert. In Anlehnung an die vom Internationalen Arbeitsamt aufgestellten Richtlinien und die daran ausgerichteten Rechnungslegungen des Bun-

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desministeriums für Arbeit und Sozialordnung, deren Zahlen weitgehend übernommen werden konnten, wurden die Leistungen der in der Vorspalte der Tabelle 1 aufgeführten sozialen Einrichtungen erfaßt. Dabei wurden aus Gründen des internationalen Vergleichs und den oben erwähnten Rechnungslegungen auch die Pensionen und Kinderzuschläge im öffentlichen Dienst mit aufgenommen, obwohl sie ihrer Rechtsnatur nach keine Sozialleistungen sind. In der Tabelle 2 sind sie mit den Positionen „Öffentliche Jugendhilfe" und „Öffentlicher Gesundheitsdienst" zusammengefaßt und gesondert ausgewiesen, um so einen Vergleich mit älteren Arbeiten zu ermöglichen, in welchen diese Einrichtungen noch nicht aufgeführt wurden. Die Aufteilung der zusätzlichen Verwaltungskosten auf die einzelnen Positionen sind Schätzungen.

Es sei in diesem Zusammenhang darauf hingewiesen, daß die hier gegebenen Zahlenwerte nicht mit denjenigen des Sozialbudgets übereinzustimmen brauchen, da im Sozialbudget durch Zusammenfassung interne Verrechnungen entfallen, und weil bei einigen Zweigen hier mit Nettozahlen gearbeitet wurde, während im Sozialbudget Bruttowerte verzeichnet sind; dies trifft besonders für die Positionen „Sozialhilfe", „Kriegsopferfürsorge", „Jugendhilfe" zu. Außerdem geschieht im Sozialbudget die Schätzung der Verwaltungskosten nach einer anderen Methode als in den „Arbeits- und sozialstatistischen Mitteilungen", auf welcher die hier gebotenen Zahlenwerte beruhen.

Die nachstehenden Rechnungslegungen beziehen sich auf das Bundesgebiet einschließlich West-Berlin. Das Saarland ist vom Jahre 1960 an mit erfaßt.

III. Reinausgaben für die Soziale Sicherung nach dem Erfüllungsprinzip

Die Tabelle 1 zeigt die Reinausgaben der Sozialleistungsträger nach dem Erfüllungsprinzip. Dabei wurden die Transferzahlungen von den Aufwendungen der belasteten Träger abgesetzt. Der Gesamtbetrag der internen Verrechnungen des Sozialhaushalts ist aus der letzten Zeile der Tabelle 3 ersichtlich.

Die drei Zweige der Rentenversicherung weisen nach dem Erfüllungsprinzip einen Anteil von 40, 8 v. H. an den gesamten Ausgaben für die Soziale Sicherung im Jahre 1969 auf. Hier fällt auf, daß der Anteil der Rentenversicherung der Angestellten seit 1960 um 1,6 Prozentpunkte zugenommen hat, während dieser Zuwachs bei dem Anteil der Rentenversicherung der Arbeiter nur 0,5 Prozentpunkte beträgt (obwohl deren Ausgabenvolumen größer ist). Verhältnismäßig gesehen ist der Anteil der Ausgaben der Rentenversicherung der Angestellten über sechsmal so stark gestiegen wie derjenige der Rentenversicherung der Arbeiter

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(nämlich 14,2 v. H. gegenüber 2,2 v. H.). Diese Tendenz war natürlich zu erwarten und wird sich auch noch fortsetzen, da der Anteil der Angestellten an den abhängig Beschäftigten zu Lasten der Arbeiter immer mehr zugenomemn hat.

Es muß darauf hingewiesen werden, daß die Tabelle 1 trotz der Gliederung nach dem Erfüllungsprinzip kein zutreffendes Bild von den Aufwendungen für die einzelnen Risiken bietet, die nach den Vorschriften der deutschen Sozialgesetzgebung abgedeckt werden. Es verbleiben weitere funktionelle Überschneidungen, die sich rechnungsmäßig nicht erkennen lassen. Dazu gehören die subsidiären Leistungen der öffentlichen Fürsorge (Sozialhilfe) in den Fällen, in denen andere Sicherungseinrichtungen entweder wegen fehlender Anspruchsgrundlagen gar keine oder unzureichende Einzelleistungen gewähren. Ferner tritt die gesetzliche Unfallversicherung häufig nach Ablauf bestimmter Fristen auch für Leistungsempfänger ein, die wegen Krankheit vorher von der sozialen Krankenversicherung betreut wurden. Ebenso werden an berufs- oder erwerbsunfähige Versicherte oftmals sowohl von der Unfall- als auch von der Rentenversicherung — bei kriegsbedingter Invalidität von der Rentenversicherung und der Kriegsopferversorgung — Leistungen gewährt. Schließlich werden Kindergelder nicht nur im Rahmen der Kindergeldgesetzgebung, sondern als Zuschläge oder Zulagen zu fast allen Dauerleistungen der Sozialversicherung, der Fürsorge und der Versorgung gezahlt; die Kindergelder sind in den Reinausgaben der leistenden Träger enthalten und lassen sich nicht einzeln erfassen.

IV. Reinausgaben nach den wichtigsten sozialen Bereichen und nach Ausgabearten

Die Tabelle 2 zeigt die Reinausgaben der deutschen Sozialleistungsträger gegliedert nach den wichtigsten sozialen Bereichen, wobei versucht wurde, trotz der in Abschnitt III genannten Einschränkungen nach Risiken zu ordnen; bei der Position 8 geschah die Zusammenfassung aus Vergleichsgründen. Ferner wurden die so gegliederten Reinausgaben, dargestellt nach dem Erfüllungsprinzip, zum Nettosozialprodukt zu Faktorkosten (Volkseinkommen) ins Verhältnis gesetzt[1].

Danach steigt der Anteil der Reinausgaben für die Soziale Sicherung am Volkseinkommen von 1960 bis 1965 jährlich um rd. 0,4 v. H., und

[1] Da die Neuberechnung des Sozialprodukts durch das Statistische Bundesamt für die Jahre vor 1960 noch nicht abgeschlossen ist, mußte für die Jahre 1950 und 1955 als Bezugsgröße das NSP nach der alten Berechnung verwendet werden, vgl. Revision der Volkswirtschaftlichen Gesamtrechnungen, WuSt, Jg. 22 (1970), S. 57 ff.

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Tabelle 1

Die Reinausgaben der Träger der Sozialen Sicherung in der BRD einschl. Berlin-W. (Saarland ab 1960) in Millionen DM (Erfüllungsprinzip)[a]

Soziale Einrichtung	1950	1955	1960	1965	1966	1967	1968	1969
1. Krankenversicherung	2 521	4 623	9 516	15 784	18 359	19 222	21 500	23 784
2. Arbeitslosenversicherung	871	1 159	959	1 342	1 308	2 560	2 379	2 380
3. Unfallversicherung	585	1 027	1 733	3 120	3 452	3 604	3 809	4 087
4. Rentenversicherung d. Arbeiter	2 385	4 487	10 532	16 347	18 030	20 264	22 108	24 484
5. Rentenversicherung d. Angestellten	945	2 067	5 294	8 983	10 049	11 325	12 422	13 684
6. Knappschaftl. Rentenversicherung	568	1 194	2 433	3 648	4 009	4 428	4 795	5 152
7. Landwirtschaftl. Altershilfe	—	—	182	488	658	701	723	836
8. Leistungen nach den Kindergeldgesetzen	—	463	916	2 820	2 981	2 694	2 635	2 732
9. Leistungen nach dem Mutterschutzgesetz	—	62	105	142	197	222	5	12
10. Arbeitslosenhilfe	1 000	652	111	30	25	131	195	96
11. Sozialhilfe	962	1 288	1 620	1 974	2 175	2 380	2 469	2 550
12. Lastenausgleich Soforthilfe	718	980	1 345	1 920	1 886	1 754	1 780	1 710
13. Kriegsopferfürsorge	—	—	—	338	427	418	403	400
14. Versorgung der Kriegsopfer	2 087	3 206	3 678	5 384	5 385	6 245	6 114	6 069
15. Öffentliche Jugendhilfe	27	51	54	729	821	879	945	1 030
16. Öffentlicher Gesundheitsdienst	123	218	342	667	710	733	786	834
17. Pensionen im Öffentlichen Dienst	2 479	5 094	6 859	10 904	11 682	12 590	13 086	14 593
18. Kinderzuschläge im Öffentlichen Dienst	441	760	1 031	1 634	1 651	1 665	1 688	1 705

a) Die Transferzahlungen sind von den Aufwendungen des belasteten Trägers abgesetzt worden.

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Tabelle 2

Die Reinausgaben der Träger der Sozialen Sicherung in der BRD einschl. Berlin-W. (Saarland ab 1960) nach den wichtigsten sozialen Bereichen (Erfüllungsprinzip)

Sozialer Bereich		1950	1955	1960	1965	1966	1967	1968	1969
1. Krankenversicherung einschl. Mutterschutz	a)	2 521	4 685	9 621	15 926	18 556	19 444	21 505	23 796
	b)	3,4	3,4	4,1	4,5	4,9	5,2	5,2	5,2
2. Unfallversicherung	a)	585	1 027	1 733	3 120	3 452	3 604	3 809	4 087
	b)	0,8	0,7	0,7	0,9	0,9	1,0	0,9	0,9
3. Rentenversicherung einschl. landwirtsch. Altershilfe	a)	3 898	7 748	18 441	29 466	32 746	36 718	40 048	44 156
	b)	5,2	5,6	7,8	8,3	8,7	9,8	9,6	9,7
4. Arbeitslosenversicherung und -hilfe	a)	1 871	1 811	1 070	1 372	1 333	2 691	2 574	2 476
	b)	2,5	1,3	0,5	0,4	0,4	0,7	0,6	0,5
5. Leistungen nach den Kindergeldgesetzen	a)	—	463	916	2 820	2 981	2 694	2 635	2 732
	b)	—	0,3	0,4	0,8	0,8	0,7	0,6	0,6
6. Kriegsopferversorgung	a)	2 087	3 206	3 678	5 384	5 385	6 245	6 114	6 069
	b)	2,8	2,3	1,6	1,5	1,4	1,7	1,5	1,3
7. Sozialhilfe, Kriegsopferfürsorge, Lastenausgleich (Soforthilfe)	a)	1 680	2 268	2 965	4 232	4 488	4 552	4 652	4 660
	b)	2,2	1,6	1,3	1,2	1,2	1,2	1,1	1,0
insgesamt	a)	12 642	21 208	38 424	62 320	68 941	75 948	81 337	87 976
	b)	16,8	15,2	16,3	17,6	18,3	20,3	19,5	19,2
8. Öffentl. Jugendhilfe, Öffentl. Gesundheitsdienst, Pensionen- u. Kinderzuschläge im öffentl. Dienst	a)	3 070	6 123	8 286	13 934	14 864	15 867	16 505	18 162
	b)	4,1	4,4	3,5	3,9	3,9	4,2	4,0	4,0
insgesamt	a)	15 712	27 331	46 710	76 254	83 805	91 815	97 842	106 138
	b)	20,9	19,6	19,8	21,5	22,2	24,5	23,6	23,2

a) in Millionen DM
b) in v. H. des Volkseinkommens (NSP zu Faktorkosten)

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zwar von 19,8 v. H. im Jahre 1960 bis auf 21,5 v. H. im Jahre 1965. Demgegenüber belief sich der Anteil der öffentlichen Sozialleistungen ohne die Position 8 vor dem 1. Weltkrieg auf weniger als 5 v. H. des Nettosozialproduktes. Kurz vor der Weltwirtschaftskrise stieg der Anteil auf knapp 11 v. H. und fiel dann bis zum 2. Weltkrieg wieder auf 8 v. H. des Nettosozialproduktes (zu Marktpreisen). Nach dieser Abgrenzung beläuft sich der Anteil der heutigen Kosten auf rd. 19,2 v. H. des Volkseinkommens.

Eine weitere Gliederung der Reinausgaben ist in Tabelle 3 vorgenommen worden. Dabei wurden die Ausgaben nach Bar- und Sachleistungen, Verwaltungskosten und sonstigen Ausgaben getrennt. Etwa 94,5 v. H. der Reinausgaben entfielen durchschnittlich auf Bar- und Sachleistungen. Etwa 5 v. H. der Reinausgaben beanspruchten durchschnittlich die Verwaltungskosten. Der Rest von 0,5 v. H. an sonstigen Ausgaben setzt sich hauptsächlich aus Verfahrenskosten, wertmäßigen Vermögensverlusten, den Kosten für die Arbeitsvermittlung und den Kosten für die Berufsberatung zusammen.

V. Aufbringung der Mittel für die Soziale Sicherung

Die Aufwendungen der Sozialversicherung wurden ursprünglich fast allein aus Beiträgen der Versicherten und ihrer Arbeitgeber finanziert. Das Reich war nur mit geringen Zuschüssen beteiligt. Ferner waren Erträge aus dem Vermögen eine wichtige Einnahmequelle für die gesetzlichen Rentenversicherungen, die bei der Kalkulation ihres finanziellen Gleichgewichts vom Anwartschaftsdeckungsverfahren ausgingen. Die Vermögensverluste im Gefolge beider Weltkriege führten aber schon früh zu einer verstärkten Beteiligung des Staates. In den Bereichen außerhalb der Sozialversicherung werden die Mittel für die Kindergelder und die landwirtschaftliche Altershilfe vorwiegend durch Beiträge aufgebracht. Nur in den Bereichen der Kriegsopferversorgung und der öffentlichen Fürsorge treten die Gebietskörperschaften voll als finanzielle Lastenträger ein. Für den Lastenausgleich werden darüber hinaus Sondersteuern erhoben.

Bei der Beurteilung der Einnahmeentwicklung ist zu beachten, daß die Beitragserhöhungen nicht allein durch die wachsende Zahl der Versicherten begründet ist, sondern auch durch die Erhöhungen der Beitrags*sätze*. In der Rentenversicherung der Arbeiter und der Angestellten blieb der Beitragssatz von 1960 bis 1967 konstant bei 14,0 v. H. der Bruttolöhne und -gehälter; im Jahre 1968 betrug er 15,0 v. H. und im Jahre 1969 16,0 v. H. In der knappschaftlichen Rentenversicherung blieb dieser Satz konstant bei 23,5 v. H. Die soziale Krankenversicherung er-

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Tabelle 3

Die Reinausgaben der Träger der Sozialen Sicherung in der BRD und Ausgabearten
(in Millionen DM)

Ausgabeart		1950	1955	1960	1965	1966	1967	1968	1969
1. Barleistungen	a)	9 397	15 311	28 451	45 337	49 537	54 629	58 122	62 277
	b)	12 149	20 822	35 881	57 310	62 260	68 221	72 226	77 869
2. Sachleistungen	a)	2 454	4 275	7 787	13 782	15 924	17 574	19 203	21 266
	b)	2 492	4 520	8 144	14 874	17 116	18 836	20 552	22 716
gesamt	a)	11 851	19 586	36 238	59 119	65 461	72 203	77 325	83 543
	b)	14 641	25 342	44 025	72 184	79 376	87 057	92 778	100 585
3. Verwaltungskosten	a)	694	1 283	1 909	2 828	3 110	3 303	3 439	3 690
	b)	874	1 649	2 406	3 697	4 051	4 316	4 491	4 810
4. Sonstige Leistungen	a)	197	339	277	373	378	442	573	743
	b)	197	340	279	373	378	442	573	743
insgesamt	a)	12 742	21 208	38 424	62 320	68 949	75 948	81 337	87 976
	b)	15 712	27 331	46 710	76 254	83 805	91 915	97 842	106 138
5. Verrechnungsausgaben	b)	566	930	2 641	5 485	5 997	7 290	6 148	7 529

a) Gruppe 1)—7)
b) alle 8 Gruppen

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höhte in der Zeitspanne von September 1960 bis September 1968 ihren Beitragssatz von 8,5 v. H. auf 10,3 v. H. (für Pflichtmitglieder mit sofortigem Anspruch auf Barleistungen).

Der Anteil der Zuschüsse des Bundes, der Länder und der Gemeinden, welcher den Rentenversicherungen einschließlich der Altershilfe für Landwirte zugute kommt, schwankt zwischen 39 v. H. und 49 v. H. Er betrug 1960 46 v. H. und im Jahre 1969 41 v. H. Einen weiteren erheblichen Anteil der Zuschüsse von Bund, Ländern und Gemeinden erfordern die Leistungen nach den Kindergeldgesetzen (10 v. H.), die Versorgung der Kriegsopfer (23,1 v. H.) und die Sozialhilfe (9,4 v. H.).

Die Vermögenserträge der sozialen Institutionen haben von 1960 bis 1969 etwa um 75 v. H. zugenommen (s. auch Abschnitt VI). Die sonstigen Einnahmen steigen in diesem Zeitraum um rd. 44 v. H., blieben aber relativ gering (1,86 v. H. bzw. 1,36 v. H. der Gesamteinnahmen). Die Gesamteinnahmen der einzelnen *Bereiche* sind aus Tabelle 4 zu ersehen. Es handelt sich dabei — wegen der Anwendung des Erfüllungsprinzips — um die Reineinnahmen der Bereiche abzüglich der Erstattungszahlungen an andere Bereiche. Auch diese Zahlen sind zum Volkseinkommen ins Verhältnis gesetzt.

VI. Vermögensbildung bei den Sozialversicherungsträgern

Die Ansammlung von Vermögen in der Sozialversicherung einschließlich der Arbeitslosenversicherung ist von unterschiedlichen Zielsetzungen bestimmt. Im Bereich der gesetzlichen Rentenversicherungen ist es zu einer nennenswerten Vermögensbildung nur bei der Rentenversicherung der Arbeiter und der Angestellten gekommen. Diese beiden Versicherungszweige hatten nach den Vorschriften der §§ 1391 f Reichsversicherungsordnung (RVO a. F.) und § 172 Angestelltenversicherungsgesetz (AVG a. F.) die Aufgabe, mit Hilfe der Vermögen die von den Beitragszahlern erworbenen Anwartschaften für alle Zeiten abzudecken. Erst mit Wirkung vom 1. Januar 1957 an ist das Ganzheitsdeckungsverfahren, dessen praktische Undurchführbarkeit sich oft genug erwiesen hatte, durch ein modifiziertes Umlageverfahren ersetzt worden (§ 1383 Reichsversicherungsordnung, § 110 Angestelltenversicherungsgesetz).

Die Höhe der künftig von diesen Versicherungsbereichen anzusammelnden Reserven ergibt sich aus den Vorausberechnungen im Rentenanpassungsbericht 1970[2]. Das bis Ende 1969 in den drei Zweigen der gesetzlichen Rentenversicherungen angesammelte Vermögen und die Art seiner Anlage ist aus Übersicht 6 ersichtlich.

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[2] Bundestagsdrucksache VI/581.

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Tabelle 4

Die Deckung der Aufwendungen der Träger der Sozialen Sicherung in der BRD nach Einnahmearten
(in Millionen DM)

Einnahmeart		1950	1955	1960	1965	1966	1967	1968	1969
Beiträge der Versicherten	a)	3 620	6 783	12 811	20 614	22 750	23 538	26 805	30 991
	b)	3 620	6 783	12 811	20 614	22 750	23 538	26 805	30 991
Beiträge der Arbeitgeber	a)	3 929	7 427	14 135	20 523	22 758	23 107	25 695	29 637
	b)	6 718	12 993	21 590	31 871	34 816	35 962	39 173	44 601
Zahlungen des Bundes, der Länder und Gemeinden	a)	5 194	8 732	12 053	20 915	22 503	23 961	23 803	24 236
	b)	5 392	9 141	12 652	23 111	24 888	26 511	26 358	26 916
Vermögenserträge	a)	41	483	1 145	1 816	2 113	2 181	2 092	1 978
	b)	41	483	1 145	1 820	2 118	2 187	2 099	1 985
Sonstige Einnahmen	a)	775	698	1 001	1 518	1 487	1 452	1 480	1 440
	b)	806	743	1 063	1 631	1 604	1 580	1 613	1 583
insgesamt	a)	13 559	24 123	41 145	65 386	71 611	74 239	79 875	88 282
	b)	16 577	30 143	49 261	79 047	86 176	89 778	96 048	106 076
Überschuß der Einnahmen über die Ausgaben	a)								
	b)	865	2 812	2 551	2 793	2 371	— 2 037	— 1 794	— 62

a) Gruppe 1)—7)
b) alle 8 Gruppen

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Tabelle 5

Die Deckung der Aufwendungen der Träger der Sozialen Sicherung in der BRD incl. Berlin-W. (Saarland ab 1960) nach den wichtigsten sozialen Bereichen, in v. H. des Volkseinkommens (Erfüllungsprinzip)

Sozialer Bereich		1950	1955	1960	1965	1966	1967	1968	1969
1. Krankenversicherung einschl. Mutterschutz	a)	2 666	4 675	9 633	16 102	18 748	19 946	21 186	23 606
	b)	3,5	3,4	4,1	4,5	5,0	5,3	5,1	5,2
2. Unfallversicherung	a)	656	1 090	1 851	3 402	3 671	3 897	4 061	4 248
	b)	0,9	0,8	0,8	1,0	1,0	1,0	1,0	0,9
3. Rentenversicherung einschl. landwirtsch. Altershilfe	a)	4 356	9 979	19 868	31 410	34 030	34 488	38 560	44 018
	b)	5,8	7,2	8,4	8,8	9,0	9,2	9,3	9,6
4. Arbeitslosenversicherung und -hilfe	a)	2 062	2 324	2 046	1 810	2 009	2 089	2 335	2 581
	b)	2,7	1,7	0,9	0,5	0,5	0,6	0,6	0,6
5. Leistungen nach den Kindergeldgesetzen	a)	—	478	934	2 773	2 981	2 694	2 635	2 732
	b)	—	0,3	0,4	0,8	0,8	0,7	0,6	0,6
6. Kriegsopferversorgung	a)	2 087	3 206	3 678	5 384	5 385	6 245	6 114	6 069
	b)	2,8	2,3	1,6	1,5	1,4	1,7	1,5	1,3
7. Sozialhilfe, Kriegsopferfürsorge, Lastenausgleich (Soforthilfe)	a)	1 680	2 268	2 965	4 232	4 488	4 552	4 652	4 660
	b)	2,2	1,6	1,3	1,2	1,2	1,2	1,1	1,0
insgesamt	a)	13 507	24 020	40 975	65 113	71 312	73 911	79 543	87 914
	b)	18,0	17,2	17,4	18,3	18,9	19,7	19,2	19,2
8, Öffentl. Jugendhilfe, Öffentl. Gesundheitsdienst, Pensionen- u. Kinderzuschläge im öffentl. Dienst	a)	3 070	6 123	8 286	13 934	14 864	15 867	16 505	18 162
	b)	4,1	4,4	3,5	3,9	3,9	4,2	4,0	4,0
insgesamt	a)	16 577	30 143	49 261	79 047	86 176	89 778	96 048	106 076
	b)	22,0	21,6	20,9	22,2	22,9	23,9	23,1	23,2

a) in Millionen DM
b) in v. H. des Volkseinkommens

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Tabelle 6

Die Betriebsmittel und die Vermögensanlagen in den Rentenversicherungen am Jahresende
(in Millionen DM)

Vermögensposten	1950[b]	1955[c]	1960	1965	1966	1967	1968	1969
			ArV					
1. Betriebsmittel[a]	—	—	140,4	183,7	172,7	⅞ 5,5	45,1[f]	134,0[f]
2. Mittel- und langfristige Bankguthaben	48,3	—[d]	1 246,5	1 610,1	1 658,0	537,6	517,4	737,9
3. Wertpapiere	72,6	1 926,0	3 439,6	5 327,3	5 333,8	4 111,0	3 834,4	3 620,1
4. Schuldbuchforderungen an den Bund	—	433,6	409,9	1 526,7	1 302,1	1 544,8	494,5	—
5. Darlehen	11,0	1 599,5	3 050,7	5 392,7	5 136,1	4 115,0	3 268,5	2 928,0
6. Hypotheken usw.	41,3	192,9	607,7	1 159,7	1 246,8	1 304,0	1 305,2	1 236,1
7. Grundstücke u. Gebäude	71,3	226,2	527,2	920,4	989,5	1 037,4	1 047,2	1 112,2
8. Bewegl. Einrichtung	20,4	—	103,9	142,9	146,1	173,3[e]	209,2[g]	224,9[h]
insgesamt			9 525,9	16 263,6	15 985,2	12 817,6	10 748,5	9 993,2
			AnV					
1. Betriebsmittel[a]	—	162,2	8,5	7,4	31,9	30,8	36,1[f]	25,4[f]
2. Mittel- und langfristige Bankguthaben	18,0		777,1	1 101,7	1 477,6	1 039,2	1 526,5	2 128,8
3. Wertpapiere	38,0	872,8	1 665,3	3 021,7	3 035,0	3 077,1	3 327,2	3 460,6
4. Schuldbuchforderungen an den Bund	—	249,3	300,9	2 233,8	3 081,0	4 092,5	3 922,3	3 753,9
5. Darlehen	16,9	1 030,6	1 427,9	2 610,9	2 638,9	2 496,1	3 059,5	2 246,3
6. Hypotheken usw.	43,9	90,6	488,2	732,2	855,6	1 036,5	1 168,0	1 397,0
7. Grundstücke u. Gebäude	5,7	30,4	66,9	136,8	151,6	178,0	203,3	256,8
8. Bewegl. Einrichtung	1,3	4,2	10,2	13,5	12,2	64,5[c]	90,8[g]	91,5[h]
insgesamt		2 440,1	4 745,2	9 858,0	11 283,9	12 014,6	13 333,7	13 360,3

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				KnRV				
1. Betriebsmittel[a]	76,9	215,1	195,7	170,5	142,4	189,8	129,2[f]	147,3[f]
2. Mittel- und langfristige Bankguthaben	1,0	9,4	150,1	212,7	118,2	76,3	54,9	66,8
3. Wertpapiere	0,4	0,1	7,0	29,8	29,8	24,9	19,4	18,8
4. Darlehen	0,2	76,2	94,0	216,0	212,5	199,9	193,4	150,6
5. Hypotheken	0,9	26,7	184,4	192,6	219,1	241,1	248,8	251,6
6. Grundstücke u. Gebäude	6,7	11,0	37,9	47,1	49,1	52,1	54,4	55,1
7. Bewegl. Einrichtung	1,7	2,6	5,2	5,4	5,0	5,3	6,2[g]	6,1[h]
insgesamt		341,1	674,3	874,0	776,1	789,3	706,8	696,3
Alle Träger zusammen			14 945,4	26 995,6	28 045,2	25 621,5	24 789,0	24 049,8

Bemerkungen:

a) Besteht aus den Posten „Barmittel plus Giroguthaben" und den Posten „täglich fällige Guthaben bei Banken und Sparkassen.
b) Nur BRD ohne Berlin — bei der ArV und der AnV —; ohne Saarland.
c) Ohne Saarland; nur BRD inkl. Berlin-W.
d) In der Position „Darlehen" enthalten.
e) Enthält die Position „Beteiligungen" in Höhe von 24,3 Mio. DM (ArV). bzw. 49,9 Mio. DM (AnV).
f) Ohne „täglich" fällige Guthaben bei Banken und Sparkassen; diese sind in der Position „Mittel- und langfristige Bankguthaben" enthalten.
g) Enthält die Position „Beteiligungen" in Höhe von 63,5 Mio. DM (ArV), 75,1 Mio. DM (AnV) und 0,7 Mio. DM (KnRV).
h) Enthält die Position „Beteiligungen" in Höhe von 79,6 Mio. DM (ArV), 75,3 Mio. DM (AnV) und 0,7 Mio. DM (KnRV).

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In der Arbeitslosenversicherung ist das Vermögen bis Ende 1969 auf rd. 6,7 Mrd. DM angewachsen. Es nahm von 1960 bis 1966 leicht zu und ist seitdem leicht abnehmend bzw. schwankend. Die Höhe und Zusammensetzung des Vermögens der Arbeitslosenversicherung — welches insbesondere dem saisonalen Belastungsausgleich dient — ist in Tabelle 7 dargestellt. Die noch nicht bewerteten beweglichen Einrichtungen sind in die Aufstellungen nicht mit eingegangen; da es sich aber nur um einen nicht wesentlichen Posten handelt, erschien die Summenbildung trotz dieser Auslassung vertretbar.

Ähnlich wie in der Arbeitslosenversicherung hat auch in der Krankenversicherung das Vermögen hauptsächlich die Aufgabe, kurzfristige Einnahmeausfälle oder überdurchschnittliche Belastungen abzufangen. Am Ende des Jahres 1959 belief sich das Reinvermögen der sozialen Krankenversicherung (Überschuß der Aktiva über die Passiva) auf rd. 1369 Mio. DM (ohne das Vermögen der Kassenverbände). Am 30. Juni 1968 betrug dieses Vermögen 3432,2 Mio. DM und am 30. Juni 1969 3144,6 Mio. DM.

Nach den Vorschriften der Reichsversicherungsordnung (§ 755) haben die Träger der Unfallversicherung ihre Rücklage solange aufzufüllen, bis sie dem dreifachen Betrag der jährlichen Rentenausgaben entspricht. Am Ende der Jahre 1960 und 1961 betrug die vorhandene Rücklage etwa 36,8 v. H. bzw. 35,8 v. H. der jährlichen Rentenausgaben, der absolute Betrag belief sich auf 410,8 Mio. DM bzw. 470,8 Mio. DM. Ferner verfügte die gesetzliche Unfallversicherung im Jahre 1967 noch über ein Vermögen an Betriebsmitteln von etwa 3,06 Mrd. DM. Dabei ist jedoch zu berücksichtigen, daß im Vermögensbestand 1,45 Mrd. DM an Nettoforderungen aus noch nicht eingegangenen Umlagebeiträgen enthalten ist. Ohne diese Forderungen beliefen sich die Betriebsmittel im Jahre 1967 also auf insgesamt 1,61 Mrd. DM, welche aus Giroguthaben bei Banken usw. bestehen oder in Darlehen und Wertpapieren u. dgl. angelegt sind.

VII. Ergebnisse

Die Rechnungslegungen in den vorhergehenden Abschnitten machen deutlich, daß die Träger der Sozialen Sicherung recht erhebliche Einnahme- und Ausgabeströme lenken. Trotz einer absoluten Steigerung der Reineinnahmen und -ausgaben von rd. 115 v. H. in dem Zeitraum von 1960 bis 1969 ist deren Anteil am Volkseinkommen nahezu konstant geblieben. (Dies gilt sogar für den Zeitraum ab 1950, obwohl die Steigerung auf diesen Zeitpunkt bezogen rd. 540 v. H. ausmacht.) Seit 1967 ist dieser Anteil leicht rückläufig. Dies resultiert hauptsächlich aus der Entwicklung der gesetzlichen Krankenversicherung, der Kriegsopfer-

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Tabelle 7

Die Betriebsmittel und die Vermögensanlagen der Bundesanstalt für Arbeitsvermittlung und Arbeitslosenversicherung
in Millionen DM (am Jahresende)

Vermögensposten	1956	1958	1960	1965	1966	1967	1968	1969
1. Barmittel u. Giroguthaben	2,5	12,0	9,4	5,6	3,2	3,8	2,9	51,5
2. Guthaben bei Banken und Sparkassen	1 026,3	1 203,1	1 614,2	1 156,0	1 402,5	1 898,0	1 774,7	1 731,6
3. Schatzwechsel, unverzinsl. Schatzanweisungen, sonst. Wechsel	115,4	19,5	620,0	51,0	350,0	500,0	600,0	500,0
4. Andere Wertpapiere und Schuldbuchforderungen	773,9	627,5	1 040,7	2 548,2	2,330,2	1 840,4	1 741,9	1 443,9
5. Darlehen für wertschaffende Arbeitslosenhilfe u. ä.	373,6	438,2	458,3	432,9	404,8	401,5	384,1	—[a]
6. Darlehen, sonstige	1 462,1	1 644,5	1 488,7	2 263,6	2 642,7	1 917,4	1 806,0	2 694,0
7. Grundstücke und Gebäude	—	—	193,7	209,7	217,7	229,2	240,4	261,7
Insgesamt	3 753,8	3 944,8	5 424,9	6 667,0	7 351,1	6 790,3	6 550,3	6 686,6[b]

Bemerkungen:

a) In Position 6 mitenthalten.

b) Einschließlich der Position „Beteiligungen" in Höhe von 4,0 Mio. DM.
Das Inventar ist noch nicht bewertet und daher nicht mit aufgeführt.

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versorgung und den Pensionen und Kinderzuschlägen im öffentlichen Dienst, deren Anteil am Volkseinkommen seit 1967 um 2,4 Prozentpunkte gefallen ist. Der hohe Anteil der Kosten der Sozialen Sicherung im Jahre 1967 lag aber auch weitgehend darin begründet, daß von 1966 bis 1967 das Volkseinkommen um 0,5 v. H. gefallen ist — während es von 1960 bis 1966 durchschnittlich um etwa 8 v. H. im Jahr gestiegen ist — wogegen die Kosten der Sozialen Sicherung (hier insbesondere die Ausgaben der Rentenversicherung) diesem Trend erst mit Verzögerung folgen können. Es ist also zu erwarten, daß im Jahre 1970 der Anteil der Kosten der Sozialen Sicherung am Volkseinkommen noch stagniert und danach wieder leicht steigt. Bei diesem Verlauf ist auch noch zu berücksichtigen, daß der Rückgang der kriegs- und kriegsfolgebedingten Leistungen weiter anhalten wird. Die Aufstellungen zeigen ferner, daß die Vermögensbildung bei den Trägern der Sozialen Sicherung verhältnismäßig gering ist und in jedem Falle unter den Bedingungen einer besonderen Zweckbindung steht.

Literatur: Bundesministerium für Arbeit und Sozialordnung, Die gesetzliche Unfallversicherung in der Bundesrepublik Deutschland, Statistische und finanzielle Berichte, Bonn 1949 ff. — *Dito,* Arbeits- und sozialstatistische Mitteilungen, Bonn 1949 ff. — Revision der Volkswirtschaftlichen Gesamtrechnungen, WuSt, Jg. 22 (1970), S. 57 ff. — Volkswirtschaftliche Gesamtrechnungen 1969, Erste vorläufige Ergebnisse, WuSt, Jg. 22 (1970), S. 66 ff. — Bericht über die Entwicklung der wirtschaftlichen Leistungsfähigkeit und der Produktivität sowie die Veränderungen des Volkseinkommens je Erwerbstätigen und über die Finanzlage der gesetzlichen Rentenversicherungen (Rentenanpassungsbericht 1970), Drucksache des Deutschen Bundestages VI/581. — *Sozialbericht 1970,* Teil B, Sozialbudget 1969/70, Drucksache des Deutschen Bundestages VI/643.

Summary

Concentration within Social Security

The various social security institutions in the Federal Republic of Germany are directing quite mentionable income- and expenditure-flows. In spite of an absolute increase in net national income of 115 per cent from 1960 to 1969, their share of net national income has remained constant. This is even true for the time-period since 1950, although the increase, related to this time-base, is 540 per cent. The share is slightly declining since 1967. This results mainly from the development in the expenditures for health insurance, war victims, and pensions and family allowances in public services. The relatively high share of social security costs in 1967 was mainly conditioned by the fact, that net national income declined from 1966 to 1967 by 0,5 per cent against an increase of about 8 per cent p. a. during the period from 1960 to 1966. Social security expenditures follow the long-term rise of net national income with a time-lag. It can be expected that social security costs will increase slightly after 1970. The paper shows, furthermore, that capital foundation in the field of social security is relatively small and, in each case, is limited by special legal conditions.

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VI.

Konzentration als politisches und gesellschaftliches Problem

Concentration as a Problem in Politics and Society

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Wirkungen der Konzentration auf die Demokratie

Von *Eugen Kogon*, Darmstadt

I. Zur Theorie des Zusammenhangs von Wirtschaft und Politik
II. Wirtschaftliche Macht und politische Freiheit
  A. Vorgeschichte: Von der vorliberalen Stufe zum geistigen und politischen Liberalismus
  B. Erste Phase: Übereinstimmung der demokratischen und der kapitalistischen Tendenzen
  C. Zweite Phase: Das Zutagetreten von Antinomien zwischen Kapitalismus und Demokratie
III. Die Verschiedenartigkeit der politischen Wirkung ökonomisch-sozialer Konzentration
  A. Die Interventionen im „Verbände-Staat"
  B. Die Möglichkeit der Kontrolle
  C. Bedingungen der Normalität des Interessenausgleichs
  D. Die Bedeutung der Konzentration in Grenzsituationen
IV. Zusammenfassung

I. Zur Theorie des Zusammenhangs von Wirtschaft und Politik

Das Thema: Wirkungen ökonomisch-sozialer Konzentrationen[1] auf die Demokratie — die Konzentration politischer Macht selbst ist hier nicht zu untersuchen — kann nur als ein Sonderaspekt des umfassenderen Verhältnisses von Wirtschaft und Politik richtig gesehen werden.

1. Es fehlt nicht an weitverbreiteten Generalthesen zum Thema. Doch ist der wechselseitige Zusammenhang von Wirtschaftsordnung und politischem Herrschaftssystem, wie er sich seit dem Beginn des 19. Jahrhunderts entwickelt hat, weder von Land zu Land noch generell bisher Gegenstand umfassender und systematischer Untersuchungen am konkreten historischen Material gewesen. Es gibt Ansätze dazu im einen oder andern Bereich, so in der Imperialismus- und in der Verbändeforschung. Aber im allgemeinen sind selbst die hervorragendsten modernen

[1] Der Terminus „ökonomisch-*sozial*" soll hier lediglich anzeigen, daß die ökonomische Konzentration auf die sozialen Verhältnisse einwirkt, in ihnen einige spezifische Folgen mitzeitigt, die ihrerseits für die Verfügungsmacht von Bedeutung sind (Freisetzung von Arbeitskräften zum Beispiel, berufliche Umschichtungen). Die Bezeichnung meint also nicht gesellschaftliche Konzentrationserscheinungen wie Urbanisation oder auch Bürokratisierung, Technokratie und dergleichen.

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Autoren der Politischen Soziologie, der Staatswissenschaft und der Politischen Ökonomie über einzelne Beispiele des Zusammenhangs, über Andeutungen, Dispositionserwägungen und prinzipielle Bemerkungen nicht hinausgegangen. Die Realität der Wechselbeziehungen ist anscheinend zu kompliziert; nur ganze Gruppen von Forschern könnten sie zutreffend feststellen.

Aus dem deutschen Bereich der Wissenschaft verdeutlichen einige Hinweise den Tatbestand verblüffend.

Max Weber äußert sich in seinem Hauptwerk[2] über „Gemeinschaftsformen und ökonomische Interessen", „Wirtschaftsformen", „Formen der Wirtschaftsregulierung" und über „Herrschaft", ohne an einer einzigen Stelle auf unser Thema systematisch einzugehen.

Jellinek handelt die folgende Thematik auf ganzen fünf Seiten ab[3]: „Wirtschaft und Staat. Verfassungsentwicklung von wirtschaftlichen Momenten mitbestimmt. Klassenlehre und Staatslehre. Einfluß staatlicher Rechtsordnung auf das Wirtschaftsleben und umgekehrt. Staat, als Wirtschaftssubjekt, Gegenstand der Staatswirtschafts- oder Finanzlehre."

Auch *Sombart*[4] gibt uns die gewünschten Aufschlüsse nicht. Er stellt zwar eine Seite des Verhältnisses dar: die Bedeutung des Staates für die Entwicklung der kapitalistischen Wirtschaft, ziemlich eingehend bis zum Ausgang des 18. Jahrhunderts, skizzenhaft für die Zeit des 19. Jahrhunderts, aber weder da, wo er über „Die Konzentration" schreibt, noch in der abschließenden Zusammenfassung seines Werkes über den modernen Kapitalismus findet sich auch nur ein Wort zu unserem Thema. An einer einzigen Stelle steht in Form einer Behauptung ein Generalurteil[5]: „Es herrscht (im modernen Staat) die Neigung vor, den stärkeren Interessengruppen nachzugeben, schließlich also die Staatsleitung oder wenigstens die Beeinflussung dieser Staatsleitung den Vertretern der stärksten Interessengruppe zu überantworten . . ."

Von den USA aus, aber das Ganze der gegenwärtigen Zivilisation auf den Zusammenhang von Wirtschaftssystem und Demokratie hin im Auge, hat *Schumpeter* im Rahmen der Bemühung, den sich „gesetzlich" vollziehenden Übergang des Kapitalismus in den Sozialismus darzustellen, zweifellos den treffendsten Umriß der Problematik geliefert[6], insbesondere auch durch den Verweis auf die Änderung der gesellschaftlichen Verhältnisse und damit des Unterbaues der demokratisch-politischen Strukturen, die der Kapitalismus bewirkt hat und bewirkt. Die Folgen der ökonomischen *und* der sozialen Konzentrationsvorgänge, was unser engeres Thema betrifft, hat Schumpeter wenigstens generell in die Analyse miteinbezogen. Das marxistische Argument jedoch, die private Kontrolle über die Produktionsmittel bilde „die Grundlage für die Fähigkeit der Kapitalistenklasse, Befehle ihres Klasseninteresses der

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[2] *M. Weber*, Wirtschaft und Gesellschaft, GdS, III. Abteilung, Halbbd. 1, (1921), Tübingen 1947[3], S. 185—193, Halbbd. 2, S. 603—626.

[3] *G. Jellinek*, Allgemeine Staatslehre, (1900) Berlin 1914[3], S. 106—111.

[4] *W. Sombart*, Der moderne Kapitalismus, Bd. 1, Halbbd. 1 (1902), München u. Leipzig 1928[7], S. 334—462, Bd. 3, Halbbd. 1 (1927) Berlin 1955[4], S. 42—73, Halbbd. 2, S. 950—1107.

[5] *W. Sombart*, Bd. 3, Halbbd. 1, IV. Kap.: Das Wesen des modernen Staates (dieses gesamte Kapitel umfaßt 3 Seiten!), S. 49 f.

[6] *J. A. Schumpeter*, Kapitalismus, Sozialismus und Demokratie, (1942) München 1950[2], Zitate S. 373 f.

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Leitung der politischen Geschäfte der Allgemeinheit aufzuzwingen", „die politische Macht der Kapitalistenklasse" sei eine „besondere Form ihrer wirtschaftlichen Macht", bezeichnete er als unhaltbar. „Eine realistischere Theorie der Beziehungen" selbst zwischen Sozialismus und Demokratie sei erforderlich.

Die Antwort auf die Frage nach dem determinierenden, dem konditionierenden oder dem mitkonditionierenden Einfluß der ökonomischen Faktoren auf die Politik ist für die Wahl der Regulierungen, die sich als notwendig erweisen, und die Beurteilung der Chancen, die einer Reformpolitik zukommen können, selbstverständlich von ausschlaggebender Bedeutung.

2. Als Ergebnis wissenschaftlicher Einsicht ist die alte marxistische „Feststellung" ausgegeben worden: daß die Organisation der (sogenannten materiellen) Produktivkräfte die staatliche Macht- und Rechtsordnung, von der sie geschützt werde, hervorbringe, daß im besondern der „bürgerliche Demokratismus" das Produkt des Kapitalismus sei. Die Behauptung, obwohl im Dialektischen Materialismus dogmatisiert, ist durch fortwährende Wiederholung nicht richtiger geworden; sie ist erweislich falsch. In jedem historischen Einzelfall besteht das Verhältnis von Wirtschaftsordnung und politischem Herrschaftssystem aus einer Fülle von Wechselbeziehungen, die eine gegenseitige Verflechtung von der Art schaffen, daß nicht generell gesagt werden kann, der eine Bereich entstehe aus dem andern; sie bedingen vielmehr einander vielfältig. Die marxistische These ist selbst für das kapitalistisch-demokratische Zeitalter lediglich eine hypothetische System-Idee, das heißt, sie ist der wissenschaftlich teilweise ertragreiche, teilweise immer von neuem gescheiterte und scheiternde Versuch geblieben, das Verständnis insbesondere der staatspolitischen Phänomene, ihrer Entstehung und ihres Ablaufs, im begründenden Zusammenhang der Ökonomie allgemeingültig zu erschließen.

Die oberflächlichste Form des marxistischen Ökonomismus hat allerdings der Spätliberalismus zum Bestandteil seiner politischen Glaubenspraxis gemacht, — siehe die Naivität, mit der beispielsweise führende Kreise der USA von 1947 an erwarteten, die ökonomische „Rehabilitation" Europas, die mit Hilfe des Marshall-Planes in der OEEC eingeleitet wurde, werde die politische Einigung des Kontinents herbeiführen, und die ganz ähnliche Überzeugung, die sich bei den „europäischen Funktionalisten" heute an die EWG knüpft; sie verweisen gern auf den Deutschen Zollverein des vergangenen Jahrhunderts — irrtümlich, denn ohne den politischen Willen *Bismarcks* wäre die — kleindeutsche — Einigung Deutschlands von selbst, aus der Organisation wirtschaftlicher Zusammenarbeit, mitnichten zustande gekommen[7].

[7] Zur „Beweiskraft" des Deutschen Zollvereins vergleiche *M. Weber*, a. a. O., Halbbd. 2, S. 621: „Man könnte geneigt sein zu glauben, daß überhaupt die Bildung und ebenso die Expansion von Großmachtgebilden stets primär ökonomisch bedingt sei. Am nächsten liegt die Generalisierung der in einzel-

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3. Auch die besten marxistischen Imperialismus-Darstellungen, in denen die Expansionstendenzen konzentrierter ökonomischer Verfügungsmacht — auf den Gebieten der Produktion und ihrer Rohstoffversorgung, des Absatzes und der Finanzierung — mit dem deutlichsten Ergebnis analysiert worden sind, haben trotz aller Faktoren-Isolierung, die sie vornahmen, den Nachweis nicht zu erbringen vermocht, daß sich das Verhältnis sogar von Hochkapitalismus und Nationalstaat des 19. Jahrhunderts zu Recht als ein strenges propter quod auffassen ließe. Von der ursprünglich behaupteten allgemeinen und determinierenden Gesetzlichkeit kann keine Rede sein.

Rosa Luxemburg[8] verwendet im I. Abschnitt ihres Hauptwerkes, in dem „Das Problem der Reproduktion" behandelt wird, ihren ganzen Scharfsinn auf den Nachweis der Tatsächlichkeit und der immanenten Gesetzlichkeit des Vorgangs, ohne auch nur einen Satz an den Versuch zu wenden, die Richtigkeit der Prämisse zu prüfen: ob nämlich die politische Expansion der Nationalstaaten nichts sei als die Funktion oder vorwiegend die Funktion der (erweiterten) Reproduktion des Kapitals. Alle Beispiele des III. Abschnitts „Die geschichtlichen Bedingungen der Akkumulation" illustrieren lediglich die häufig abgründige Abscheulichkeit kolonialer Ausbeutungspraktiken kapitalistischer Gesellschaften, denen die politische Macht nicht nur nicht entgegentrat, sondern die sie im Gegenteil noch schützte — besonders dann, wenn Mitherrschende am Ertrag der Ausbeutung sich beteiligen konnten.

Auch für *Sternberg*[9] hat die Prämisse, daß die Politik der Staaten Ausdruck ihres ökonomischen Systems sei und dessen Entwicklungsstand widerspiegle, den Charakter eines Axioms; es liegt der Untersuchung im einzelnen als „evidente Selbstverständlichkeit" zugrunde. Infolgedessen sind die Kriege der Neuzeit samt und sonders entweder Gewaltvorstöße des imperialistischen Kapitalismus oder antikapitalistische Befreiungskämpfe. Wie jene der regulären ökonomischen Expansion zur Gewinnung von Surplus-Profiten dienen oder Versuche sind, über Krisen hinwegzukommen, so sind die nationalen Befreiungskriege des 20. Jahrhunderts determiniert von den ökonomischen Voraussetzungen[10]. So vereinfacht lassen sich indes — damit ein Axiom bestätigt

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nen Fällen in der Tat zutreffenden Annahme, daß ein bereits bestehender, besonders intensiver Güterverkehr in einem Gebiet die normale Vorbedingung und auch der Anlaß seiner politischen Einigung sei. Das Beispiel des Zollvereins liegt äußerst nahe, und es gibt zahlreiche andere. Allein genaueres Zusehen verrät sehr oft, daß dieser Zusammenfall kein notwendiger und das Kausalverhältnis keineswegs eindeutig gerichtet ist." (Es folgt der detaillierte Nachweis der deutschen Produktions- und Absatzantinomien für Getreide, Berg- und Hüttenprodukte, schwere Eisenwaren, Transportwege und bestimmte Industriestandorte.) „... Deutschland ist entgegen den rein ökonomischen Determinanten politisch geeinigt. Derartige Sachverhalte: daß die Grenzen einer politischen Gemeinschaft mit den rein geographisch gegebenen Standortsbedingungen im Konflikt liegen und ein nach ökonomischen Determinanten auseinanderstrebendes Gebiet umfassen, sind nichts Ungewöhnliches."

[8] *R. Luxemburg,* Die Akkumulation des Kapitals. Ein Beitrag zur ökonomischen Erklärung des Imperialismus, 1. und 2. Bd. (1912), Leipzig 1921.

[9] *F. Sternberg,* Der Imperialismus, Berlin 1926, sowie „Der Imperialismus" und seine Kritiker, Berlin 1929.

[10] *F. Sternberg,* „Der Imperialismus" und seine Kritiker, S. 59, am vermeintlichen Beispiel Indiens (kursorisch) erläutert.

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werde — die staatlichen Gewaltkonflikte der neueren Zeit nicht erklären. Um nur zwei Beispiele zu erwähnen: Sowohl der Krieg der beiden Korea gegeneinander, der zugleich und von Anfang an ein internationaler Interventionskrieg war, als auch der Krieg zwischen Nord- und Südvietnam mit der Ausweitung auf Laos und Kambodscha, in dem sich die USA noch offener und nachhaltiger engagiert haben, sind Konflikte innerhalb der imperialen Systemrivalität der Supermächte; die ökonomische Komponente spielt dabei eine erhebliche, aber keineswegs die ausschlaggebende, schon gar nicht die alleinige Rolle.

Noch viel weiter in den Generalisierungen ging *Hilferding*[11]. Aus der unspezifizierten, so allgemein natürlich nicht unrichtigen Feststellung „Ökonomische Macht bedeutet zugleich politische Macht" leitete er, als gelte der Satz nun unter allen Umständen und in jeder Hinsicht, die im einzelnen unschwer widerlegbare Behauptung ab: „Die Herrschaft über die Wirtschaft bedeutet zugleich die Verfügung über die Machtmittel der Staatsgewalt" und setzte in einem Atemzug fort: „Je stärker die Konzentration in der wirtschaftlichen Sphäre, desto unumschränkter die Beherrschung des Staates."[12] An keiner Stelle seines Werkes unternimmt Hilferding auch nur den Versuch des Nachweises am konkreten historischen Material, daß — und wenn ja, in welchem Ausmaß — über die mannigfachen wirtschafts-(und sozial-)politischen Einflüsse ökonomischer Macht hinaus es sich tatsächlich so verhalte, wie er, fortwährend ohne jede Einschränkung verallgemeinernd, behauptet — etwa: „Die Kartellierung vereinigt die wirtschaftliche Macht und erhöht dadurch unmittelbar ihre politische Wirksamkeit. Sie vereinheitlicht aber auch zugleich die politischen Interessen des Kapitals und läßt die ganze Wucht der wirtschaftlichen Kraft auf die staatliche Macht wirken. Sie vereinigt die Interessen alles Kapitals und tritt so gegenüber der Staatsmacht viel geschlossener auf als das zersplitterte industrielle Kapital des Zeitalters der freien Konkurrenz. Zugleich aber findet das Kapital auch bei den anderen Bevölkerungsklassen eine viel größere Unterstützungsbereitschaft."[13] (Der Schlußsatz, an der politischen Wirklichkeit gemessen, ist geradezu grotesk.)

Hallgarten[14] sucht dem wissenschaftlichen Dilemma, doch nicht einfach behaupten — und fortgesetzt behaupten — zu dürfen, was man entweder nicht in solcher Allgemeinheit oder überhaupt nicht nachweisen kann, dadurch zu entgehen, daß er einen Gegensatz von Politik und Wirtschaft im großen grundsätzlich für unmöglich erklärt. „Aus der Tatsache, daß sich die Leiter der modernen Wirtschaftskräfte und die Inhaber der Staatsgewalt oftmals kritisch und selbst feindlich gegenüberstehen, wird auf einen realen Gegensatz von Wirtschaft und Politik geschlossen ... In Wirklichkeit kann aber doch kein Grund ausfindig gemacht werden, der die Leitung eines Staates veranlassen könnte, die Staatsgewalt nach einer Richtung hin entgegen ihren wirtschaftlichen Interessen — d. h. den Interessen der Bedarfsdeckung des oder der Staatsleiter — auszuüben und durchzuführen, auch wenn diese Interessen nicht immer im Einklang mit den Bedürfnissen jener Kreise stehen mögen, die sich mit einiger Selbstgefälligkeit gern als ‚Die Wirtschaft' bezeichnen. Es muß sich also jedwede Staatspolitik, ja in analoger

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[11] *R. Hilferding*, Das Finanzkapital, Eine Studie über die jüngste Entwicklung des Kapitalismus, (1910) Berlin 1947.

[12] *R. Hilferding*, a. a. O., S. 517.

[13] *R. Hilferding*, a. a. O., S. 468.

[14] *G. W. F. Hallgarten*, Imperialismus vor 1914, 2 Bde., München 1951, Bd. 1, S. 9.

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Weise jede Politik einzelner Gesellschaftsgruppen vom Standpunkt der wirtschaftlichen Interessen der herrschenden Individuen bzw. der entsprechenden Gesellschaftsgruppen rechtfertigen lassen." *Jedwede* Staatspolitik, in analoger Weise *jede* Politik einzelner Gesellschaftsgruppen! Gemeint sein könnte wiederum höchstens die Wirtschafts-(und Sozial-)Politik; selbst da aber handelt es sich doch um das Problem, welche Kriterien für das, was Hallgarten „rechtfertigen" nennt, gelten sollen, und wer sie durchsetzt. Mit den „Interessen der Bedarfsdeckung" — gar der Staatslenker selber — kann die Politik noch allemal in Konflikt kommen, es braucht sich gar nicht um „Kanonen statt Butter" zu handeln. Wenn es aber richtig wäre, daß „in Wirklichkeit kein Grund ausfindig gemacht werden" könne, warum die behauptete allgemeine Notwendigkeit jener Rechtfertigung nicht bestehen solle, daß sie also unumgehbar bestehe (mit anderen Worten: daß es tiefgreifende und anhaltende Gegensätze innerhalb der wirtschaftlichen Interessen der Herrschenden sowie zwischen diesen und den Interessen anderer gesellschaftlicher Gruppen nicht geben könne!), dann wäre für das Verhältnis von ökonomischer Verfügungsmacht und politischem Herrschaftssystem noch immer keine determinierende Kausalität bewiesen.

Die Komponente des Einflusses konzentrierter ökonomischer Macht liegt in der imperialistischen Politik der modernen Staaten zutage, ja nicht selten ist sie darin dominant; aber auch sie wird von zahlreichen und bedeutsamen außerökonomischen Faktoren mitbestimmt.

Max Weber schreibt[15]: „Weder die Handels- noch die Bankpolitik der modernen Staaten, also die am engsten mit den zentralen Interessen der heutigen Wirtschaftsform verknüpften Richtungen der Wirtschaftspolitik, sind nach Genesis und Verlauf ohne jene sehr eigenartige politische Konkurrenz- und ‚Gleichgewichts'-Situation der europäischen Staatenwelt des letzten halben Jahrtausends zu verstehen, welche schon Rankes Erstlingsschrift als das ihr welthistorisch Spezifische erkannt hat." Und im Falle der englischen Nation spricht er davon, daß ihr „die Abhängigkeit ihrer ökonomischen Blüte von ihrer politischen Machtlage ... täglich vor Augen geführt wird[16]. *Sombart* nennt sechs Arten von Beweggründen für die Expansionstendenz der modernen Großstaaten: politische, militärische, nationale, religiöse, populationistische, „endlich — und gewiß nicht zum wenigsten —: kapitalistische"[17]. Und *Schwarzenberger*[18] widerlegt an Hand einiger markanter konkreter Beispiele die These vom Primat der Wirtschaft über die Politik. Er schildert folgende Fälle: Die Weigerung der britischen Regierung, im Unterhaus den Antrag zu stellen, Cecil Rhodes die Gelder für die Besetzung des heutigen Südrhodesien zu bewilligen; den Mißerfolg der deutschen Mannesmann-

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[15] *M. Weber*, a. a. O., Halbbd. 1, S. 193.

[16] Der Nationalstaat und die Volkswirtschaftspolitik, Freiburg i. Br. u. Leipzig 1895, S. 25.

[17] *W. Sombart*, a. a. O., Bd. 3, Halbbd. 1, S. 68 f.

[18] *G. Schwarzenberger*, Machtpolitik, Eine Studie über die internationale Gesellschaft, Tübingen 1955, im besondern das Kapitel: Wirtschaftliche Interessengruppen, S. 83—87.

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Interessen in Marokko 1906—1908[19]; den lediglich mitbedingenden Einfluß finanzkapitalistischer Kreise auf den Eintritt der USA in den Ersten Weltkrieg; die kriegsproduktionshemmende Bedeutung einer Reihe von internationalen Kartellvereinbarungen und Patentbeschränkungen; die nachweislich unpolitische Erstentwicklung der saudisch-arabischen Ölvorkommen. „Die Aggressivität wirtschaftlicher Machtgruppen ist wie die souveräner Staaten unterschiedlich. Die Politik des internationalen Zuckerkartells zum Beispiel ist sehr viel friedfertiger als die des internationalen Aluminiumkartells. Die Beziehungen zwischen den ‚Weltreichen', ‚Großmächten' und ‚Kleinstaaten' des internationalen Industrie- und Finanzkapitals sind jedoch im wesentlichen gesellschaftlicher — im Gegensatz zu gemeinschaftlicher — Natur, und folglich weist die Machtpolitik der Wirtschafts- und Finanzmonopole starke Ähnlichkeiten zu der Machtpolitik souveräner Staaten auf."

Ähnlichkeiten? Für *Lenin,* der ja in ungezählten Stellungnahmen die imperialistische Entwicklung, ihre Entstehungsgründe, ihre Abläufe und ihre geschichtliche Bedeutung analysiert hat[20], handelt es sich nicht um „Ähnlichkeiten", sondern, was die Staaten mit kapitalistischer Wirtschaftsweise betrifft, um Identität. Den Imperialismus lediglich als die auf Expansion und Annexionen gerichtete Außenpolitik dieser Staaten zu erklären, bezeichnete er als völlig verfehlt und irreführend; er hat auf das schärfste — in seiner gewohnten Weise — gegen eine solche „ausschließlich politische Definition des Imperialismus" polemisiert; auf die Offenlegung des zentralen ökonomischen Tatbestandes komme es an[21]. „Ökonomisch ist der Imperialismus (oder die ‚Epoche' des Finanzkapitals — nicht um Worte geht es) die höchste Entwicklungsstufe des Kapitalismus, und zwar eine Stufe, auf der die Produktion so sehr Groß- und Größtproduktion geworden ist, daß *die freie Konkurrenz vom Monopol abgelöst wird.* Das ist das *ökonomische* Wesen des Imperialismus. Das Monopol findet seinen Ausdruck sowohl in den Trusts, Syndikaten usw. als auch in der Allmacht der Riesenbanken, sowohl im Aufkauf der Rohstoffquellen usw. als auch in der Konzentration des Bankkapitals usw. Das ökonomische Monopol — das ist der Kern der ganzen Sache. Der politische Überbau über der neuen Ökonomik, über dem monopolistischen Kapitalismus (Imperialismus ist monopolistischer Kapitalismus) ist die Wendung *von* der Demokratie *zur* politischen Reaktion. Der freien Konkurrenz entspricht die Demokratie. Dem Monopol entspricht die politische Reaktion. ‚Das Finanzkapital will nicht Freiheit, sondern Herrschaft', sagt Rudolf Hilferding völlig richtig in seinem ‚Finanzkapital'. Die ‚Außenpolitik' von der Politik schlechthin zu trennen oder gar die Außenpolitik der Innenpolitik entgegenzustellen, ist grundfalsch, unmarxistisch, unwissenschaftlich. Sowohl in der Außenpolitik wie auch gleichermaßen in der Innenpolitik strebt der

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[19] Vgl. hierzu auch *G. W. F. Hallgarten,* a. a. O., S. 107 ff.

[20] *W. I. Lenin,* Der Imperialismus als höchstes Stadium des Kapitalismus, Gesamtausgabe der Werke, Berlin 1960—1970, Bd. 22 (1960), S. 191—309; im Registerband I (1966) umfaßt das Stichwortverzeichnis zu *Lenins* Imperialismus-Stellungnahmen nicht weniger als 40 Spalten, S. 210—230.

[21] *W. I. Lenin,* Über eine Karikatur auf den Marxismus und über den „imperialistischen Ökonomismus", Werke Bd. 23 (1968), S. 18—71, insbes. S. 34 ff.

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Imperialismus zur Verletzung der Demokratie, zur Reaktion. In diesem Sinne ist es unbestreitbar, daß der Imperialismus ‚Negation' der *Demokratie überhaupt*, der *ganzen Demokratie* ist, keineswegs aber nur *einer* demokratischen Forderung, nämlich der Selbstbestimmung der Nationen."

Die Imperialismus-Analyse Lenins geht zwar von den marxistischen Fundamentalannahmen aus und es liegen ihr die Generalisierungen Hilferdings zugrunde, aber sie ist passagenweise mit einer Fülle von Einzeltatsachen angereichert, die den verschiedensten Quellen entnommen sind (darunter der umfangreichen Materialsammlung gegen den Imperialismus, die um die Jahrhundertwende der englische Linksliberale *Hobson*[22] zusammengetragen hat). Nur beweist die gleichzeitig vielfältige und massive Argumentation Lenins immer von neuem nur die erfolgte und erfolgende Konzentration der ökonomischen Verfügungsmacht sowie imperialistische Staatsakte, keinesfalls jedoch die angenommene, dann als „unbestreitbar" ausgegebene determinierende Monokausalität der Abhängigkeit politischer Herrschaft bei kapitalistischem System. Der schlüssige Nachweis kommt nicht zustande — er wird gar nicht unternommen, jedes angeführte Faktum wird wie selbstverständlich stets im Sinn der Generalannahmen gedeutet —, daß „die Wendung" von der Demokratie zur politischen Reaktion, die „Entsprechung" Konkurrenz — Demokratie; Monopol — Reaktion, „das Streben" zur Verletzung der Demokratie, zur Reaktion, „die Negation" der Demokratie überhaupt, der ganzen Demokratie obsiegt habe, daß aus der Tendenz die Wirklichkeit geworden sei, die den historischen Entwicklungsgang der „Epoche" — „nicht um Worte geht es" — ausmacht. Ganz gewiß ist der Zug der kapitalistischen Wirtschaftsweise zur „Groß- und Größtproduktion", zur Konzentration und zu globaler Expansion unbestreitbar; und alles andere als harmlos ist ebenso gewiß der xfach illegitime Einfluß ökonomischer Macht auf die Politik — illegitim: gemessen am demokratischen Postulat der Vollentfaltung der Humanität —, insbesondere der Imperialismus. Aber selbst eine für die USA so zutreffende Teildarstellung wie etwa die von *Nearing* und *Freeman*[23] kann zu dem Fehlschluß, die Kapitalinteressen in ihren mannigfachen heutigen Formen seien der zentral bestimmende Antrieb insgesamt der Politik in den parlamentarisch-demokratischen Staaten, nur dann verleiten, wenn eine axiomatische Prämisse die Feststellung und die Analyse der gesellschaftlichen Faktoren so beherrscht, daß es zwingend den Anschein gewinnen muß, Reformversuche seien völlig zwecklos, Revolution allein sinnvoll und notwendig.

Sulzbach[24] scheint mir mit seiner zusammenfassenden Bemerkung zur alt- und neumarxistischen „Kapitalismus-Theorie des Imperialismus" recht zu haben: „Unter den Theorien, die es sich zur Aufgabe setzen, den modernen Imperialismus zu erklären, sind weitaus am verbreitetsten diejenigen, die ihn aus den wirtschaftlichen Interessen oder wirtschaftlichen Notwendigkeiten der ‚Kapitalisten', das heißt der Unternehmer und der Eigentümer von Anlagekapitalien, zu begreifen suchen. Was immer der Wahrheitswert dieser Theorien

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[22] *J. A. Hobson,* Imperialism, London 1902; vgl. auch *H. Ch. Schröder,* Hobsons Imperialismus-Theorie, in: *H. U. Wehler* (Hrsg.), Imperialismus, Köln o. J., S. 104 ff., sowie *I. Fetscher,* Marxismus. Seine Geschichte in Dokumenten, Frankfurt/M. 1968; *J. A. Hobson,* S. 438 ff.

[23] *S. Nearing, J. Freeman,* Dollar Diplomacy, New York 1925, dtsch. Dollar-Diplomatie. Eine Studie über amerikanischen Imperialismus, Berlin 1927.

[24] *W. Sulzbach,* Imperialismus und Nationalbewußtsein, Frankfurt/M. 1959, S. 206 f.

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sein mag — und er ist bescheiden —, ihr Propagandawert ist, wie die Erfahrung gezeigt hat, erheblich... Der Gedanke der Abwehr des sogenannten imperialistischen Monopolkapitalismus hat eine unvergleichlich größere Resonanz als die Vergesellschaftung der Produktionsmittel oder die Liquidierung der sozialen Klassen."

4. Vielleicht ist es der Propaganda-Effekt der marxistisch-leninistischen Behauptungen gewesen, vielleicht die enorme Schwierigkeit, den Gegenstand überhaupt mit Hilfe verläßlicher Erhebungen in den Griff zu nehmen, der die wirkliche Wissenschaft davon abgehalten hat, sich dem Thema des Verhältnisses von Wirtschaftsordnung und politischem Herrschaftssystem im einzelnen zuzuwenden. Jedenfalls gibt es infolgedessen auch noch keine ausgebildete, umfassende Theorie des Zusammenhangs zwischen Kapitalismus und Demokratie, sei es generell als Untersuchung der idealtypischen Möglichkeiten, sei es gemäß dem zeitlichen Entwicklungsverlauf des konkreten geschichtlichen Ineinanderwirkens, — Theorie in dem Sinne also, daß eine Gesamtheit sicherer Urteile über den Gegenstand vorläge, zustande gekommen auf Grund einwandfrei festgestellter, widerspruchsfrei erklärter oder verständlich gemachter Tatbestände.

Lorenz von Stein[25] bietet immer noch die beste Systematik des Themas, vor allem, was die unter dem Druck der kapitalistisch- industriewirtschaftlichen Gesellschaft erfolgte Herausbildung des Konstitutionalismus in der ersten Hälfte des 19. Jahrhunderts betrifft. Hingegen stellt *Pouthas*[26], Historiker, nicht Politologe, viel mehr das Neben- und Miteinander der Wirkfaktoren dar als das Ineinander, also nicht das hier gemeinte Verhältnis wechselseitiger Bedingung. *Lauck*[27] behandelt die Tendenz zu den verschiedenen Formen der Wirtschaftsdemokratie, im übrigen ausschließlich für die USA. *Kaiser* hingegen hat dem Problem der Machteinflüsse innerhalb der pluralistischen Demokratie eine soziologisch unterbaute staatsrechtliche Studie gewidmet[28], in der aber die Demokratie sozusagen nur als Adressat und Objekt, nicht als Souverän auch gegenüber der ökonomischen Verfügungsmacht erscheint.

Diesen Umständen entsprechend stand für die vorliegende Abhandlung über die Wirkungen der Konzentration auf die Demokratie kein Grundschema zur Verfügung, dessen erprobten Markierungen zu folgen gewesen wäre. Es muß erst entworfen werden. Das Tatsachenmaterial freilich ist umfangreich — verstreut in zahlreichen Werken der Neueren Geschichte, in mancherlei Biographien, in Parlamentspro-

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[25] *L. v. Stein,* Geschichte der Sozialen Bewegung in Frankreich von 1789 bis auf unsere Tage, 3 Bde. (1850), München 1921².

[26] *Ch.-H. Pouthas,* Démocraties et Capitalisme (1848—1860), (1941) Paris 1948².

[27] *W. J. Lauck,* Political and Industrial Democracy 1776—1926, New York 1926.

[28] *J. H. Kaiser,* Die Repräsentation organisierter Interessen, Berlin 1956. Das Werk quillt geradezu über von Material und Zitaten.

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tokollen, in Prozeßakten vor allem der USA und des Internationalen Militär-Tribunals von Nürnberg, in vielen Monographien, in Zeitungs- und Zeitschriften-Berichten über besondere Herrschaftszusammenhänge nationaler oder internationaler Art sowie in den fundierten Werken über Imperialismus, Kolonialismus und Faschismus. Es ist ausgeschlossen, daß für meinen Entwurf die mannigfachen Quellen auch nur flüchtig hätten durchgearbeitet werden können. Ebenso unmöglich wäre eine eigene, selbst verhältnismäßig begrenzte Feldstudie zum Gesamtthema gewesen. Für beides müßten ganze Gruppen von jüngeren und älteren Gelehrten ans Werk gehen. Denn festzustellen wären von Land zu Land die tatsächlichen Wechselbeziehungen zwischen ökonomischer Verfügungsmacht und politischem Herrschaftssystem: Welche Möglichkeiten der Einflußnahme auf den Bundestag, den Bundesrat, die Regierung, die Verwaltung, die Justiz, die Öffentliche Meinung, die Bundesbank hat beispielsweise „die" Ruhrindustrie oder „das" Bankkapital, der Bund der Deutschen Industrie, ein organisierter einzelner Wirtschaftszweig, jedes der verschiedenen Großunternehmen — des Versicherungsgewerbes, der Automobilindustrie, der Ölwirtschaft oder der Markenartikelbranche und so fort, und welchen Einfluß nehmen sie? Wie steht es ferner um den konkreten Zusammenhang etwa zwischen gewerkschaftlicher Macht und Perónismus in Argentinien? Zwischen Rüstungsindustrie etcetera, Parteien, Kongreß, Administration und Supreme Court in den USA? Zwischen internationalem Anlagekapital und politisch bestimmter Investitionshilfe für die oder für ausgewählte Entwicklungsländer? In Großbritannien zwischen verstaatlichten und nichtverstaatlichten Industrien einerseits, dem Parlament andererseits? ... Der Fragestellungen im einzelnen ist kein Ende.

Was ich folglich zu bieten habe, ist lediglich der Versuch zu einer systematischen Skizze. Sie umfaßt die prinzipiellen Möglichkeiten, wie sie historisch sichtbar geworden sind. Es muß daher die Entstehung des wechselseitigen Verhältnisses von Wirtschaftsordnung und politischem Herrschaftssystem, von Konzentration ökonomisch-sozialer Verfügungsmacht und Demokratie in die kurze Darstellung miteinbezogen werden.

Da es sich um einen der abschließenden Beiträge zu einem Werk handelt, das überwiegend von Wirtschaftswissenschaftern verfaßt ist, sind deren Ausführungen vorausgesetzt. Vor allem beziehe ich mich auf *Arndt* und *Ollenburg*[29]; die Konzentration wird hier generell als ökonomisch-sozial verstanden, aus welchen Gegebenheiten und Vorgängen im einzelnen sie sich auch herleitet.

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[29] Begriff und Arten der Konzentration, in diesem Werk, Band 1.

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II. Wirtschaftliche Macht und politische Freiheit

Es ist eine wissenschaftlich nicht haltbare Simplifizierung, zu behaupten, die moderne Demokratie, das heißt das Herrschaftssystem einer Meinungs- und Willensrepräsentation der als autonom angesehenen Staatsbürger, die für alle in ebenfalls autonomen Gruppierungen nach einem besonderen gesetzlichen Verfahren zustandekommt, somit die gesellschaftlich und politisch pluralistische Demokratie, sei aus der kapitalistischen Wirtschaftsweise entstanden. Vielmehr läßt sich feststellen, daß diese der Demokratie sich „angepaßt" hat: Die ökonomischen Interessen machten auf mannigfache Art auch von den Möglichkeiten Gebrauch, die ihnen die Demokratie bot, und in dem Maße sodann, indem jeweils der Ansatz zur Kongruenz mit den politischen Einrichtungen und deren Funktionsweise erreicht war, erfolgte deren Ausbau und Intensivierung auch unter dem Druck der ökonomischen Interessen. Die Entwicklung ging um so leichter und rascher vonstatten, je gründlicher und umfassender die kapitalistische Wirtschaftsweise Sein und Bewußtsein der Gesellschaft veränderte, — wobei nur nicht übersehen werden darf, welche folgenreiche Antinomien und Antagonismen sich ergaben, so daß von Einheitlichkeit und etwa Geradlinigkeit dieser Entwicklung nicht die Rede sein kann.

A. Vorgeschichte: Von der vorliberalen Stufe zum geistigen und politischen Liberalismus

1. Die großen Kapitalisten der vorliberalen Zeit, Unternehmer, Händler, Geldverleiher und merchant-adventurers, haben sich unter allen Regimevariationen entfaltet. Wenn es notwendig war oder ihnen wünschenswert erschien, haben sie jedem ihre Dienste geliehen, am meisten den Fürsten, ohne diesen gegenüber daraus irgendwelche „demokratischen" Forderungen abzuleiten[30], wohl Privilegien, oft genug die Bewilligung von Produktions- und Handelsmonopolen. *Sombart* belegt dies ausgiebig für alle Hauptländer des Merkantilsystems[31] und stellt fest: „Was ein Schriftsteller in den 1770er Jahren von Österreich schrieb, hätte für alle Staaten gelten können: ‚Les monopoles dans nos provinces sont innombrables, partie ignorés, partie tolerés et partie légalement autorisés par le Gouvernement. Presque tous nos fabriquants, manufacturiers et gros négociants sont monopoleurs."[32] Als Grund bis in das 16. Jahrhundert zurück gibt Sombart das Streben des Staates

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[30] *G. W. F. Hallgarten* gibt a. a. O., Bd. 1, S. 35—48, umgekehrt besonders markante Beispiele für die Anteile der aristokratischen Schichten Englands und Frankreichs, bis hinauf zur Krone, an der „nationalen" Raubpolitik der frühkapitalistischen Ära im 17. und 18. Jahrhundert.

[31] *W. Sombart*, a. a. O., Bd. 1, Halbbd. 1, S. 372—386. Vgl. ferner: *Ders.*, Der Bourgeois, München u. Leipzig 1913, S. 361—379, vor allem S. 364 ff.

[32] Zitiert bei *W. Sombart*, a. a. O., S. 380 f., mitgeteilt bei *K. Přibram*, Geschichte der österreichischen Gewerbepolitik von 1740—1860, Bd. 1, 1907.

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an, „auf Umwegen sein Ziel: die Geldbeschaffung, zu erreichen. Diese Umwege führten ihn aber zu einer Art von Kompagniegeschäft mit dem emporstrebenden Kapitalismus, und die Abwicklung dieses Kompagniegeschäftes ist recht eigentlich das, an was man gemeinhin denkt, wenn man von Merkantilismus spricht"[33]. Die Privilegien waren Freiheiten im Stil der mittelalterlichen exemptiones, das heißt Ausnahmen von den normalen — feudalistischen oder zünftischen — Regulierungen.

2. Das „Kompagniegeschäft" zwischen der absolutistischen Monarchie und dem Frühkapitalismus hat diesen mächtig entwickelt. Aber: war *er* es denn, der schließlich den Partner in den großen Revolutionen der Neuzeit aus der politischen Macht warf, den Staat für sich eroberte und die Volkssouveränität zum neuen Prinzip der Legitimität erhob? Der vollständige Wandel der Herrschaftsverhältnisse hat sich ganz anders vollzogen: auf dem Umweg über eine so gründliche Veränderung der Vorstellungen vom Menschen, von seiner Rolle und seinen Möglichkeiten in der Geschichte, daß die Privilegien zusammenbrachen, als der historische Augenblick des Interessenzusammenstoßes gekommen war; die Idee der Freiheit wandte sich gleichermaßen gegen sie, ihre Inhaber und gegen die Feudalherren, denen die privilegierten Monopolisten verständlicherweise auch dann zugerechnet wurden, wenn es sich nicht um Adelige, sondern um bürgerliche Kapitalisten handelte. Zu den objektiv-gesellschaftlichen Voraussetzungen der revolutionären Veränderung hatte das Handels- und Industriekapital, das sich, wie gesagt, keineswegs allein in bürgerlicher Hand befand, innerhalb des Merkantilsystems allerdings insofern kräftig beigetragen, als es die agrarische Basis und den institutionellen Rahmen des Feudalismus allmählich zerstörte.

Die Männer der englischen „Bill of Rights" von 1689, der fortschrittlichen Präambeln zu den (konservativen) Verfassungen von 1776 bis 1787 in Nordamerika, der „Déclaration des droits de l'homme" von 1789 in Frankreich waren Adelige, Geistliche, Intellektuelle und Bürger, — Kapitalisten nur in Ausnahmefällen. In England handelte es sich hauptsächlich um Grundbesitzer, die noch nicht dazu übergegangen waren, in großem Umfang den beginnenden Industriekapitalismus zu finanzieren.

Aber auch in Frankreich, wo die englische Verfassungsentwicklung von der ersten Hälfte des 18. Jahrhunderts an unter den Intellektuellen mehr und mehr als Vorbild wirkte, waren es zuerst die oberen Stände, die gegen den Absolutismus arbeiteten, indem sie verlangten, daß die Generalstände — unter traditionell aristokratischer Vorherrschaft — nach mehr als eineinhalb Jahrhunderten wieder einberufen, die übrigen Vertretungen des ständischen Typs — die Notabelnversammlungen und die Parlamente der Provinzen, die regionalen und lokalen Assemblées — ausgebaut und verfestigt würden. „Die aristokratische Revolte wird die große Legitimation der Revolte des Volkes. Aus dem Kampf des Adels um die Wandlung und Definition der Königsgewalt wird das Volk die Berechtigung zur Diskussion der Volksgewalt schöpfen," schreibt *Martin Göring*[34]. Das Volk, nicht lediglich die Bourgeoisie! Den Sprechern des „Dritten Standes" gelang es, zu erreichen, daß für den Zusammentritt der Generalstände, die sich dann als Nationalversammlung konstituierten, seine Kopfzahl verdoppelt und so den 270 adeligen und den

[33] *W. Sombart*, a. a. O., S. 369.
[34] *M. Göring*, Weg und Sieg der modernen Staatsidee in Frankreich, Tübingen 1946, Bd. 1, S. 310.

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291 klerikalen Repräsentanten gleichgestellt wurde. Doch befanden sich unter den Aristokraten allein vom „Parti Patriote", der die Freiheitsprinzipien vertrat, nicht weniger als 90 Mitglieder, unter den Klerikern sogar an die 200. „Les ordres privilégiés arriveaient à Versailles profondément désunis", heißt es bei *Soboul*[35]. „Hostilité du clergé contre la noblesse, de la noblesse provinciale contre les grands seigneurs libéraux: il n'y eut pas 561 députés unanimes à défendre les privilèges des deux premiers ordres." Die 578 Vertreter des Dritten Standes wiederum zählten ihrerseits in ihren Reihen etwa 200 Advokaten aus der Magistratur ganz Frankreichs, die ganz und gar nicht etwa einfach bürgerlich genannt werden konnte, etwa 50 reiche Grundbesitzer, zahlreiche Schriftsteller, Gelehrte und Angehörige des niederen Klerus, an die 100 Kaufleute, Bankiers und Industrielle[36]. Den Ausschlag in den Formulierungen der Nationalversammlung gaben die Intellektuellen, in der Hauptsache allerdings bürgerliche, und insofern hat Soboul recht, wenn er schreibt: „En face, la bourgeoisie, consciente de ses droits et de ses intérêts, constituait l'avant-garde de tout le Tiers; ses députés étaient instruits, compétents et honnêtes, profondément attachés à leur classe et à ses intérêts, qu'ils ne distinguaient pas de ceux de la nation entière. La révolution juridique fut essentiellement leur œuvre collective."[37] Doch alsbald wurde der Fortgang der Revolution sowohl in Paris als auch in den Provinzhauptstädten und am Land vom bäuerlichen und frühindustriewirtschaftlichen Proletariat mitentschieden.

Zusammenfassend läßt sich daher mit Soboul gegen die Autoren, die die Französische Revolution als *die* bürgerliche Revolution bezeichnen, sagen: „... si assurés qu'ils fussent que la naissance et les progrès de la bourgeoisie avaient pour cause première l'apparition et le développement de la richesse mobilière, des entreprises commerciales, puis industrielles, ces historiens ne s'étaient guère souciés d'une étude précise des origines économiques de la Révolution ou des classes sociales qui l'avaient faite ... La Révolution ne fut pas l'œuvre de la seule bourgeoisie ..., l'histoire sociale de la Révolution reste à écrire ... Ce n'est qu'en partant d'analyses minutieuses de la richesse foncière et mobilière, de la puissance économique des diverses classes sociales et des groupes qui les composent, que l'on rendra compte du jeu des antagonismes et de la lutte des classes, que l'on précisera les vicissitudes et les progrès du mouvement révolutionnaire, que l'on dressera enfin un bilan exact de la Révolution."[38]

3. Über den gestürzten Privilegien erhoben sich, gegen den Absolutismus und sein Wiedererstehen gerichtet[39], die allgemeinen Menschenrechte, die konkreten Bürgerrechte. Das ökonomische Interesse hat gewiß dazu beigetragen, aber nur mittelbar und mit auslösend, daß sie gefordert und in den revolutionären Verfassungen als deklarative Normen formuliert worden sind. Die

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[35] *A. Soboul,* Histoire de la Révolution française, 2 Bde., Paris 1962, Bd. 1, S. 145.

[36] Vgl. zur Zusammensetzung der französischen Nationalversammlung von 1789 und zum Ablauf der Ereignisse dort insbes. *L. v. Stein,* a. a. O., Bd. 1, S. 210 ff., *A. Tecklenburg,* Die Entwicklung des Wahlrechts in Frankreich seit 1789, Tübingen 1911, S. 20—26, S. 40 ff.; *M. Göring,* a. a. O., Bd. 1, S. 161, S. 181—211, S. 218; *A. Soboul,* a. a. O., Bd. 1, S. 135 ff.

[37] *A. Soboul,* a. a. O., Bd. 1, S. 145.

[38] *A. Soboul,* a. a. O., Bd. 1, S. 8—11 passim.

[39] Vgl. *G. Dietze,* Über die Formulierung der Menschenrechte, Berlin 1956, S. 27 f.

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Hauptantriebe aber waren generell der Drang nach ungehemmter geistiger Entfaltung, der die Aufklärungszeit des 18. Jahrhunderts erfüllte, und der Wille zu politischer Unabhängigkeit[40], in Amerika zusätzlich das starke Verlangen nach religiöser Bekenntnisfreiheit[41].

Allerdings konnten sich die neuen Freiheiten, sobald und soweit ökonomische Interessen der zur politischen Mitbestimmung oder zur Unabhängigkeit strebenden Schichten selbst ins Spiel kamen, nur im Einklang mit diesen durchsetzen; standen die ökonomischen Interessen zu den neuen Freiheiten in Gegensatz, so blieb diesen, zumindest längere Entwicklungsstrecken hindurch, der volle Erfolg versagt. Das hatte unter anderm zur Folge, daß beispielsweise die „Bill of Rights" von 1689 nicht die Ausbeutungspolitik beseitigte, die das englische Parlament gegenüber den amerikanischen Kolonien betrieb, und daß umgekehrt die Führungsschichten der dreizehn Kolonien, die ihre Rechte als „von Gott und der menschlichen Natur stammend" erkannten, sie ab 1763, während sie sie allmählich formulierten, gegen die englischen Schiffahrts- und Handelsgesetze von 1651, 1660 und 1663, sowie gegen die verschärften Praktiken des „Mutterlandes" anwandten[42], ohne wiederum ihrerseits eine Freiheitskonsequenz etwa für die Plantagensklaven Virginias und Carolinas daraus abzuleiten[43].

B. Erste Phase: Übereinstimmung der demokratischen und der kapitalistischen Tendenzen

1. Der politische Liberalismus erfaßte die wirtschaftlichen Bereiche in dem Maße und wurde so auch zum ökonomischen Liberalismus, wie nach jeweils vollzogener Revolution der kapitalistische Erwerbsstand mit aller ihm zur Verfügung stehenden Energie von den jetzt bürgerlichen Freiheiten Gebrauch machte, um sich die Voraussetzungen seiner Entwicklung zu verbessern. Die Menschen- und Bürgerrechte enthielten weder die Gewerbe-, noch die Handelsfreiheit expressis verbis; sie sind in die demokratischen Verfassungen erst viel später aufgenommen worden, und zwar teils, um jede Behinderung durch vormals entstandene, noch nicht abgeschaffte Privilegien auszuschalten, teils um gesellschaftliche Interessenverbindungen, die auf ordnende Regulierungen hinauslaufen mochten, zu verhindern, schließlich auch zur Abwehr von Gefahren, die sich aus der ungeregelt freien Marktwirtschaft selber ergaben, das heißt gegen die Konzentrationstendenzen. Verfassungsrechtlich gesichert wurde lediglich das individuelle (private) Eigentums- (und Erb-)recht. Aber die radikale Einschränkung des staatlichen Rechtes, in die gesellschaftlichen Vorgänge einzugreifen, und das nunmehr grundrechtlich verankerte Prinzip des Primats der individuellen Freiheit vor allen anderen Erwägungen, sofern sie nicht gegen das Allgemeinwohl verstieß, beseitigte die tausend künstlichen Hindernisse, die einer freien Marktwirtschaft im Wege standen.

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[40] *J. Hashagen,* Zur Entstehungsgeschichte der Nordamerikanischen Erklärungen der Menschenrechte, Z. f. g. St., Jg. 78 (1924), S. 461—495.

[41] *G. Jellinek,* Die Erklärung der Menschen- und Bürgerrechte, München, Leipzig 1927, S. 42—57.

[42] Vgl. *H. Underwood Faulkner,* Der Weg zur Weltmacht, Geschichte der politischen und sozialen Entwicklung der Vereinigten Staaten von Amerika, Wiesbaden 1950, S. 66—71.

[43] *F. Salomon,* Die angelsächsische Staatenwelt bis zum Ende des 18. Jahrhunderts, Propyläen-Weltgeschichte, Bd. 6, Berlin 1931, S. 430—435 und S. 487 f. Ferner *W. Sombart,* a. a. O., Bd. 1, Halbbd. 2, S. 687—718.

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Und eben diese Freiheit *von* ... ließ die führenden Kreise des Dritten Standes den Verlust auch ihrer Privilegien aus der Zeit des Merkantilismus verschmerzen, weil die nun gewonnene Freiheit *zu* ... es ihnen erlaubte, ganz ungezügelt dem noch ertragreicheren Grundsatz des enrichissez-vous und des ôte-toi que je m'y mette zu folgen.

Überall, wo es in Variation zu der gleichen Entwicklung kam, entfalten sich von da an die politische Demokratie und der ökonomische Liberalismus zusammen, sozusagen jeweils uno actu, so daß der Bürger mit dem Unternehmer, der Unternehmer als Bürger die Bühne betraten, auf der sich das Schauspiel der modernen Freiheit entwickeln sollte.

2. Gegen die „ci-devants" stellte in erster Linie der bürgerliche Erwerbsstand „das souveräne Volk" dar. Infolgedessen mußte ihm, der seine rasch anschwellende ökonomische Macht auf Grund des industriellen Poduktionsmittelbesitzes der freien Marktwirtschaft verdankte, innerhalb der neuen Herrschaftsverhältnisse unweigerlich früher oder später auch der bedeutendste politische Einfluß zuwachsen: Die Prinzipien der Volksvertretung — zusammen mit der normalen Verknüpfung von Wahlrecht und Steuerleistung — der Parlamentsmajoritäten, der Ministerverantwortlichkeit und der Budgetkontrolle kamen samt und sonders der Führungsklasse der industriellen Gesellschaft zugute. „Fiel nun die Staatsgewalt an das Volk, wer hätte sie für sich ergreifen und ausbeuten müssen? Ohne Frage eben diese Klasse", vermerkt *v. Stein*[44]. Sie erzwang infolgedessen gegen das Legitimitätsprinzip der feudalistisch unterbauten Monarchien allmählich, im Verlauf von Umwandlungen, die freilich bis ins 20. Jahrhundert hinein gedauert haben[45], den neuzeitlichen Konstitutionalismus[46].

Als zur Herrschaft fortschreitende *gesellschaftliche Klasse* hat das Erwerbsbürgertum zuerst innerhalb der in ihrem sozialen Gefüge sich wandelnden Monarchien, dann innerhalb der Etappe für Etappe vordringenden demokratischen Institutionen nach und nach jene *politischen* Garantien durchgesetzt, die den Liberalismus als ökonomisches System sichern sollten: auf der Grundlage der Vertragsfreiheit und des Privateigentums das ausgebaute Privatrecht, insbesondere das Obligationsrecht sowie die Handels- und Gewerbefreiheit[47].

3. In zwei Fundamentalprozessen, die miteinander übereinstimmten, setzte sich somit der Liberalismus als politisch-ökonomisches System durch: einerseits in der Form der Domestizierung der Willkürherrschaft durch die Einführung der staatsbürgerlichen Gleichheit vor dem Gesetz, durch die Praxis der Toleranz und durch die Institutionalisierung der Möglichkeit von Opposition; anderseits in der Form des raschen und umfassenden Ausbaues der Überschußwirtschaft, die es erlaubte, auf allen Gebieten des Güter- und Dienstleistungsangebots in bis dahin ungeahnten Ausmaßen die Grenzen einer gleichbleibenden Reproduktion zu überschreiten. Kein Widerspruch schien die beiden Entwicklungsprozesse zu stören; die Herrschaft der Vernunft galt im Individuum wie in der Gesellschaft als prästabiliert.

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[44] *L. v. Stein*, a. a. O., Bd. 2, S. 50.

[45] Vgl. *G. Ferrero*, Macht, Bern 1944, vor allem die Kapitel: Die legitime Monarchie, und: Die legitime Demokratie, S. 229—292.

[46] Die klarste Darstellung dieses Zusammenhangs siehe bei *L. v. Stein*, a. a. O., Bd. 2, S. 35—53.

[47] *W. Sombart*, a. a. O., Bd. 3, Halbbd. 1, S. 51—59; ferner *W. Hildebrand*, Die Wirtschaftsfreiheit und die Demokratie, Zürich, Aarau 1954, S. 46—51.

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So ist es denn nicht verwunderlich, daß noch die härtesten Fortschrittsmaßnahmen lediglich als „Begleiterscheinungen" und als „Übergänge" auf dem notwendigen Weg zum allgemeinen Wohlstand und zur allgemeinen Freiheit angesehen wurden — sehr vergleichbar den Vorgängen und Begründungen in den kommunistischen Ländern heute —: die Rekrutierung der Fabrikarbeiterschaft aus dem Bauerntum, das einiger seiner wesentlichen traditionellen Bindungen entledigt wurde, was sich in ideologisch rechtfertigender Frontstellung gegen die Überreste des Feudalismus vollzog; die Einführung der strengen neuen Arbeitsdisziplin als unerläßlicher Voraussetzung der industriewirtschaftlichen Entwicklung; der Zwang zu langanhaltenden, einschneidenden Konsumentbehrungen breitester Schichten der Nichtbesitzenden, damit die kollektive Akkumulation des erforderlichen Investitionskapitals zuwege gebracht werden konnte; das Wohnungselend in den rasch anwachsenden Städten. Die radikale Ungleichheit der ökonomischen und gesellschaftlichen Start-Chancen hinderte die Pioniere so wenig, unbesehen der Fortschrittskraft der neuen Prinzipien zu vertrauen, wie die exorbitante Mitbereicherung mancher noch feudaler Kreise[48], deren nun kapitalistischer Machtzuwachs sie ja unweigerlich früher oder später in vielfältigen Konflikt mit ihrem eigenen Konservativismus bringen mußte.

4. Noch waren indes der politische und der ökonomische Liberalismus nicht zu einem untrennbaren, einheitlichen demokratisch-kapitalistischen Herrschaftssystem verschmolzen. Nicht einmal heute haben die konstitutiven Merkmale der modernen Wirtschaft politische Freiheit unbedingt zur Voraussetzung. Industrielle Erzeugung, also Arbeitsteilung und ihr entsprechende Arbeitskollektivität, um die Produktionserträgnisse zu vermehren, zu beschleunigen, zu verbessern und zu verbilligen, kann auch zentral verwaltet sein, wie die kommunistische Industriewirtschaft zeigt. Marktorientierter Wettbewerb auf geldwirtschaftlicher Grundlage, der unter den Anbietern Auslese und für den Verbraucher Auswahlsouveränität bezweckt, ist kein Exklusivvorteil von Demokratien, wie die faschistischen Diktaturen lehren. Und die Kapitalrendite in ihren verschiedenen Formen, wie immer sie verwendet wird, ob reinvestiert oder verbraucht, in der Hand von Privaten, von Kollektiven oder des Staates, hat es bereits lange vor unserer jetzigen Ära gegeben, es wird sie allenfalls noch lange nach ihr geben; siehe das Merkantilsystem der Zeit des Absolutismus in Europa, vergleiche die Möglichkeiten eines nationalen und vielleicht sogar übernationalen Staatskapitalismus. Keine Wirtschaftsordnung scheint geeigneter zu sein, sich jedem politischen Herrschaftssystem, das sie zuläßt, an- und einzupassen, als die kapitalistische. Während des 19. Jahrhunderts jedenfalls entwickelte sie sich weitgehend in Übereinstimmung mit der liberalen Demokratie.

C. Zweite Phase: Das Zutagetreten von Antinomien zwischen Kapitalismus und Demokratie

5. Genau besehen bestanden einige tiefe Gegensätze zwischen den Normen des Liberalismus in Politik und Wirtschaft, zwischen der demokratischen und der kapitalistischen Entwicklung von allem Anfang an. Die industrielle Überschuß- und Gewinnwirtschaft hatte eine Reihe von Konzentra-

[48] Siehe, was die deutschen Verhältnisse betrifft, die Angaben bei *G. W. F. Hallgarten*, a. a. O., Bd. 1, S. 161—163; ferner *K. Pritzkoleit*, Wem gehört Deutschland? Eine Chronik von Macht und Besitz, Wien, München, Basel 1957, S. 32—77.

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tionsprozessen teils zur Voraussetzung, teils zur Folge. Das Problem war, ob man sie alle hinnehmen wollte, oder welche, und falls ja, in welchem Ausmaß, wenn sie der gemeinten individuellen und gesellschaftlichen Freiheit sich als abträglich erwiesen. Sie blieben indes den meisten Beobachtern bis zum Durchbruch der sozialistischen Kritik verborgen. Erst als sie *politisch* bedeutsam zu werden anfingen, beachtete man sie auf der bürgerlich-liberalen Seite — zu spät.

Die Gefahren, die mit den beginnenden Konzentrationen auf dem Gebiete der Produktionsmittelverwendung und der Vermögensbildung, der Industriestandorte und der Bevölkerungswohnsitze verbunden waren, zeichneten sich frühzeitig in der vielfältigen Bedrohung brauchbarer, schützender, ja unerläßlicher Gemeinschaften ab: im einsetzenden Verfall des gesellschaftlichen Föderalismus als des gelebten Systems nicht nur theoretisch aufeinander bezogener, proklamatorisch wohlgemeinter Freiheiten. Wenige erkannten diesen Gang der Dinge, meist romantische Kritiker, die daher sowohl den Liberalen als auch den Sozialisten als reaktionär gelten mußten[49].

Der bis heute erreichte Zustand jenes Abbaues ist, wenigstens in Kontinentaleuropa, so allgemein und umfassend, daß kaum mehr jemand auch nur weiß, was „gesellschaftlicher Föderalismus" bedeuten soll. Der staatsrechtliche Rest mit der ihm entsprechenden Praxis, zur Not da und dort noch eben auf einigen Kulturverwaltungsgebieten geduldet, erscheint vielen selbstverständlich ebenfalls als rückständig und daher überholt. Daß dem keineswegs so sein mußte, und zwar gerade von den Ursprüngen her, beweisen die beiden großen angelsächsischen Traditions- und Fortschrittsdemokratien kapitalistischer Entwicklung par excellence: Sie haben sich, von Anfang an und bis jetzt, in ausgeprägtem gesellschaftlichem Konformismus starke nichtökonomische Wertreservate ausgleichend zur hochgesteigerten industriellen Ertragswirtschaft in mancherlei wichtiger Beziehung lebendig-wirksam bewahrt.

Konservative Unaufgeschlossenheit und liberale Fortschrittsideologie, einander, obschon in Gegensatz, verstärkend, haben es überall fertiggebracht, daß in der ersten Phase das Element wegweisender und koordinierender Gemeinschaftsplanung außer acht geblieben ist, dessen die gesellschaftliche Entwicklung politisch nicht entbehren kann, wenn Grundkonflikte vermieden werden sollen. (Gouverner c'est prévoir.) Generell haben die Konzentrationsprozesse einen Scheinzwangscharakter angenommen, weil man ihnen, sei es bereitwillig, sei es widerstrebend, ohne Rücksicht auf ihre vielfältigen außerökonomischen Wirkungen, „Naturnotwendigkeit" beimaß. In Wirklichkeit handelt es sich aber darum, daß die unbeschränkte industrielle Ertragswirtschaft vom allgemeinen Bewußtsein als zentraler Lebensinhalt, die Kapitalrendite vom besitzbürgerlichen Bewußtsein als (konventions-)„automatischer" Regulator der wirtschaftlichen Entwicklung angenommen worden ist.

2. In lichten Momenten haben liberale Autoren selbst, entgegen ihren sonstigen Lehren, sehr früh erkannt, daß der möglichst staatsfrei gehaltene „homo oeconomicus" nicht der beste Garant des Allgemeinwohls sei.

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[49] Vgl. insbes. *C. Frantz*, Der Föderalismus als das leitende Prinzip für die sociale, staatliche und internationale Organisation, Mainz 1879.

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So schrieb schon *Smith*[50]: „Leute der gleichen Handelsbranche kommen selten zusammen, nicht einmal zu Lustbarkeiten und zum Zeitvertreib, ohne daß die Unterhaltung in einer Verschwörung gegen die Öffentlichkeit endet oder in irgendeiner Absprache, die Preise zu erhöhen."

Wirtschaftsfreiheit bedeutete in der Tat noch lange nicht Förderung der Freiheit im Sinne des politischen Liberalismus. Begriff und Wirklichkeit lediglich einer freien Marktwirtschaft schlossen eben auch die Freiheit des wirtschaftlich Mächtigeren ein, den wirtschaftlich Schwächeren auszubeuten. Selbst monopolistische Anbieter und monopolistische Nachfrager handeln ihre Preise untereinander frei aus. Ja selbst der Preis, den der monopolistische Anbieter eines lebensnotwendigen Gutes den untereinander konkurrierenden Nachfragern „diktiert", ist frei im Sinne des Begriffes „freie Marktwirtschaft", da dieser Begriff nicht mehr bedeutet als Freiheit von staatlichen Eingriffen und die Machtbeziehungen der Marktteilnehmer untereinander unberücksichtigt läßt.

Die einzige Sicherheit, die das liberale System gegen eine, gemessen an den sonstigen liberalen Normen, als mißbraucht empfundene „freie Marktwirtschaft" schuf, war die freie Konkurrenz, — ein politisches, oft auch nur moralisches Prinzip, das der Wirtschaftsordnung freier Märkte nicht innewohnt, sondern ihr erst „nachträglich" zugeordnet worden ist und zugeordnet wird; das heißt, man sah und sieht sich genötigt, die freie Marktwirtschaft auf den Fall zu beschränken, in dem Machtmißbrauch nicht möglich ist, nämlich auf den Sonderfall der Konkurrenz.

Indes erwiesen sich einige der zentralen Konzentrationsvorgänge bereits in der zweiten Hälfte des 19. Jahrhunderts gegenüber dem bis dahin bloß moralischen Prinzip der freien Konkurrenz als massiv stärker. Nachdem die Gefahren, die daraus erwuchsen, wie oben erwähnt, *politisch* wirksam wurden, begann man da und dort, ihnen mit Mitteln des Rechtsstaates entgegenzutreten.

3. Noch ehe aber das Bürgertum in Europa als ökonomische Klasse mit Hilfe des allgemeinen Wahlrechts, des Zutritts zu den Bildungseinrichtungen, der gesellschaftlichen Beziehungen und der Übernahme staatlicher Ämter seinen Weg zur politischen Klasse in demokratischen Herrschaftssystemen, also gegen die alten Legitimitäten, auch nur halbwegs zurückgelegt hatte, ehe es die politische Reife zur Leitung des Staates gewonnen haben konnte, die niemals aus dem Besitz ökonomischer Machtmittel sich ergibt, sondern ein Ergebnis der aktiven politischen Erfahrung ist[51], erwuchsen dem Liberalismus zwei elemen-

[50] *A. Smith,* An Inquiry into the Nature and Causes of the Wealth of Nations, (1776) Aberdeen 1848, Book 1, Chap. 10, p. 94, zitiert bei *J. H. Kaiser,* a. a. O., S. 97.

[51] Vgl. *M. Weber,* Der Nationalstaat und die Volkswirtschaftspolitik, in: Gesammelte politische Schriften, München 1921, S. 7 ff., insbes. S. 23 ff.

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tare Schwierigkeiten, die beide das Problem der ökonomisch-sozialen Konzentrationen und ihrer Wirkungen auf die Politik der universellen Freiheiten verschärft stellten. Die eine Schwierigkeit erkannten die Liberalen nicht, weil sie im Gewand einer Forderung auftrat, die sie selbst mit Nachdruck stellten: die nationalstaatliche Expansion; die andere drängte sie vorzeitig wenigstens partiell in die Rolle von vorsichtigen Konservativen oder gar von Reaktionären: der ökonomisch-soziale, kulturelle und politische Zusammenschluß auf der Arbeitnehmerseite.

Sowohl der Wettlauf um den Wohlstand, verbunden mit dem zähen Ringen um seine Verteilung, als auch die Auseinandersetzung um Rohstoff-Bezugsgebiete und um Absatzmärkte, verbunden mit der nationalen Großmachtaspiration, beides Vorgänge von kollektiver Art, haben als solche den ursprünglichen Liberalismus, den ökonomischen wie den politischen, schon in der zweiten Hälfte des 19. Jahrhunderts in Frage gestellt. Die Individualfreiheiten, kaum geboren, noch unbewährt, was ihre Fähigkeit anlangte, eine stabile, allen neuzeitlichen Anforderungen standhaltende Allgemeinwohlordnung „von unten herauf" als veränderliches Zweckmäßigkeits-Kompromiß im Ausgleich der Interessen hervorzubringen, mußten sich bereits Dauermanipulationen unterwerfen, die ihren Rechtfertigungsgrund nicht mehr in der Entfaltung der Person hatten — selbst wenn diese als „Fernziel" gemeint blieb —, sondern im Erfordernis, den Kampf der ökonomisch-sozialen und der nationalen Kollektive erfolgreich zu bestehen.

Die nationalstaatliche Expansion hat im Bereich der wirtschaftlichen Verfügungsmacht enorme Vorzugsstellungen geschaffen; der internationale Wettbewerb ließ sie sogar als notwendig erscheinen. Das Großmachtstreben der Staaten legte außerdem häufig genug den Primat von Autorität und Disziplin — nicht bloß über den Ausbau der militärischen Machtmittel — nahe[52].

Ökonomische Antriebe für die Politik und politische Antriebe für die Ökonomie trafen aufeinander und brachten den Imperialismus hervor, der überall, wo er in Erscheinung trat, die altliberalen Errungenschaften in die Krise getrieben hat, indem er einen tiefgreifenden Zwiespalt zwischen den verkündeten Freiheitsprinzipien und der verfochtenen Praxis schuf.

Die Herausforderung, die der Sozialismus gegen das privatkapitalistische System richtete, hat, im Zusammenhang mit den damals aus Man-

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[52] An dem verhältnismäßig unkomplizierten Beispiel der Entwicklung des italienischen Risorgimento bis zum Faschismus hat dies neuerdings anschaulich aufgezeigt der europäische Föderalist *Altiero Spinelli*, in seiner Abhandlung: A che serve lo stato Italiano, Il Tempo Presente, Roma 1959/12.

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gel an Erfahrung entstandenen oder verschärften Krisen, nicht unwesentlich dazu beigetragen, die Leistungsfähigkeit der von der bürgerlichen Unternehmerschaft geleiteten industriellen Ertragswirtschaft erst recht unter Beweis zu stellen und die Machtpositionen in ihr systematisch auszubauen. Aber es war das Auftreten der proletarischen Bewegung, das durch die aufbrechenden Antinomien hindurch die moderne Demokratie erst so eigentlich zuwegegebracht hat: Alle censitären und „organischen" Wahlrechte mußten schließlich den umfassendsten Repräsentationsverfahren weichen[53], der Gegensatz der politischen Parteien erfaßte allmählich die Gesamtheit der gesellschaftlichen Probleme; zum Pluralismus der mitbestimmenden Kräfte gesellte sich der „organisierte Widerpart", dessen konzentrierte Verfügungsmacht ebenfalls größer und größer, einflußreicher und einflußreicher wurde. Das Proletariat hat die national-liberale Herrschaft der bürgerlichen Honoratioren in die Massendemokratie verwandelt. In ihr sind die Ausschließlichkeitsrechte jeder einzelnen Schicht prinzipiell gebrochen; sie *können,* wenn die politischen Parteiführungen reif sind und es wollen, kontrolliert werden. *MacIver* sagt hierzu[54]: „Die alleinige Vorrangstellung der herrschenden Klasse einzuschränken oder zu brechen, andere Klassen mehr oder weniger wirksam zu repräsentieren, auf diese oder jene Weise die Grundlagen der Autorität zu erweitern, hieß die Unbegüterten oder weniger Begüterten mit politischen Rechten ausstatten." Politische Rechte bedeuten aber Zutritt zu Kontrollpositionen. Das sozialkritische Bewußtsein leistet regelmäßig die Vorarbeit. Die Formen der Akkumulation des Investitionskapitals und die Bedingungen der Arbeitsdisziplinierung, die Methoden der Verteilung des Sozialprodukts und die Wege sozialen Aufstiegs wurden von der organisierten Arbeiterschaft je länger, je weniger ergeben oder hoffnungsgläubig hingenommen. Die Konzentration, in jenem Entwicklungsabschnitt zunehmend der Einkommen als des privaten Anteils der Produktionsmittelbesitzer am Ertrag der Industriewirtschaft sowie die Konzentration der Verfügungsmacht dieser Schicht, konnte sich nicht festigen, ohne daß sich die politisch-ökonomische Freiheits- und Beteiligungsforderung der Gegenklasse im Sozialismus-Kommunismus, und unter deren Einfluß sodann in den Gewerkschaften zum Zwecke der direkten ökonomisch-sozialen Auseinandersetzungen formierte.

4. Immer mehr hat diese Entwicklung trotz den argen Widersprüchen und den schweren Rückschlägen, die sie ebenfalls kennzeichnen, zu außerordentlichen zivilisatorischen Fortschritten für die gewaltig vermehrten, überaus anspruchsvollen Bevölkerungen geführt; doch ergab

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[53] Siehe *A. Tecklenburg,* a. a. O.; ferner: *Ders.,* Wahlrecht und Wahlverfahren, Handbuch der Politik, Bd. 1 (1920), S. 367 f.

[54] *R. M. MacIver,* Macht und Autorität, (1953) Frankfurt/M. (o. J.)², S. 119.

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sich die Notwendigkeit, zuletzt zusätzlich unter dem Druck der sowjetischen totalen Systemkonkurrenz, in die Bedingungen der Freiheit, statt sie so vollständig wie möglich den gesellschaftlichen Gruppen zu überlassen, gesetzgeberisch und mannigfach administrativ immer kräftiger einzugreifen. Die Massendemokratie des Wohlstandes, der als eine wesentliche Voraussetzung ihres Bestandes angesehen werden muß, ist zu einem überaus komplizierten Ineinander und Nebeneinander von Teilfreiheiten und Regulierungen geworden.

Da der Wirtschafts- und Sozialpolitik in ihr eine vordringliche Bedeutung zukommt, ist es selbstverständlich, daß alle gesellschaftlichen Gruppen versuchen, ihre legalen — gegebenenfalls ihre weniger legalen oder sogar illegalen — Möglichkeiten der *Mitbestimmung* auszunützen. Konzentrierte ökonomische Verfügungsmacht erhält so, sei es über vielfältige gesellschaftliche Einflüsse, die oft am wirksamsten sind, sei es über öffentlich-rechtliche, unabhängige Einrichtungen — wie zum Beispiel die Bundesbank —, sei es in direkter Beziehung zu den staatspolitischen Gewalten, eine beachtliche, zuweilen die ausschlaggebende Rolle, — dies freilich nur dann, wenn die jeweils in Aussicht genommenen Partner „mitspielen"; denn mag die ökonomisch-soziale Verfügungsmacht einzelner oder von Verbänden so groß sein, wie sie will, niemand ist in der Tat gezwungen, in öffentlichen Angelegenheiten ihr willfährig zu sein, fast immer steht der Weg zur politischen, vor allem publizistischen Opposition offen, einer der Vorteile der pluralistischen Demokratie, und die gesellschaftlichen Interessengegensätze sind groß genug, daß sich in der Regel auch die Mittel finden, zustimmende Bevölkerungsteile, wenn es nottut, zu mobilisieren.

5. Die Frage nach den Wirkungen der Konzentration auf die Demokratie mündet somit in die andere, nationale und internationale gemäß den erreichten gesellschaftlichen Zuständen: Kann die wirtschaftliche Mitbestimmung als ein wesentliches Stück demokratischer Freiheitsgarantie in der industriewirtschaftlichen Gesellschaft, ohne Revolution und ohne zentrale Zwangsverwaltung, in dem Maße, wie es in freiwilliger Praxis nicht geschieht, über die Parlamente als Gesetzgeber so ausgebaut werden, daß optimale Chancen-Gleichheit für vergleichbare Führungsqualitäten entsteht? Kann mit Hilfe übernationaler Einrichtungen die gemeinschaftliche Allgemeinwohl-Regelung so wirksam werden, daß sich die gefährlichsten ökonomisch-politischen Konflikte jederzeit ausschalten lassen?

Da der Weg zur Verwirklichung dieser Zielvorstellungen nicht nur durch die Parlamente verläuft, sondern vorher schon über die mannigfachen Schaltstellen der ökonomisch-sozialen Verfügungsgewalt, die mit allen Arten der Konzentration zusammenhängt, so lautet die Vorfrage:

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Können jene, die, wissentlich oder unwissentlich, am alten „freien Spiel der Kräfte" festhalten, also am Fortbestand der immer von neuem konfliktschwangeren Antinomien, auf Grund von Vorzugsmacht eine entsprechende Reformpolitik verhindern? In der gegebenen Weltsituation ist dies gleichzeitig eine der Fragen nach der *Zukunft der Freiheit* in den Massendemokratien.

III. Die Verschiedenartigkeit der politischen Wirkung ökonomisch-sozialer Konzentration

Man weiß selbstverständlich, daß „im vorparlamentarischen Raum von Wirtschaft und Gesellschaft formierte, organisatorisch zumeist stark gefestigte, vordergründig ‚unpolitische' Gebilde" überall dort Einflußnahme suchen, wo „wesentliche Entscheidungen über die Durchsetzung von Herrschafts-Chancen mittels des Zwangsapparates des Staates fallen oder zumindest sanktioniert werden" (*Eisermann*[55]). Aber der Erkenntnis der tatsächlichen Bedeutung, die den Konzentrationsvorgängen für die politische Entwicklung zukommt, steht nicht nur, wie einleitend vermerkt, der Mangel an einem umfassenden und genauen Einblick in die konkreten Verhältnisse hinderlich im Wege, sondern auch eine Anzahl von alten und neuen Vorurteilen.

Die *Vorurteile neueren Datums* gehen hauptsächlich auf das Gefühl der Ohnmacht gegenüber Großgebilden zurück, die im Leben des einzelnen hundertfach spürbar sein können und doch als Ganzes mehr oder minder anonym sind; sozusagen überall und nirgends. Das macht den Prozeß der gesellschaftlichen Revolutionierung[56], zu dem der ökonomische Liberalismus innerhalb des Systems der pluralistischen Demokratie und mit seiner Hilfe das meiste beigetragen hat, noch unheimlicher. Er ist, wie allerorts spürbar, noch keineswegs abgeschlossen. Da bislang nicht einmal ein stabiles Ordnungsgefüge gefunden ist, das die Entwicklungsdynamik in vorüberlegte Bahnen lenken würde, befinden wir uns in fortwährenden Übergängen. Je nach der politischen Generalorientierung, die für die wünschenswerte angesehen wird, beurteilt man daher die grundlegenden Erscheinungen auch der Wirtschaft sehr oder sogar radikal verschieden. Die Ideologien sind in einer solchen Situation häufig stärker als selbst gemeinsame Erfahrungen. Die Verfechter des Ideals der „selbstverantwortlichen Persönlichkeit" übersehen nur allzu leicht die Fülle von gesellschaftlichen, nicht zuletzt ökonomischen Bedingungen, die heutzutage notwendig sind, damit diese Persönlichkeit

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[55] *G. Eisermann,* Soziologie der Politik, in: Die Lehre von der Gesellschaft, Stuttgart 1958, S. 313.

[56] Vgl. *O. v. Nell-Breuning,* Konzentrationsprobleme im gesellschaftlichen Raum, in diesem Band.

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in einem modernen Sinne sich entfalten kann; mancherlei Konzentrationen sind nicht freiheitsfeindlich, sondern freiheitsfördernd, je nach dem Bereich, in dem sie stattfinden. Vielen Sozialisten hingegen gelten sie nach wie vor, obgleich sie doch in erster Linie eine Folge der industriewirtschaftlichen Rationalisierung sind, ganz einfach als kapitalistische Vorherrschaftspositionen, und als solche werden sie abgelehnt, — zu schweigen von den Kommunisten, die alle Arten von konzentrierter Verfügungsmacht, solange sie sich nicht in ihrer Hand befindet, auf das heftigste verurteilen.

Was die *alten Vorurteile* betrifft, so behindern sie, vor allem auf liberaler Seite, nicht weniger die Erkenntnis der Wirklichkeit.

Schumpeter hat sich wie folgt darüber geäußert[57]: „Warum ... all diese Gerede über Monopol und Monopole? Die Antwort ist nicht ohne Interesse für den, der sich mit Psychologie politischer Diskussionen befaßt ... In den Vereinigten Staaten haben Ökonomen, Regierungsvertreter, Journalisten und Politiker eine offenbare Vorliebe für dieses Wort, weil es zu einem Schimpfnamen geworden ist, der mit Sicherheit die Feindschaft der Öffentlichkeit gegen alle so abgestempelten Interessen hervorruft. Das Monopol ist in der angelsächsischen Welt seit dem sechzehnten und siebzehnten Jahrhundert immer verurteilt und mit funktionsloser Ausbeutung in Verbindung gebracht worden ...

Nichts ist so zählebig wie das Erinnerungsvermögen eines Volkes. Unsere Zeit bietet noch andere und wichtigere Beispiele für die Reaktion eines Volkes auf das, was vor Jahrhunderten geschah. Jene Praxis hat die englischsprechende Öffentlichkeit so monopol-bewußt gemacht, daß es ihr zur Gewohnheit geworden ist, dieser dunklen Macht praktisch alles zuzuschreiben, was ihr im Wirtschaftsleben nicht paßte. Namentlich für den typischen liberalen Bourgeois wurde das Monopol zum Urheber beinahe aller Mißstände, ja es wurde zu einem beliebten Kinderschreck ... In den Vereinigten Staaten ist ‚Monopol' praktisch synonym mit jeder Großunternehmung."

Selbstverständlich ist die Konzentration von Macht, sei sie ökonomischer, sozialer oder politischer Art, immer auch ein Gemeinwohl-Problem, und ganz besonders in der Demokratie. Aber gerade deshalb ist es erforderlich, die tatsächlichen Verhältnisse ohne Vorurteil zu sehen; die Wissenschaft beginnt auch hier mit dem „distinguo".

A. Die Interventionen im „Verbände-Staat"

1. Die freiheitliche Demokratie hat die Entwicklung des Individuums zum Ziel. Aber der einzelne als Teilhaber an der politischen Souveränität, in der Demokratie kollektiv, kann nicht einmal die vorstaatlichen Bedingungen seiner eigenen Freiheit schaffen, es sei denn, er assoziiert sich auf die mannigfaltigste Weise, um ein Gruppeninteresse zustande zu bringen, das sich durchzusetzen vermag. Erst die *Organisation* schafft

[57] *J. A. Schumpeter*, a. a. O., S. 163 f.

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jenes Maß an Bedeutung, das ein für notwendig oder erwünscht erachtetes Ziel sichtbar macht und im Felde der Politik Kräfte darauf hin in Bewegung setzt. Alle Interessenorganisationen „wirken in dem intermediären Raum zwischen Individuum und staatlicher Gewalt. Das ist ihre gemeinsame politische und staatsrechtliche Position"[58], so verschieden sie ihren inhaltlichen Zielstellungen nach sind.

2. Mehr als in jedem andern Herrschaftssystem ist in der pluralistischen Demokratie Politik ein Gewebe von Verflechtungen zwischen den gesellschaftlichen Kräften und den Instanzen der staatlichen Autorität[59]. Das politische System *entsteht* hier aus dem sozialen, — wobei unter Sozietät die Gesamtheit der Wirkfaktoren verstanden wird, nicht etwa nur oder vorwiegend die wirtschaftlichen Interessen. Es ist eine der geistigen Voraussetzungen dieser Demokratie, daß die autonomen gesellschaftlichen Kräfte sich selbst und ihre Probleme geltend machen, — daß es nicht der „charismatischen Einsicht" autoritärer Führungen überlassen bleibt, das Notwendige als das Richtige rechtzeitig und zutreffend zu erfassen. Weder die Praxis noch die Theorie der modernen Demokratie läßt es allein bei der parlamentarischen Repräsentationsbestellung durch den Wahlakt im wechselnden Abstand von mehreren Jahren das Bewenden haben. Denn erstens sind die politischen Vertretungen nur eine der wichtigen Instanzen im Staat, und zweitens wissen die nach den großen, den allgemeinen Meinungs- und Willensrichtungen Gewählten nicht aus sich, was jeweils im einzelnen, wenn eine generelle Regelung erforderlich erscheint, ist und was sein soll. Grundsätzlich wie konkret ist sonach in der pluralistischen Demokratie das Allgemeinwohl eine Integrationsfunktion gegenüber den Individual- und Gruppeninteressen unter deren Mitwirkung. Daß „interveniert", das heißt an allen im weitesten Sinne politischen Stellen Einfluß genommen wird, wo Entscheidungen fallen können, die das tatsächliche oder das vermeintliche Interesse der Intervenierenden berühren, ist daher in einer freiheitlichen Demokratie das Selbstverständlichste von der Welt.

3. Das Problematische des Vorgangs besteht bekanntlich in der Vorzugsmacht der Großverbände und in den Methoden, die sie zuweilen anwenden (oder anzuwenden versuchen). Im System der parlamentarischen Repräsentation, besonders in den Demokratien ohne Präsidialkabinette, also innerhalb des unbeschränkten Parlamentarismus, können sich die staatlichen Autoritäten dem Einfluß der Großverbände um so weniger entziehen, je mehr auf sie die Parteien, die die politische Integration einleiten, um sie durch ihre Fraktionen dann in die gewünschten Bahnen zu lenken, Rücksicht nehmen. Das wechselseitige Verhältnis zwischen den Trägern der herrschaftlichen Funktionen des Gan-

[58] *J. H. Kaiser*, a. a. O., S. 29.
[59] Vgl. *R. M. MacIver*, a. a. O., insbes. S. 80 ff., S. 158 ff. und S. 299 ff.

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zen und den Interessenorganisationen ist vielfältig; soweit diese Beziehungen unberechtigt sind oder die Grenze des Unerlaubten gerade noch nicht überschreiten, reichen sie „von der Zuteilung staatlicher Hoheitsbefugnisse an Private bis zu ausgeklügelten Methoden, sich der Zustimmung der Regierten zu vergewissern. Man kann daran ermessen, wie bedeutsam und wie schwierig es ist, in einer hochdifferenzierten Gesellschaft zur richtigen Machtverteilung zwischen Staat und Privatorganisationen zu gelangen", schreibt *Key Jr.*[60].

Jedermann weiß aber, daß der Einfluß der Großverbände in der Massendemokratie nicht auf ökonomischer Verfügungsmacht zu beruhen braucht; manche Kirchen ebenso wie in einigen Ländern Frauen- oder Lehrerzusammenschlüsse können in dieser Hinsicht eine nicht geringere Bedeutung haben als wirtschaftliche Organisationen. Aber auch deren Wirkung wird viel eher durch die Möglichkeit hervorgerufen, verbündete Parteikräfte in Bewegung zu setzen und die politische Repräsentations-Bestellung das nächste Mal zu bestätigen oder zu verändern. Der Erfolg ist also, besonders wenn er sich sogar im rein gesellschaftlichen Beziehungsverkehr bewirken läßt, eher ein umwegiger Effekt und von originär politischer Natur. Die Gewerkschaften brauchen nicht jedesmal mit dem Generalstreik zu drohen, um für ihre Hinweise und ihre Forderungen Gehör zu finden. Die Bauern können rein wirtschaftlich mit überhaupt nichts, außer etwa einem gezielten Streik als Käufer, „Druck" ausüben. Kommt die prinzipielle Möglichkeit ökonomischen Machteinsatzes hinzu, so kann die Interventions-Chance sich vergrößern; es kann aber auch umgekehrt sein: Andere machtvolle Kreise der Demokratie oder die Öffentliche Meinung insgesamt nehmen schon eine versteckte Drohung, geschweige denn jeden weiteren Schritt so übel, daß die Regierenden sich verhältnismäßig leichttun, ihre Verhandlungssouveränität zu wahren[61].

4. Die politischen Interventionen, wie sie in allen Demokratien fortwährend erfolgen, richten sich im einzelnen an die verschiedensten Instanzen, und sie sind, auch mit wirtschafts- oder sozialpolitischer Zielsetzung, in ihrer Bedeutung höchst unterschiedlich[62].

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[60] Politics, Parties, and Pressure Groups, (1942) New York 1948[10], S. 149. Vgl. auch hierzu *O. v. Nell-Breuning*, a. a. O. — Der Lobbyismus als eine nicht unwichtige Teilerscheinung der pluralistischen Demokratie und insbesondere die Rolle, die in ihm konzentrierte ökonomische Verfügungsmacht ausübt, ist in dem Verhältnis von Kapitalismus und Demokratie für die USA eines der gut dokumentierten speziellen Untersuchungsthemen der Politischen Soziologie. Siehe ausführliche Literaturangabe bei *J. H. Kaiser*, a. a. O., S. 66; vgl. ferner *E. Pendleton-Herring*, Lobby, Enc. Soc. Sci., Vol. 9, 1950, S. 568.

[61] Siehe hierzu unten III B.

[62] Den Einfluß der Unternehmerinteressen auf die politischen Entscheidungen gruppiert generell *Dieter Grosser* (Hrsg.), Konzentration ohne Kontrolle, Köln, Opladen 1969, Einleitung, S. 18—20.

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In der sozusagen täglichen Praxis geht es darum, bei den lokalen, regionalen oder zentralen *Behörden* irgendwelche Einzelmaßnahmen einzuleiten, zu verhindern, abzuändern. Daß organisierte Macht hier der Bürokratie anders gegenübersteht als der gewöhnliche Staatsbürger, ist augenscheinlich. Wer verfügte auch nur annähernd über die gleichen Hilfen, angefangen von den Syndici bis zu den Routine-Apparaturen? Man darf sagen, daß jede mächtige Interessenvereinigung jeder Behörde von vornherein au pair begegnet, was man vom eigentlichen Teilhaber an der nationalen Souveränität, vom „demokratischen Normalverbraucher", wahrlich nicht behaupten kann. Die Stellung der Verbände wird in dieser Hinsicht weiter gefestigt durch die Dienste, die sie vielen Behörden — einschließlich in manchem der Justiz — als Informatoren und Erfahrungszubringer leisten; sie haben den „Sachverstand" in vielen Angelegenheiten, um deren Regelung die Verwaltung sich mühen muß; sie sind daher gewissermaßen gefürchtet und erwünscht zugleich[63]. Aber diese Art von Interventionen ist, obgleich gang und gäbe, die politisch geringfügigste.

Die Einflußnahme im Verhältnis zum *Gesetzgeber* ist schon bedeutsamer. Denn hier soll, noch immer zwar aus gegebenem Einzelanlaß, eine allgemeinverbindliche Norm zustande oder zu Fall gebracht werden. Stäbe von ebenso hochqualifizierten wie gutbezahlten Fachleuten stehen insbesondere den Industrie-, Banken-, Versicherungs- und Handelsverbänden zur Verfügung. Welchen Umfang diese Praxis hat, sei an einem einzigen Beispiel aus den USA gezeigt. Die 1906 gegründete Association of Life Insurance Presidents hat allein im Jahre 1937 durch ihre Juristen 11 047 gesetzliche Verfügungen, Gesetzesvorlagen und Verordnungen im Bund und in den damals 48 Staaten der Union prüfen lassen — mit dem Erfolg, daß eine ganze Reihe verhindert oder außer Kraft gesetzt werden konnten, darunter 10 Steuergesetzvorlagen in 8 Staaten, wodurch den Gesellschaften annähernd 3,3 Millionen Dollar Jahressteuerleistung eingespart wurde. Die Interventionsvertretung der Association vor den Parlamenten und diversen Behörden kostete im gleichen Jahr laut offizieller Bekanntgabe 74 056 Dollar und 15 Cents[64]. Die Praxis reicht in den USA — aber nicht nur dort — weit zurück: 1862 beschloß der Kongreß eine Biersteuer von einem Dollar je Barrel, worauf sich alsbald die United States Brewery Association mit der statutarischen Zielsetzung bildete, „dafür zu sorgen, daß die Brauerei-Interessen bei Gesetzgebung und Verwaltung kraftvoll und energisch geltend gemacht werden"[65].

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[63] Vgl. *J. H. Kaiser,* a. a. O., S. 269—273. Was den Einfluß auf die Justiz betrifft, S. 292—307.

[64] Siehe *V. O. Key Jr.,* a. a. O., S. 97—99. Dort weitere Beispiele.

[65] *P. Odegard,* Pressure Politics, New York 1928, S. 245: „Cooperation is necessary. Owners of breweries, separately are unable to exercise a proper

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5. Noch wichtiger als die wachsame, ad hoc interventionsbereite Beobachtung der gesetzgeberischen Tätigkeit ist jedoch der Einfluß für oder gegen eine bestimmte *Regierungspolitik,* die von der Mehrheit des Parlaments als Linienkonzept gebilligt ist und die mehr oder minder eine einheitliche Ausführungspraxis darstellt. Durch eine Art Dauerpräsenz wird ein breites Stück Verfassungswirklichkeit, im Maße des tatsächlichen Erfolges, mitbestimmt; ich meine die Fiskalpolitik, die Handelspolitik, die Währungspolitik, die gesamte Subventionspolitik, um wenige Hauptgebiete hervorzuheben[66].

Der gewöhnliche direkte Weg, dies zu erreichen, ist die regelmäßige, intensive Verbindung mit den zuständigen Parlamentsausschüssen und die Entsendung von dienstbaren Sachverständigen, deren es immer genug gibt, in die meist sogar angeforderten, sonst auf Anregung hin berufenen Berater-Gremien. Das tückenreiche Ringen um ihre „richtige" Besetzung muß gewonnen werden, oder die Generallinien-Politik gelingt nicht. Von Ausnahmen abgesehen, setzt das voraus, daß sich Vorherrschaftseinflüsse von Großgruppen mit Hilfe illegitimer, obschon legaler — zuweilen praeterlegaler — Beziehungen institutioneller oder quasi-institutioneller Natur gebildet haben: über politische Parteien und über eine umfassende Personalpolitik. Für diese hat sich, auf den bezeichneten Vorgang bezogen, der Ausdruck „Ämterpatronage" eingebürgert; sie kann natürlich nur in Zusammenarbeit mit den Parteien funktionieren.

Innerhalb der formalen Gesetzlichkeit entstehen so Interessenverflechtungen, deren Effekt in der Bundesrepublik *Eschenburg* auf den Nenner gebracht hat: „Wer befördert, befiehlt"[67]. Er spricht in diesem Zusammenhang des weitern „geradezu von einer Art erblicher Lehen" der Verbände, die als „hintergründige, aber mächtige Koalitionspartner" fungieren, so daß sich die Auffassung verbreiten konnte, bestimmte Ministerien in Bund und Ländern seien „vom Staat eingerichtete und unterhaltene Spitzenstellen im Dienste der Interessenorganisationen", und manche der politischen Staatssekretäre nennt er in ihrem Verhältnis zu den Ministern „Contre-Kapitäne", die „dem Kapitän die Schiffsführung streitig machen"; ja er geht so weit, die Gesamtheit der „Verbandsherzogtümer", wenn sie sich entsprechend entwickelt haben, als einen „Gefälligkeitsstaat" zu bezeichnen, in dem die Ämter „zur Par-

influence in the legislative and public administration. It appears especially necessary for the breweing trade that its interests be vigorously and energetically prosecuted before the legislative and executive departments, as this branch of business is of considerable political and financial importance, exerting a direct as well as an indirect influence on political and social relations."

[66] Vgl. hierzu u. a. *Jörg Huffschmid,* Die Politik des Kapitals. Konzentration und Wirtschaftspolitik in der Bundesrepublik, Frankfurt/M. 1970[3].

[67] *Th. Eschenburg,* Herrschaft der Verbände? Stuttgart 1955, S. 18.

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teien- oder Koalitionshilfe" degradiert seien; auf einem „Gruppenmarkt" betreibe man „Gruppenhandel". So werde aus einer personalpolitischen Fernlenkung von seiten der „Hegemonialverbände" eine administrative Fernsteuerung, die es den Privilegierten ermögliche, mittelbar in die Herrschaft einzugreifen, selbst aber von Staatseingriffen freizubleiben[68].

Andere Autoren sind Eschenburg in der Charakterisierung des aufgezeigten Gefahrenzustandes gefolgt, wenn auch nicht mit der gleichen Schärfe der Formulierungen, dafür, im Gegensatz zu ihm, der sich jeweils auf konkrete Fälle als Symptome stützt, mit mehr generalisierten Schlußfolgerungen, so *Werner Weber,* der aber den „oligarchischen Herrschaftsgruppen" in der Bundesrepublik — und als solche bezeichnet er in erster Linie die politischen Parteien, die Gewerkschaften und die Kirchen — eine „sozusagen Legitimität" zuspricht, weil sie sich nach dem Zusammenbruch — von den Besatzungsmächten lizenziert — vor der Neuerrichtung der deutschen Staatlichkeit bilden durften. „Nur die Unternehmer- und sonstigen wirtschaftlichen Interessenverbände haben an diesen Legitimierungen keinen Anteil. Sie haben sich vielmehr gegen einschränkende Maßnahmen der Besatzungsmächte und innenpolitische Gegnerschaft nur allmählich durchsetzen können und leben heute noch hinter einem Schleier geminderter Anerkennung. Sie sind dennoch vorhanden, und ihr Einfluß strebt zwangsläufig danach, den der Gewerkschaften und gegnerischer politischer Parteien aufzuwiegen"[69].

6. Man hat sicherlich recht, zu warnen. Die Massendemokratie ist eher noch mehr in Gefahr, in ihrer Weise zu entarten, als selbst die Monarchien mit ihrem privilegierten Führungsgefolge — aber sicherlich weniger als die Diktaturen —. Sie bedarf in einem ganz andern Ausmaß der republikanischen Tugend als Kraft, der „virtù", sowie der Kritik, um dem ihr innewohnenden Ideal wenigstens einigermaßen gerecht werden zu können. Aber besser und wirksamer wäre, es lägen über die gesamte staatliche Verwaltung die Ergebnisse von Enquêten unabhängiger Beurteiler vor, die uns Aufschluß über den tatsächlichen Umfang der mit so kräftigen Ausdrücken belegten Zustände gäben. Das setzte freilich voraus, daß die politischen *Parteien* selbst die Verantwortlichen, eine solche Initiative zuließen, ja veranlaßten; die Wahrscheinlichkeit, daß es geschieht, ist gering, auch wenn es sich, verglichen etwa mit der Demokratie in den USA, in der das Berufsbeamtentum der uns vertrauten Art eine Ausnahme ist, um Verhältnisse handeln sollte, die wir als durchaus noch erträglich bezeichnen würden.

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[68] *Th. Eschenburg,* a. a. O. (in der Reihenfolge der Zitierungen), S. 23, 17, 16, 27, 32, 38, 49 und 60.

[69] *W. Weber,* Spannungen und Kräfte im westdeutschen Verfassungssystem, Stuttgart 1951, S. 50.

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Das, was die politischen Parteien bewegt, sich mancherlei, meist als begründete Wünsche vorgetragenen Erwartungen der Verbände nicht zu verschließen, ist immer die Rücksicht auf die nächste Wahl, sei es in Hinsicht auf die Stimmen, sei es in Hinsicht auf die finanziellen und sonstigen Hilfen von Bedeutung. Millionen Mark Wahlfonds-Beiträge sind es ihnen eben wert, in die „Plattform" ihrer Grundsätze und Maximen allenfalls einige zusätzliche Losungen einzubauen oder, innerhalb der Grenzen der von ihnen vertretenen Generalrichtung, gewisse Adaptationen vorzunehmen, vielleicht auch ein Stück Druckeinfluß auf die Parlaments- und Regierungspolitik einzuräumen. Die Typologie dieses Zusammenwirkens hat *Sternberger* gegeben[70]. Der wenig erfreuliche Zustand wird so lange bleiben, als es nicht gelingt, bei Aufrechterhaltung der pluralistischen Freiheit gleiche politische Werbebedingungen herzustellen und zu sichern. Es ist nicht abzusehen, wie dies einigermaßen optimal gelingen sollte; keine wirksame Methode ist bisher gefunden worden; konzentrierte ökonomisch-soziale — oder ökonomische oder soziale — Macht setzt sich daher, wenn sie Wert auf politischen Einfluß legt, und wie sollte sie es nicht, da sie an allen Ecken und Enden in der verwalteten Welt der Massengesellschaft von den politischen Entscheidungen eindrücklich und nachhaltig mitbetroffen wird, unweigerlich in Dauerbeziehung zu den Parteien, zu denen von links die eine, zu denen der Mitte und der konservativen Rechten (in Ausnahmefällen zu denen der extremen Rechten) die andere.

7. Intensität und Dauer der politischen Einwirkung verlangen allerdings noch mehr, nämlich die beständige Einflußnahme auf die *Öffentliche Meinung*. Keine organisierte Macht in den Demokratien, die nicht begriffen hätte, daß die „Vierte Gewalt" sorglicher Pflege bedarf. „Gute Public Relations seien für die Wahrung der eigenen Interessen viel wichtiger als ein ausgesprochenes politisches Engagement der Firmen und ihrer Geschäftsführer", stellt *Spinrad*[71] als die vorherrschende Auffassung der amerikanischen Geschäftswelt für ihr Verhältnis zumindest zur Kommunalpolitik fest.

In diesem Zusammenhang verweist *Grosser* [72] nicht zu Unrecht auf die Möglichkeiten schon direkten ökonomischen Machteinflusses. „Droht ein Großunternehmer mit der Verlagerung von Produktionsstätten, so kann er die betroffene Gemeinde zu erheblichen Konzessionen zwingen, denn er liefert

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[70] *D. Sternberger,* Der Staat der Gegenwart und die wirtschaftlichen und außerwirtschaftlichen Interessentengruppen, Rundtafelgespräch, XI. Deutscher Soziologentag, Z. f. Soz., Jg. 5 (1952/3), S. 210 ff. Vgl. ferner *R. Breitling,* Die Verbände in der Bundesrepublik, Meisenheim am Glan 1955.

[71] *W. Spinrad,* Power in Local Communities, in: *R. Bendix* und *Seymour M. Lipset,* Class, Status, and Power, New York 1966², S. 218, zitiert bei *A. Silbermann, E. Zahn,* Die Konzentration der Massenmedien und ihre Wirkungen, Düsseldorf, Wien 1970, S. 55.

[72] a. a. O., S. 19.

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den Hauptteil des Gewerbesteueraufkommens, auf den die Gemeinde nicht verzichten kann. Heute schon sind in vielen Fällen Kommunalverwaltungen von Großbetrieben abhängig; fortschreitende Konzentration eröffnet einem einzigen Konzern die Möglichkeit, die Kommunalpolitik einer ganzen Reihe von Städten zu bestimmen." (Und Grosser fährt fort: „Je größer die Unternehmen werden, desto mehr Möglichkeiten haben sie, auch Länder- und Zentralregierungen unter Druck zu setzen: Sie errichten neue Betriebe, die im Interesse der Vollbeschäftigung dringend erwünscht sind, nur, wenn sie hohe staatliche Subventionen erhalten oder die Infrastruktur mit öffentlichen Mitteln ausgebaut wird. Wirtschafts- und sozialpolitische Maßnahmen, die von größtem Interesse für die Allgemeinheit sind, wie wirksame Gesetze gegen Luft- und Wasserverschmutzung, können vor allem von internationalen Konzernen dadurch blockiert werden, daß mit Investitionsstopp im Inland und einer Verlagerung von Betrieben ins Ausland gedroht wird.") Daß dem prinzipiell so ist, kann nicht in Zweifel gezogen werden; es bedürfte jedoch des konkreten Nachweises an Beispielen, daß so vorgegangen wurde und vorgegangen wird. Die objektive Möglichkeit allein bedarf freilich schon der politischen Aufmerksamkeit. Und klar ist der Zusammenhang mit der Neigung — oder sogar der privatwirtschaftlichen Notwendigkeit — entsprechend auf die Öffentliche Meinungsbildung einzuwirken.

Fortwährend muß die Öffentlichkeit davon überzeugt werden, daß es *ihre* Interessen sind, die von den Interessierten vertreten werden: die *res privata* als ein berechtigtes Stück *res publica.* Was konzentrierte Verfügungsmacht, welcher Art sie auch sei, auf diesem Gebiete vermag, kann durch umfangreiches Erhebungsmaterial, das in reichem Maße veröffentlicht ist, belegt werden[73]. Die Einwirkung erstreckt sich auf alle Massenmedien und ihre Belieferer: die nationalen und internationalen Nachrichten- und Bildagenturen, die Tagespresse, die sonstigen periodischen Publikationen, nicht zuletzt die Illustrierten mit ihrem Leserkreis von Millionen, den Rundfunk, den Film und das Fernsehen[74].

Die Pflege guter Beziehungen zu allen Stellen und Personen, die für die Öffentliche Meinungsbildung von Bedeutung sind, die Public Relations lassen sich die ökonomischen und sozialen Verfügungsmächte etwas kosten. Die Summen steigen beständig an, ein einziges — in seiner Größenordnung schon veraltetes — Beispiel aus den USA zeigt es: Die National Association of Manufacturers, in der 1946 an die 15 000 Firmen vereinigt waren, gab 1934 für den genannten Zweck 36 500 Dollar aus, zwei Jahre später 468 000, 1937 bereits über 793 000 und 1944 schon

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[73] Vgl. hierzu die folgenden Werke: *H. L. Childs* (Ed.), Pressure Groups and Propaganda, AAmAcPSci., Vol. 179 (1935); insbes. aber *H. D. Lasswell, R. D. Casey, B. L. Smith,* Propaganda and Promotional Activities, An Annotated Bibliography, Minneapolis 1935. Weitere Literaturangaben bei *W. Hagemann,* Dankt die Presse ab?, München 1957.

[74] Für die BRD ist das Thema dargestellt von *H. Arndt,* Die Konzentration in der Presse und die Problematik des Verleger-Fernsehens, Berlin 1967, generell und aufgrund konkreter Erhebungen in mehreren Industrieländern von *A. Silbermann, E. Zahn,* a. a. O.

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1 985 000 Dollar[75]. Der Presse-Empfang, der individuelle Aufklärungskontakt, der Spezialartikeldienst sind die Hauptmethoden, deren sich die Public Relations-Büros neben vielen feindosierenden Einwirkungen erfolgreich bedienen. Von 1928 auf 1929 hat beispielsweise die Londoner Public Relations-Firma Doremus & Co., die hauptsächlich für das amerikanische Bankhaus Dillon, Read & Co. arbeitete, in einer systematischen internationalen Kampagne, die rund eine Million Dollar gekostet haben soll[76], das Publikumsinteresse für Zinnerzeugnisse so geweckt, daß der Anstieg wirksam dazu beitrug, die tief gesunkenen Werte der malayischen Minen an den Börsen allmählich wieder hochzubringen. Die indirekteste, Neugier weckende Einflußnahme, wenn sie nur beharrlich ausgeübt wird, ist oft die beste. Vor allem dient sie auch in Machtzusammenhängen dem „Aufbau" von Personen beim Publikum. Dillon, Read & Co. ließen auf solche Weise Jahre hindurch den ihnen nahestehenden, damals noch jungen *Cyrus S. Eaton* „machen", der zu einem der Eisen-, Stahl- und Finanzmagnaten Amerikas geworden ist (in neuerer Zeit unter anderm Protektor der Pugwash-Konferenzen der Atomphysiker gegen die Gefahren der atomaren Rüstung).

Aufklärungs- und Kampfinserate gehören zum Arsenal der Dauereinwirkungen auf die Öffentlichkeit ebenso wie nachfolgende organisierte Meinungsbefragungen, deren Ergebnisse dazu benutzt werden können, die initiierte Wirkung „objektiv" zu verstärken. Der dafür erforderliche finanzielle Aufwand ist erheblich.

Die Methode der vielfältigen Informationsanlieferung wird von den kapitalkräftigsten Mächten nicht selten ergänzt durch die Einrichtung und den Ausbau eines eigenen zureichenden Instrumentariums der Öffentlichen Meinungsbildung. Die beiden Arten ergänzen einander, wobei die erste in mancherlei Hinsicht die wichtigere bleibt, weil sie erlaubt, auch Kreise zu erreichen, die, sofern sie etwas über die Zusammenhänge erfahren, aus prinzipieller Richtungsgegnerschaft die direkt manipulierten Organe nicht zur Kenntnis nehmen. Was aber *eigene Meinungskonzerne bestimmter Machtgruppen* zustande bringen können, das hat kein historisches Beispiel bisher deutlicher gemacht als aus der Zeit der Weimarer Republik die Systematik, mit der der deutschnationale Geheime Finanzrat *Hugenberg* dieses ökonomisch-politische Geschäft bis zum unheilvollen Ausgang für Deutschland betrieben hat. Die eingehendste Darstellung darüber findet sich bei *Pritzkoleit*[77]. Das ver-

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[75] Siehe *V. O. Key jr.*, a. a. O., S. 94 f.

[76] Private Information unmittelbar Beteiligter an mich.

[77] *K. Pritzkoleit*, a. a. O., S. 127—149. Eine Fülle weiteren Materials zum Thema „Einfluß konzentrierter Verfügungsmacht auf die Öffentliche Meinung" während des Deutschen Kaiserreichs, der Weimarer Republik und heute, siehe ebenda, S. 123—142.

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einfachende Schema, das Hugenbergs Freund, *Ludwig Bernhard,* von der „ungeheuren Vielgestaltigkeit" und der „lianenhaften Verflechtung" dieses Konzerns gegeben hat, diente aber „eher der Verdunkelung als der Aufhellung der Zusammenhänge, die den Geheimen Finanzrat in die Lage setzten, Verlags-, Agrar- und Gewerbekredite zu vergeben, Zeitungen zu sanieren oder abzuwürgen, die politische Meinungsbildung weit über das bürgerliche Lager hinaus publizistisch und wirtschaftlich zu steuern — kurzum, eine Macht auszuüben, die kein vergleichbares Unternehmen diesseits und jenseits des Atlantik jemals in seinen Händen vereinigen konnte"[78].

Einen in der heutigen BRD vergleichbaren Presseeinfluß hat von den ersten Publikationslizenzierungen an, die er in Hamburg erhielt, im Verlauf der etwas mehr als zwei Jahrzehnte seither *Springer* zustandegebracht[79]. Ihm gehören, in mannigfacher juristischer Form und über mehrere Verlagshäuser, die mit den modernsten Druckereianlagen ausgestattet sind, Tageszeitungen und Zeitschriften mit einem Marktanteil, der den jedes andern Inhabers publizistischer Organe in der Bundesrepublik weit übertrifft, in Westberlin mit rund 75 % der Auflagen. Es bedarf „keiner besonderen Hinweise für die Ansicht, daß ... die Tageszeitungen des Springer-Verlages angesichts ihrer Auflagen und ihrer Verbreitung zu einer geradezu immensen Meinungsbeeinflussung oder, wie es manchmal heißt, geradezu zu einer Meinungsdiktatur beitragen"[80], — einer Meinungsdiktatur im weiten Feld der eigenen Herrschaft, der die journalistischen Corps des Konzerns unter der Führung hochdotierter Redaktionschefs unterworfen sind. Ganz unähnlich einigen englischen Presselords, die unterschiedliche politische Meinungs- und Willensrichtungen in erheblicher Breite, allein den Kommunismus ausgenommen, förmlich wünschen, um möglichst aus jedermanns Tasche kapitalistischen Nutzen zu ziehen, ist für Springer die Zusammenballung von Macht dieser Art in erster Linie Mittel zum politischen Zweck: die Verhältnisse sollen nach seinen missionarischen Heilsabsichten geformt werden, und entsprechend informieren die Konzernblätter. Das konzentrierte ökonomische Potential steht hier im direkten Dienst der Politik dessen, der die Verfügungsmacht innehat.

Bei den übrigen Publikationskonzernen in der Bundesrepublik — *Bauer, Bertelsmann, Burda, Gruner + Jahr* ... — ist das Verhältnis in jedem Fall, an Intensität allerdings wechselnd, eher indirekt.

Springers Bestreben ist seit langem darauf gerichtet, auch *Anteil am Fernsehen* zu gewinnen. Darin haben sich ihm zahlreiche Zeitungs-, Zeit-

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[78] *K. Pritzkoleit,* a. a. O., S. 143 f.
[79] Siehe insbes. *H. D. Müller,* Der Springer-Konzern, München 1968.
[80] *A. Silbermann, E. Zahn,* a. a. O., S. 282.

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schriften- und Buchverleger der Bundesrepublik angeschlossen. Eine Reihe von Gesellschaften ist zu dem alleinigen und erklärten Zweck gegründet worden, ein privatwirtschaftlich gesteuertes Fernsehnetz zu erwirken, das aus Werbeeinnahmen zu finanzieren wäre. Das Ziel unterscheidet sich von den amerikanischen und britischen Fernseh-Konkurrenzverhältnissen, denen es angeblich gleichgetan werden soll, insofern sehr, als es dort nirgends wie in der BRD für den Rundfunk die Einrichtung der öffentlich-rechtlichen Anstalt gibt, die gleicherweise frei ist von staatlicher und von privatwirtschaftlicher Kontrolle; die Verwaltungs- und Aufsichtsräte werden hier bekanntlich paritätisch von den Repräsentanten der gesellschaftlichen Großorganisationen gebildet, die für die öffentliche Meinungsbildung maßgebend sind. Die Arbeitsgemeinschaft der Rundfunkanstalten Deutschlands (ARD) ist föderalistisch, das Zweite Deutsche Fernsehen (ZDF) zentralistisch organisiert; sie haben das Hörfunk- und Fernseh-Monopol in der Bundesrepublik. Paradoxerweise sind es die Pressekonzerne, der Springers an der Spitze, die just hiergegen, umgeben von einer Menge kleiner und mittlerer Zeitungsverleger, Einspruch erheben, weil *dieses* Monopol (obschon pluralistisch kontrolliert), indem es die privatwirtschaftliche Konkurrenz ausschließt, die Freiheit bedrohe!

„Der Ausgang des Streits ist bis jetzt offen", schrieb 1968 *Hans D. Müller*[81] (und es gilt noch 1971). „Die Lektüre der einigen tausend Seiten Bundestagsdrucksachen, Verlegermemoranden, Kommissionsberichte, Verfassungsgutachten und Pressefehden ist gleichwohl heute schon erregend als Beispiel eines rastlosen Willens, die Machtverhältnisse auf dem Kommunikationsgebiet mit Hilfe einer kleinen Gruppe einseitig zu verändern und die Verfassungswirklichkeit nach den eigenen Interessen zu modeln. Sie wäre sicher noch erregender, wenn die Aktivitäten und Schriftsachen der vertraulichen Stäbe, des Redaktionellen Beirats und der Abteilung für Elektronische Publikationsmittel in vollem Umfange offenlägen. Der Vorgang zeigt Züge eines frühen Beutekapitalismus, so demokratisch das Vokabular ist[81a]. Man erkennt drei Schauplätze von Springers Aktivität: den Bundesverband Deutscher Zei-

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[81] a. a. O., S. 261 ff.

[81a] (Anmerkung im Zitat:) Am vollständigsten in pro und contra: „Rundfunkanstalten und Tageszeitungen. Eine Materialsammlung", herausgegeben von der Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD), bisher vier Bände, Frankfurt 1965 bis 1966. (Die „Dokumentation 5" ist 1969 erschienen. Der Verfasser.) Nützlich ist auch der Hinweisdienst der „Werbung im Rundfunk GmbH", Frankfurt/Main, der einen laufenden Überblick über die Veröffentlichungen zur Problematik von Rundfunk, Fernsehen und Presse gibt. Gemessen an der durchaus kritischen Publizität durch die öffentlich-rechtlichen Anstalten ist das Informationsniveau der Verleger-Veröffentlichungen dürftig. Es bewegt sich fast nur auf der taktischen und Public-Relations-Ebene: interessantes Beispiel für die Auswirkung von Privatinteressen auf ein Kommunikationsmittel, ohne das eine gesellschaftlich relevante Frage gar nicht diskutiert und geklärt werden kann. Auch die „Pressevereinigung für neue Publikationsmittel e. V.", Bad Nauheim, dient mehr der Materialbeschaffung für Kampagnen als der Aufklärung.

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tungsverleger, die eigenen Presseorgane, die sich selber zur Lobby wurden, und das Parlament. Die Idee einer Verlegerbeteiligung am Fernsehen war zunächst zwei anderen Köpfen entsprungen und hatte dort für einen kurzen Moment noch ihr Maß und ihre Grenze, ehe Springer sie dynamisierte und seinen Zwecken dienstbar machte, den Köpfen des Hannoverschen Verlegers *Jänecke* und des Nürnberger Verlegers *Merkel*. Sie zielte auf Ausgleich oder angemessene Beteiligung bei weiterer Ausdehnung des Werbefernsehens und regionale Abmachungen im Rahmen der Länderverfassungen. Die von Springer aufgegriffene Idee einer konzentrierten Strategie auf Bundesebene, die auf ein Mammutfernsehen der Verleger abzielte, bestach jedoch Merkels Kollegen. In der versuchten Anlehnung an *Adenauers* Fernsehpläne hatte der vorgeschlagene Handel, wie immer bei Springers Geschäften, ohne Zweifel auch eine politische Note, die den in der Mehrzahl konservativen Zeitungsbesitzern sympathisch war. Im Mai 1963 nahmen die traditionsstolzen Verleger den Erfinder des neuen Verkaufsjournalismus, den sie bisher mehr als Außenseiter und unbequemen Konkurrenten angesehen hatten, in das Präsidium ihres Verbandes auf, das zu diesem Zweck von fünf auf sieben Mitglieder erweitert wurde. Das neue Präsidiumsmitglied wiederum benannte seinen Chefjustititar und Leiter der Abteilung für elektronische Publikationsmittel *Arning* als federführendes Mitglied des Verlegerausschusses für Rundfunk- und Fernsehfragen: Verbands- und Konzernpolitik konnten fortan ohne Friktionen in einem betrieben werden.

Über das *Kasetten-Fernsehen* scheint es den in diesem neuen Produktionszweig miteinander kooperierenden Konzernen Springer und Bertelsmann nunmehr zu gelingen, in das heiß umstrittene Kommunikationsmittelgebiet vorerst wenigstens an einer wichtigen Innovationsstelle einzudringen.

Was im *Bereich des Films* konzentrierte Verfügungsmacht für die Vorstellungsinhalte und die Verhaltensmuster der Bevölkerungen in aller Welt und damit insbesondere für die innere Entwicklung der Demokratien — nicht zuletzt im Zusammenhang mit bewußten und systematischen Unterlassungen! — ausmachen kann, hat, ehe es in der Konkurrenz mit dem Fernsehen von der Absatzkrise erfaßt wurde, das Produktionszentrum Hollywood gezeigt. Nicht, als wären die Absichten und die Wirkungen eindeutig, positiv oder negativ nur in bestimmten Richtungen gewesen; das Netz von Urteilsfiltern, das mit Hilfe der Verleiher-Organisationen über jedes Land gelegt wurde und — seit der Fernsehkonkurrenz beschränkt — noch immer gelegt wird, wäre eine gründliche Studie wert.

8. Der „Verbände-Staat" weist viele Mißstände auf. Sie gehören sozusagen zum Sediment der längstvergangenen feudalistischen Epoche, das der Liberalismus, als er konservativ — neofeudalistisch — geworden war, wieder aufgerührt hat. In seiner stürmischen Jugendentwicklung hatte er die staatliche Autorität aus einigen den gesellschaftlichen Kräften gegenüber nicht nur berechtigten, sondern notwendigen Funktionen verdrängt. Der Staat ist seither indes, von den erwähnten Grundanti-

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nomien und von zahlreichen kleineren gesellschaftlichen Konflikten bedrängt, aus der Nachtwächterrolle, die ihm zugedacht war, in seine unerläßlichen Tagesaufgaben zurückgekehrt. Nun werden seine Instanzen umlagert, nun wird aus ihm herausgeholt, was sich, mit und ohne Helfershelfer, herausholen läßt — hinein in die kleineren und großen Reservatbezirke der organisierten Interessen.

Trotz allem ist es nicht so, wie *Werner Weber* meint[82], daß „ein Pluralismus (d. h. eine ungeordnete Vielzahl) oligarchischer Herrschaftsgruppen" unsere wirkliche Verfassung ausmachen würde. Denn abgesehen davon, daß die Kritik am „Verbände-Staat" übertreibt (was nicht weiter schadet, wenn sie dadurch nicht eine Wendung gegen die Demokratie überhaupt erhält), liegt der — natürlich besonders in den Augen des Juristen — ungeordneten Vielzahl von organisierten Interessen ein ordnendes *Klassen-Schema* zugrunde, das alle Kräfte, die sich nicht nach ihm richten, staatspolitisch weitgehend zur Bedeutungslosigkeit herabdrückt. Es handelt sich um ein ökonomisch-soziales Grundschema, das in der Demokratie insofern staatspolitisch wirkt, als es die *politische* Herrschaftsschicht, deren Zusammensetzung keineswegs mit jener Klasseneinteilung übereinstimmt, jedesmal, wenn es um prinzipiell bedeutsame Maßnahmen geht, in die Situation bringt, das Hauptproblem vor Augen zu bekommen: ob der Prozeß der Auflösung *aller* Privilegien, die sich vor den Prinzipien der modernen Demokratie nicht rechtfertigen lassen, fortgesetzt werden soll, oder ob er vor einigen zentralen ökonomisch-sozialen Machtpositionen seine Grenze findet. Die „ungeordnete Vielzahl oligarchischer Herrschaftsgruppen" nimmt in Wirklichkeit vor dieser Frage die Form von zwei politischen Kategorien an: hier die Führungsklassen — die konservativ-restaurative und die evolutionär-reformerische — mit ihrer sehr verschiedenartigen und auch wechselnden Klientel, dort das Gewimmel hilfesuchender, freibeutender, streunender, parasitierender Privatinteressen. Faßt man nicht die Geschäftemacherei und die Korruption ins Auge, sondern die Richtung der gesellschaftlichen Entwicklung, so sind nicht „die Privaten", sondern „die Politischen" bemerkenswert.

Um Herrschaft auszuüben — sie zu erringen oder sie zu bewahren —, genügen für die beiden Führungsklassen nicht vereinzelte oder selbst massive und fortgesetzte Interventionen, nicht einmal, wenn in der staatlichen Verwaltung feste Stützpunkte angelegt sind. Das alles ist viel zu unsicher, weil in der pluralistischen Demokratie eben nicht eine einzige Klasse das Feld beherrscht, sondern mehrere in dem Wettbewerb stehen, die *politische Klasse* zu bilden: die Repräsentationsschicht, die die Entscheidungen besorgt. Nur der Klassenzusammenhang schafft die Voraus-

[82] *W. Weber*, a. a. O., S. 49.

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setzungen zur eigentlichen, zur geschichtsmächtigen Bedeutung, indem er die volle Praxis eines „Konzeptes vom Ganzen" ermöglicht. Volle Praxis heißt hier: das funktionierende Zusammenspiel aller, die im großen die gleiche Grundvorstellung haben, an allen Orten der Autorität, wo wichtige Entschlüsse gefaßt werden, ob das nun die Betriebe sind oder Verbände oder Parteien oder das Parlament oder die Regierung oder die Verwaltung oder die Justiz oder das Militär, — an *allen* Stellen möglicher Machtausübung.

Um es an einem *ökonomischen* Beispiel der Politik klarzumachen, und ich zitiere da absichtlich einen der führenden Autoren der katholischen Soziallehre: *O. v. Nell-Breuning S. J.* hat dargetan[83], daß nur eine bestimmte Art von Einkommensstreuung, nämlich der Investivlohn — der es gleichzeitig zuläßt, „eine expansive Lohnpolitik ohne nachteilige Folgen zu betreiben" —, die sogenannte Monopolrente vermindert, um die einerseits die Grundbesitzer, andererseits die Unternehmer als die exklusiven Produktionsmittelbesitzer die Grundrente und die Kapitalrente zu Lasten des Arbeitseinkommens überhöhen[84]. Nun, diesen Privilegien-Zustand beizubehalten oder zu verändern, ist keine Sache von Einzelinterventionen, sondern ein gesellschaftlicher Prozeß, der von den grundinteressierten ökonomisch-sozialen Führungsklassen bestritten und, wenn es schließlich um die letzte, die allgemeinverbindliche Entscheidung geht, an die politische Repräsentanz, in der sie natürlich selbst vertreten sind, herangetragen wird.

9. Auf eine zweifache Weise stehen die ökonomisch-sozialen Führungsklassen mit der politisch herrschenden Klasse in engem Zusammenhang: durch die Wirkung der *generellen Ordnungsvorstellungen* — der prinzipiellen Prämissen —, die in den pluralistischen Autonomie-Systemen mehr oder minder die in der Staatsbürgerschaft vorherrschenden Ideen widerspiegeln, und durch die *soziale Zusammensetzung,* man könnte auch sagen, durch die Verflechtung der Repräsentanz, so daß sich spezifische Interessenzusammenhänge wie zwischen einer Front und ihrem Hinterland, ihrer Versorgungsetappe, ergeben. Das eine, der regulierende Kompromißgeneralnenner, gilt als legitim und „ganz in Ordnung", das andere, die sehr vielseitige Interessenverflechtung, als notwendiger Zustand, der sorglicher Pflege bedarf. Das eine wie das

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[83] *O. v. Nell-Breuning,* Ist Eigentum eine Ordnungsmacht?, Referat beim VII. Europäischen Gespräch in Recklinghausen (1958), Köln 1959, S. 62—63 und S. 151—167 passim, S. 377—381 und S. 393—396.

[84] „Diese von *F. Oppenheimer* aufgestellte, von *E. Preiser* weitergebildete These wird zwar nicht von allen Wirtschaftswissenschaftern anerkannt; man bestreitet sie wohl nur selten, und ernsthafte Versuche zu ihrer Widerlegung sind mir nicht bekannt, aber man geht ihr aus dem Wege; sie ist nun einmal etwas peinlich, was meiner Überzeugung nach aber nichts daran ändert, daß sie stimmt." *O. v. Nell-Breuning,* a. a. O., S. 62 f.

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andere gewährt, zudem verfassungsidealrechtlich das Gewissen der Abgeordneten überall die moralische Entscheidungsinstanz bildet, einen weiten Spielraum für Einflüsse.

Das Gewicht, das auf solche Weise die Interessen der ökonomischen Führungsklasse — der privatwirtschaftlichen Unternehmer also — für die Gesamtpolitik haben, ist beträchtlich. „Das liegt nicht nur daran", stellt *Grosser*[85] fest, „daß Unternehmerverbände Zugang zur Ministerialbürokratie und zu Abgeordneten haben und daß sie Parteien finanziell unterstützen; es hängt auch damit zusammen, daß die Mehrzahl der leitenden Personen in Regierung und Verwaltung dem Führungspersonal der Privatwirtschaft nach sozialer Herkunft und schichtgebundenen Interessen relativ nahesteht. Von erheblicher Bedeutung sind darüber hinaus Rücksichten auf Vollbeschäftigung und wirtschaftliches Wachstum. Kaum ein anderer politischer Faktor, von außenpolitischer Bedrohung abgesehen, wirkt sich so stark auf das Wählerverhalten aus wie wirtschaftliche Mißerfolge einer Regierung. Vollbeschäftigung hängt weitgehend von der Investitionsbereitschaft privater Unternehmer ab; diese wiederum wird von den Gewinnerwartungen bestimmt. Eine staatliche Wirtschafts- oder Sozialpolitik, die von Unternehmern als Gefährdung vitaler Interessen aufgefaßt wird, kann daher negative Auswirkungen auf Vollbeschäftigung und Wachstum haben; die wahrscheinliche Folge wäre eine Wahlniederlage der regierenden Partei. Dieser Zwang zur Rücksichtnahme auf das Gewinninteresse der Unternehmer, unter dem die Wirtschaftspolitik jeder demokratischen Regierung in einer kapitalistischen Wirtschaft steht, ist überaus schwer zu durchbrechen und gibt den Unternehmern ein weitaus höheres politisches Gewicht, als sie es aufgrund ihrer Stimmenzahl oder ihrer finanziellen Zuwendungen an Parteien hätten."

Wenn also das Großbürgertum, das ja ursprünglich der Initiator und Hauptnutznießer der Entwicklung zur ökonomisch-finanziellen Konzentration war, sein verbliebenes — nicht geringes — Potential an Verfügungsprivilegien behalten will, und dazu gehört immerhin: die wirtschaftliche Planung, die Investitionsanordnung und die Verteilung des jährlichen Sozialprodukt-Zuwachses in der Normalität, sowie die „Entscheidung über den Ausnahmezustand"[86], und wenn es wirklich erfolgreich, auf Dauer verhindern will, daß sich gegen die „immer von neuem unheilschwangeren Antinomien", die ich erwähnt habe, eine entsprechende Reformpolitik durchsetzt, weil diese eben bis an jene privilegierten Zentralpositionen vorstoßen muß, dann handelt es als Klasse. Das Konzept braucht nicht als Programm ausgearbeitet vorzuliegen wie bei einer politischen Partei, und es ist nicht nötig, für seine Verwirklichung Konspirationen anzuzetteln, wie radikale Minderheiten es gelegentlich tun; der Gesinnungskonformismus als ungeschriebener Denk-, Verhaltens- und Handlungskodex umschließt die ökonomisch-soziale Klasse

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[85] a. a. O., S. 18 f.

[86] Nichts als den Ausdruck zitiere ich von *C. Schmitt*, der seine Politische Theologie, (1922) München u. Leipzig 1934, S. 11, mit dem Satz beginnen ließ: „Souverän ist, wer über den Ausnahmezustand entscheidet". Inhaltlich siehe meine Ausführungen unten Abschnitt III C.

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fester als jede Organisation. Für die Geschäftswelt bezeichnet es *Key Jr.*, wie folgt[87]: „Im allgemeinen ist es natürlich absurd, die Vermögenden als eine finstere Gesellschaft hinzustellen, die ihre ökonomische Macht konspirativ dazu benutzt, die Stellung der Geschäftswelt insgesamt zu halten. Das System als Ganzes bedarf nämlich keines erklärten Planes, um einheitliche Zustimmung zu seinen Werten bei denen, die zu ihm gehören, zu bewirken, — ein bemerkenswerter Zug, der nicht immer wahrgenommen wird. Will man ‚im Geschäft bleiben', so wird es einem, durch eine höchst wirksame Disziplin, nicht leicht gemacht, ‚seine Seele sein eigen zu nennen': auf die Abnehmer, die Lieferanten, die Bankiers, die Anteilsinhaber, die Makler, die Rechtsanwälte und alle anderen, mit denen man zu tun hat, muß Rücksicht genommen werden. Das Ergebnis ist ein System von Einhalten und Hemmungen, das die Bildung von Minderheiten erschwert, weil es jenen, die der Mehrheit opponieren, Aussicht auf die Konkursgerichte eröffnet."

Selbstverständlich ist die ökonomisch-soziale Klasse in der pluralistischen Demokratie prinzipiell „offen". Aber was heißt das? Wer bei den Führungsrängen „dazugehören" will, muß sich zwar in der Regel entweder durch den ökonomischen Vorzugsstatus oder zumindest durch die Qualität, ihn erringen zu können, oder auch durch das „Soziale Register" — am besten durch alle drei — ausweisen; aber das Wesentliche ist, daß der Neue, der hinzukommt, durch die Anweisungen, die er gibt, und die Reden, die er führt, sich legitimiert, das heißt, überzeugend dartut, wie sehr er den gültigen Prämissen und Grundmaximen der ökonomisch-sozialen Herrschaftsschicht sich verpflichtet weiß. Niemand vermag sich in ihr zu halten, der nicht in allen Dingen, die für wichtig angesehen werden, zu ihr „paßt". Gegner sind höchstens als Konvertiten zugelassen, das versteht sich für sämtliche Klassen, ja für jede Organisation von selber; wie kein sozialisierter Wirtschaftszweig Syndici oder Generalsekretäre, geschweige denn Generaldirektoren an seiner Spitze haben könnte, die prinzipiell und engagiert die private Unternehmerplanung verfechten wollten, so ist es nur natürlich, daß die kapitalistischen Industrie-, Bank- und Handelsherren sich nicht linke rechte Hände zulegen.

Die Klassenzugehörigkeit zuzugeben, ist in den bürgerlichen Kreisen seit längerem moralisch nicht mehr vornehm, und sie sind in dieser Auffassung durch Politiker und Soziologen, die überhaupt in Abrede stellen, daß es so etwas noch gibt, bestärkt worden. Wie so vieles ist es eine Definitionsfrage, und was kann man mit Definitionen nicht alles aus der Wirklichkeit wegzaubern (— vermeintlich, denn man verschleiert dann ja nur oder lenkt ab). Ein ganz anderes Problem ist der Klassen*wandel*

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[87] *V. O. Key Jr.* a. a. O., S. 119.

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im 20. Jahrhundert, vor allem der Wandel ihrer gesellschaftlichen Bedeutung: In den angelsächsischen und in den meisten europäischen Demokratien ist die Über- und Unterordnung weitgehend bereits einem rivalisierenden Nebeneinander gewichen. Auch hat die Schärfe der Unterschiede, ja des Gegensatzes da in einigem, dort in vielem nachgelassen. Aber die Klassen selbst als ökonomisch-soziale Herrschaft anstrebende, innehabende und ausübende Großgruppen gibt es nach wie vor, man lese es nur nach bei *Mills*, der die „Power Elite" der USA zum Gegenstand seiner Detailuntersuchung gemacht hat[88]. Und daß die Bildung der „classe dirigente" ein der Gesellschaft immanenter politischer Prozeß ist, hat nicht als erster, aber eingehend *Mosca* aufgezeigt[89].

Auf ein Wort von Mills: „daß der einzig sichere Weg, sich von der Wirklichkeit der Macht-Eliten zu überzeugen, darin bestehe, sie anzugreifen", bezieht sich *Jaeggi* bei seiner Analyse der Herrschaftsverhältnisse in der BRD[90]. „Stabilität ist ... ein Kennzeichen deutscher Eliten. Nach einem vorübergehenden Vakuum hat sich wegen des Fehlens einer rivalisierenden Ordnung rasch nach 1945 wieder das gewohnte System etabliert. Insbesondere blieb das Organisationsprinzip der deutschen Führungsschicht erhalten, selbst wenn einige ihrer Mitglieder ausgetauscht wurden ... Zwar fehlen in Deutschland die viel zitierten englischen Colleges oder eine französische Eliteschule, die einen fast sicheren Zugang zu den Spitzenparteien gewährleisten; aber über mangelnde soziale Kohäsion braucht man schon deshalb nicht zu klagen, weil die meisten Elitenangehörigen eindeutig aus den oberen Schichten oder jener Gruppe stammen, die die Klassenlage der gehobenen Schicht kopieren ... Die Abwehrfront, die die Führungsgruppen gegen kritische Auffassungen zu mobilisieren vermögen; die Tatsache, daß trotz demokratischen Lippenbekenntnisses die Rekrutierungspraxis der Eliten sich nach 1945 nicht geändert hat; die übereinstimmende These, daß die Wirtschaftselite politisch noch nie stärker war als in der Bundesrepublik — all dies zeigt, wie wirksam die Macht-Eliten sind und wie wenig es darauf ankommt, ob die soziologische Feldforschung ein geringes Maß an Übereinstimmung zwischen den einzelnen Elitegruppen entdeckt. Eliten sind Macht-Eliten, weil sie ihre Auffassung durchzusetzen vermögen, und nicht, weil sie das Fleisch auf dieselbe Art tranchieren, die gleichen Bücher lesen und denselben Theaterstücken applaudieren. Außerdem ist eine überraschend große Meinungskonformität ohnehin gegeben: die Standard-Werte der westdeutschen Gesellschaft werden von den Elitenangehörigen weitgehend geteilt. Freilich mit wichtigen Unterschieden und Gruppierungen: in wesentlichen politischen Fragen stehen sich die Spitzenpublizisten aus Presse, Funk und Fernsehen, die Hochschullehrer und die

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[88] *C. W. Mills*, The Power Elite, New York 1956³. Über dementsprechende deutsche Verhältnisse ist es nützlich, Bücher einzusehen wie die von *K. Pritzkoleit*, Bosse, Banken, Börsen, München 1954, Die neuen Herren, München 1955, das bereits zitierte: Wem gehört Deutschland, München 1957 und schließlich: Das kommandierte Wunder, München 1959, wo übrigens — wie bei Mills im 3. Kap., S. 47 ff. — die Rolle des „Sozialen Registers" auf S. 170—212 an treffenden Beispielen hervorgehoben ist.

[89] *G. Mosca*, Die herrschende Klasse, Bern, München 1950 (deutsch nach der 4. ital. Aufl. 1947).

[90] *U. Jaeggi*, Macht und Herrschaft in der Bundesrepublik, Frankfurt/M. 1969, S. 18 ff.

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Gewerkschaftler nahe (sie plädieren z. B. für eine wirksame öffentliche Kontrolle der Regierung); demgegenüber stimmen die Wirtschaftsführer weitgehend mit den befragten Mitgliedern der Bonner Spitzenbürokratie überein, indem sie deutlich autoritäre Neigungen zeigen (*Wildenmann*)."

So beachtlich für die Beurteilung der Einflußnahmen auf die politischen Entscheidungen derlei Feststellungen sind, sie bezeugen nicht, daß die politische Klasse, in *ihrer* Zusammensetzung ja auch keineswegs homogen, ganz einfach gezwungen wäre, jeweils den Willen der ökonomisch-sozialen Führungsschichten, sobald er sich unmißverständlich artikuliert, auszuführen, — abgesehen sogar von der Rolle, die einer, sei es starken, sei es schwächeren, jedenfalls geschickten Opposition in dieser Frage beizumessen ist. Interessen-Grundmuster allerdings sind es, die im Aktuellen die politischen Entscheidungen nicht nur wesentlich beeinflussen, sondern in aller Regel bestimmen.

In erster Linie der Klassenzusammenhang ist es also, der konzentrierte ökonomisch-soziale Macht nachhaltig zu politischer Wirkung bringen kann. Und das Klasseninteresse daran, welche Richtung die Entwicklung der gesellschaftlichen Verhältnisse nehmen soll — eine primär politische Frage —, kennzeichnet sowohl die Verwendung der Macht als auch den Wert ihres Einsatzes. Vom Standpunkt restaurativer Konservativität aus sind beide natürlich ganz anders zu beurteilen als unter den Aspekten des Reform-Evolutionismus.

10. Nun ergibt sich auch für die *Beziehungen zu den politischen Parteien* das Kriterium. Die ökonomisch-soziale Macht „kauft" sich nicht eine Partei, wenn diese ohnehin mit ihr übereinstimmt. Deshalb sind die Büros, die von Industriekonsortien „eigens für die sachgemäße Verteilung ihrer politischen Gelder" unterhalten werden, nicht, wie *Eisermann* es tut[91], den sogenannten Förderer-Verbänden gleichzusetzen; die einen sind vielmehr Pressure-Organisationen zum Zwecke der Intervention, die anderen hingegen der finanzielle Ausdruck der Symbiose spezifischer, jedoch aufs Ganze gerichteter Interessen mit den viel allgemeineren politischen einer Partei. *Sacherl* hat ganz recht, bei der Unterscheidung nicht von der Methode auszugehen, die angewendet wird, sondern „das Inhaltliche des angestrebten Zieles zugrunde zu legen, wobei als normativer Bezugspunkt nur die Staatsstruktur als Ganzes in Frage kommen kann"[92], und er geht so weit, vorzuschlagen, „von einem ‚Interessenverband' dann zu sprechen, wenn die verfolgten Interessen gleichzeitig unmittelbar im Interesse der beteiligten Partei und damit — sofern es sich um eine Partei handelt, die diesen Namen verdient — mittelbar im Interesse des Staates liegen, und wenn außerdem Bedeutung für das Staatsganze sind. Ein echter Interessenverband wäre also ein soziales Gebilde, dessen Ziele so gelagert sind, daß ihre — wenn diese Interessen in ihrem soziologischen Range wenigstens von einiger

[91] *G. Eisermann*, a. a. O., S. 314.

[92] *K. Sacherl, F. A. v. d. Heydte*, Soziologie der deutschen Parteien, München 1955, S. 177.

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Bedeutung für das Staatsganze sind. Ein echter Interessenverband wäre also ein soziales Gebilde, dessen Ziele so gelagert sind, daß ihre — wenn auch spannungshaltige — Vereinigung mit den Zielen einer Partei zu einem staatssoziologisch so erheblichen Zusammenwirken von Verband und Partei führt, daß von einem Faktor gesellschaftlicher Gliederung im Staate ... gesprochen werden kann".

B. Die Möglichkeit der Kontrolle

Was heißt das: „ein Faktor gesellschaftlicher Gliederung im Staate?" Das partikuläre Interesse wird als berechtigt anerkannt, weil es sich nicht nur nicht in Widerspruch zum allgemeinen Interesse befindet, sondern so sehr in Übereinstimmung mit ihm ist, daß seine Erfüllung ein Stück Allgemeinwohl-Wirklichkeit ergibt. Es wird Heizöl in Konkurrenz zur heimischen Kohle eingeführt, aber sein Verkauf geschieht zu Preisen, deren Höhe es der Bergarbeiterschaft unrentabel gewordener Gruben erlaubt, sich während einiger Jahre partienweise auf andere Berufe umzustellen, den Grubenbesitzern und der Grubenleitung, vor Eröffnung des „natürlichen" Wettbewerbes mit dem Heizöl weiter zu rationalisieren. Für eine Zeitlang werden also „künstliche" Bedingungen geschaffen. Selbstverständlich wäre den Ölverkäufern nichts lieber, als eine aus sozialen und politischen Gründen gebilligte Differentialrente einzukassieren; aber die besondere Preishöhe stammt aus der Heizölsteuer und vielleicht leistet der Staat im konkreten Fall ausgleichsweise finanzielle Beiträge zur Berufsumschichtung der Bergarbeiterschaft.

Kommt es vor, daß die organisierten Partikulärinteressen, die kleineren wie die großen, aus freien Stücken so wirken? Im vorliegenden Fall braucht der Heizöl-Handel keine sonderliche Tugend zu üben; denn, was die Bundesrepublik betrifft, von der das Beispiel genommen ist, so hat er ja den Vorteil, Absatzterrain zu gewinnen, und zum andern sind es teilweise die Kohlenbergbau-Konzerne selbst, die die Heizöl-Importgesellschaften unterhalten. Die Bedingungen, die gegeben sein müssen, daß in den pluralistischen Demokratien die Normalität des Interessenausgleichs, und zwar auf das Allgemeinwohl hin, eintritt, daß sie auch erhalten bleibt, werden noch aufgezählt und analysiert werden. Wie steht es aber um die Voraussetzungen im Konfliktfall, wenn die Vertreter eines mächtigen Partikulärinteresses, sei es, weil sie es nicht besser verstehen, sei es, weil sie nicht wollen, keinerlei Lust zeigen, einen Unterschied zwischen ihren eigenen Vorstellungen von dem, was sein kann und sein soll, und dem, was als das „öffentliche Interesse" bezeichnet wird, zuzugeben? Lehrt die Praxis, daß die demokratischen Gewalten, die für eine Kontrolle ad hoc oder auf Dauer in Betracht kommen, ihre politische Herrschaftspotenz, wenn es sich um mächtige Personen handelt, aktualisieren, das heißt, eine Verhaltensnorm anordnen können,

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der sich der Adressat beugt, so daß er ausführt, was von ihm gegen seinen erklärten oder versteckten Willen verlangt wird? Daß die gleichen Gewalten ferner, wenn es um gesellschaftliche Entwicklungen geht, wie etwa die Konzentration von Besitz oder von Investitionskapital, die Fähigkeit an den Tag legen, sich zu den Problemen, die sich daraus ergeben, regulierende Maßnahmen einfallen zu lassen und mit Hilfe geeigneter Methoden die erstrebte Wirkung zu erzielen? Ist das so, oder haben die Kritiker der pluralistischen Demokratie mit ihrer Behauptung recht, dieses Herrschaftssystem sei, von gelegentlichen Ausnahmen, mit denen dann viel hergemacht werde, abgesehen, nichts als ein Spielball der organisierten Großinteressen — um so mehr, je ökonomisch und sozial stärker die Verfügungsmacht ist?

1. Ehe das geschichtlich Tatsächliche der Kontrollmöglichkeit kurz dargetan wird, einige Vorklärungen.

Der regulierende politische Eingriff hat, wenn er als berechtigt anerkannt und nicht einfach als Willkürakt angesehen werden soll, zwei *geistige Voraussetzungen:* einerseits die Überzeugung, daß die gesellschaftlichen Prozesse nicht bloß Machtauseinandersetzungen sind, sondern daß es, auch als deren Ziel, ein Allgemeininteresse gibt, aus dem sich die Eingriffsmaßnahmen rechtfertigen; ferner die Überzeugung, daß die rivalisierenden Verfügungsmächte aus sich, ihrem partikulären Interesse folgend, nicht imstande sind, optimale Gesamtverhältnisse zu schaffen. Mit anderen Worten: die existenzielle Solidarität der Teile des Ganzen ist als gemeinsamer *politischer* Integrationswert gegenüber den im Wettbewerb sich entfaltenden Kräften wenigstens auf seiten der demokratischen Legitimität vorauszusetzen. (Eine erzwungene Mindestfraternité sozusagen, wenn christliche Liebe und republikanisches Pathos das bessere freiwillige Miteinander nicht zuwege bringen.)

Diese Prämisse ist zugleich die *einzige feststehende Norm* der faktischen Kontrollen, eine allerallgemeinste. Das übrige ist reine Zweckmäßigkeit und wechselnder Effekt in ihrem Sinne. Daß es so ist, vermindert weder den Wert der Norm, indem sie nichtssagend würde, noch den der praktischen Maßnahmen, die ihre Orientierung verlören. Beide bleiben strikt aufeinander bezogen, und hierin erweist sich der eigentliche Nutzen sowohl der Allgemeinwohl-Norm als auch des Zweckmäßigkeits-Effektes; sie lassen sich aneinander auf ihre praktische Bedeutung hin ermessen. Solchermaßen entsteht das für die Lösung der gesellschaftlichen Probleme richtige Grundverhältnis der Ordnungsmächte. *Ballerstedt* hat sich darüber einmal wie folgt geäußert[93]: „Immer, wenn Macht und Recht auseinandertreten, ist die Gesellschaft krank ..." „In der modernen Massengesellschaft geht es ... darum, daß wir Rechtsformen

[93] *K. Ballerstedt,* Eigentum und Mitbestimmung, VII. Europäisches Gespräch, a. a. O., S. 196 und 200.

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und Gesinnungen entwickeln, die eine wahrhaft treuhänderische Wahrnehmung von Befugnissen gewährleisten. Treuhänderschaft (im weitesten Sinne) liegt überall da vor, wo einer aus eigenem Recht Dinge zu entscheiden hat, die existenziell nicht ihn, sondern einen andern oder eine Gruppe von anderen angehen. In diesem Sinne ist Treuhänderschaft ein allgemeines Problem der Demokratie." Die für die Gesamtheit treuhänderischen Maßnahmen werden aktuell, wenn Tendenzen des Mißbrauchs zurückgedrängt oder, nach dem Prinzip der Subsidiarität, positive Tendenzen durch weitere Gemeinschaftskräfte gefördert werden müssen, weil die ursprünglichen nicht ausreichen.

2. Die Art der regulierenden Einwirkung, ja schon die Entscheidung darüber, ob sie erforderlich sei, hängt indes ganz von der *Funktion* ab, die in der gesellschaftlichen Entwicklung der jeweilige Einfluß konzentrierter Verfügungsmacht tatsächlich ausübt. Was *Raiser* gegenüber der modernen Großunternehmensmacht sagt[94], gilt allgemein: „... die Frage der öffentlichen Kontrolle von Unternehmen und ihrer Macht ist nicht nach einem Einheitsrezept zu lösen, sondern man muß differenzieren ...", schon weil sich „das, was man so gemeinhin ‚das öffentliche Interesse' nennt, weder inhaltlich genau präzisieren, noch bestimmten personellen Trägern zur ausschließlichen Wahrnehmung zuweisen läßt ... Es kann sich darum handeln, einen augenblicklichen Engpaß in der Wirtschaftspolitik des Staates zu überwinden; es können Gesichtspunkte der Verkehrswirtschaft, der Raumordnung, der Wasserwirtschaft, der Landesverteidigung sein, die jeweils unter dem Stichwort ‚öffentliches Interesse' dem Unternehmen gegenübertreten und von ihm Beachtung fordern ..."

Für jeden Bereich liegt aber immerhin der Erfahrungsansatz eigener, spezifisch angepaßter Methoden vor. So für die Bewertung und die, sei es restriktive, sei es fördernde, Beantwortung des Problems der Konzentration von Betrieben, von Unternehmen, von Einkommen und Vermögen, ebenso der verschiedenen Formen der jeweiligen Konzentration[95]. An allen diesen Vorgängen *besteht* ein öffentliches Interesse, denn sie schaffen und verändern die Bedingungen der persönlichen und der gesellschaftlichen Existenz, deren optimale Entfaltung, wie gesagt, das erklärt zentrale Ziel der modernen Demokratie ist. Verbessert die Konzentration, wo immer und wie immer, die Bedingungen der humanen Existenz, so hat die demokratische Politik nur einen einzigen legitimen

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[94] *L. Raiser,* Die Geltendmachung des öffentlichen Interesses gegenüber Unternehmen durch deren öffentliche Bindung, VII. Europäisches Gespräch, a. a. O., S. 211 f.

[95] Siehe die entsprechenden Beiträge in diesem Werk und in der 1. Auflage desselben, ferner *H. Arndt,* Recht, Konkurrenz und Demokratie: Konzentration ohne Kontrolle, a. a. O., S. 23—82, sowie *A. Silbermann, E. Zahn,* a. a. O., S. 17—102.

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Grund, den in seinen Formen und in seinen Wirkungsweisen sehr verschiedenartigen Prozeß kritisch-wachsam und eingriffsbereit zu verfolgen: das Mitauftreten von Begleiterscheinungen, die dem Fortschritt unter Umständen einen allzu hohen Kaufpreis abverlangen, gar, wenn sie es zweifelhaft machen, ob das gemeinte Ziel überhaupt erreicht werden kann.

Um es an einem Vorgang beispielshalber zu verdeutlichen, der umstritten werden kann: Am 8. November 1954 gründeten bei der Industrie-Kreditbank AG in Düsseldorf mit ihr zusammen die Vertreter von 16 großen westdeutschen Industrieunternehmen die als gemeinnützig erklärte „Physikalische Studiengesellschaft m. b. H.". Am 2. Dezember 1955 wurde die Zahl der Gesellschafter auf 27 erhöht, die je 100 000 Mark Stammkapital zeichneten. Unter ihnen befanden sich nur 2 in öffentlicher Hand stehende Unternehmen. Der Kreis der Teilnehmer wurde mit höchstens 30 begrenzt, die Aufnahme von Verbänden abgelehnt. Nach § 2 der Satzung hatte die „Physikalische Studiengesellschaft" keinen Gewinn zu erstreben, sondern verfolgte „ausschließlich und unmittelbar den Zweck, die wissenschaftliche Arbeit für die friedliche Anwendung der Kernphysik zu fördern". Die 27 Konzerne verfügten damals zusammen über ein Grundkapital von rund 3,3 Milliarden Mark, ein Bilanzvermögen von fast 13 Milliarden, beherrschten mehr als 260 Tochter- und Beteiligungsgesellschaften und beschäftigten etwa 1 Million Arbeiter und Angestellte. Die im gleichen Jahr 1955 gegründete „Reaktor-Betriebs-GmbH", Karlsruhe, an der sich die Regierung der BRD mit 15 Millionen Mark und das Land Baden-Württemberg mit 10 Millionen beteiligten, so daß 62,5 % ihres Gesellschaftskapitals aus öffentlichen Mitteln stammten, gehört zu 37,5 % der Studiengesellschaft, die aber vom damaligen Bundesatomminister *Strauß* die Hälfte der Zahl der Verwaltungsratsmitglieder zugesichert erhielt[96]. Daß die Gründung der Studiengesellschaft, obgleich ohne direkte Gewinnabsichten erfolgt, von größter ertragswirtschaftlicher Bedeutung war, lag zutage. Daß sie zur Kategorie derer gehörte, die ein ökonomisch-politisches Herrschaftsinstrument erster Ordnung werden konnte, stand ebenfalls fest. Daß sie dem notwendigen wirtschaftlichen Fortschritt diente, konnte nicht bezweifelt werden. Das öffentliche Interesse war in nachhaltigster Weise gegeben. Offensichtlich wäre es richtig gewesen, es durch Fachleute des Bundesatomministeriums im Aufsichtsrat wirksam vertreten zu lassen. Bei der „Reaktor-Betriebs-GmbH", Karlsruhe, die mehrheitlich dem Bund und dem Land Baden-Württemberg gehörte, hat man die praktische Verfügungsgewalt, die sich daraus ergab, privatwirtschaftlich sogar gegenbalanciert. Indes: in dem Moment, wo die Mehrheit der *politischen*

[96] Der Gewerkschafter, Monatsschrift der IG Metall, Frankfurt/M. 1956, Heft 3.

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Repräsentanz der Bundesrepublik in einer Regelung, wie sie getroffen wurde, eine Entwicklungsgefahr gesehen hätte, wäre es um die gewählte Struktur der beiden Gesellschaften geschehen gewesen — man hätte sie auf die geeignet erscheinende Weise verändert. Alle kapitalistischen Anteilsinhaber jener Studiengesellschaft mitsamt der ökonomisch-sozialen Verfügungsmacht, die sie ausüben, hätten es, sobald ein *politischer* Umschwung damals eingetreten wäre, nicht verhindern können, sofern der entschlossene andersgerichtete politische Wille vorhanden war, — siehe die britische Entwicklung seinerzeit unter der Labour Party. Die privatwirtschaftliche Unternehmerschaft erreicht in der kapitalistisch bestimmten Demokratie, wie auch dieses Beispiel der „Physikalischen Studiengesellschaft" und der „Reaktor-Betriebs-GmbH" beweist, viel, oft sehr viel, aber sie kann ihre Machtmöglichkeiten, wie hier bereits mehrfach hervorgehoben, nicht generell, nicht in jedem Fall und nicht beliebig realisieren.

3. Indes, die Klarstellung des Problems der Kontrolle an realen Vorgängen zeigt, daß es nicht genügt, entwickelte, ja erprobte Methoden zur Verfügung zu haben, mit denen sich die verschiedenen Formen und Wirkungsweisen der Konzentrationen in den Griff des öffentlichen Interesses bekommen lassen. Die konkret gegebene *historische Situation,* das heißt der Entwicklungsstand der gesellschaftlich-politischen Kräfte, ist von hoher Bedeutung. Mit Recht sagt *Albert*[97]: „Die Tatsache, daß jeder organisatorische Eingriff in das soziale Leben dessen historisch gewachsene Basis nur ändern, bestenfalls teilweise umformen, niemals völlig beseitigen und ersetzen kann, schafft für das ordnungspolitische Problem ein institutionelles Apriori, dessen Nichtberücksichtigung zu katastrophalen Folgen führen kann. Es ist daher nicht möglich, das Problem der politischen Ordnung ernsthaft zu diskutieren, ohne dabei anzugeben, um welchen Gesellschaftskörper es sich handelt. Eine Ordnung des sozialen Lebens, die in einem Lande auf Grund bestehender Traditionen ohne allzu große Stärkung der Zentralgewalt aufrechtzuerhalten ist, führt möglicherweise in einem andern Lande sehr schnell zur Diktatur. Die neoliberale ‚Unvereinbarkeitslehre' kann daher in der bisher üblichen abstrakten, d. h. von jeder zeitlichen und räumlichen Konkretisierung absehenden Form nicht aufrechterhalten werden."

An den mannigfachen Erfahrungen, die in den älteren, jüngeren und ganz neuen Demokratien mit den Konzentrationsvorgängen bis heute gemacht worden sind, kann man jedoch, wie mir scheint, so etwas wie einige Regelhaftigkeit feststellen.

a) Je weniger die Gesellschaft einer Demokratie nach Aufgaben und Schichten differenziert ist, um so augenfälliger und spürbarer wirkt

[97] *H. Albert,* Ökonomische Ideologie und politische Theorie, Göttingen 1954, S. 137.

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schon jede relative Konzentration (im Handel, im Handwerk, in der Industrie, im Bankwesen). Wie ihr die einzelnen gesellschaftlichen Gruppen begegnen, das hängt in diesem Stadium nicht so sehr von den objektiven Wirkungen ab, die sie hervorruft, sondern erstens vom Nutzen, den jede Gruppe aus den Vorgängen zieht, zweitens vom kulturellen Standard, drittens von den für die einzelnen Gruppen und in ihnen geltenden Normen der Persönlichkeitsentwicklung, viertens selbstverständlich von ihrem Machtstatus. Je nachdem erfolgt, während der Zeit, in der die Vorgänge noch zentral beeinflußbar sind, Anpassung oder Widerstand, je nachdem werden die einen oder die anderen „Antwort"-Methoden entwickelt. Die Demokratie nimmt die entsprechende gesellschaftliche Schichten-„Färbung" an, die sie als Variante des Herrschaftssystems mitkennzeichnet.

b) Ob sich die einzelnen Konzentrationstendenzen rasch durchsetzen, oder ob sie retardiert, vielleicht sogar zum Abbruch gebracht oder in andere Richtung gelenkt werden, darüber entscheiden, sei es durch aktive Eingriffe, sei es durch Unterlassungen, sei es durch Übereinstimmung, in letzter Instanz nicht die Produktionsmittelbesitzer, sondern die Angehörigen der *politisch* herrschenden Klasse, die über das Instrumentarium des Rechts, sowie der Finanz- und der Wirtschaftspolitik verfügt.

c) Erfolgt die Gleichsetzung der ökonomisch und der politisch herrschenden Schichten in *eine* Klasse in Demokratien mit noch vorwiegend agrarwirtschaftlicher Grundlage, so ist es zweifelhaft, ob der Übergang zu industriewirtschaftlichen Konzentrationen überhaupt in einem nennenswerten Maße geschieht; wenn ja, dann wird er durch Monokulturen beschleunigt und leicht in plutokratische Bahnen gelenkt.

d) Die Zweckmäßigkeit der Konzentration von Verfügungsmacht zumindest über lebenswichtige Versorgungsbetriebe der Produktion, des Handels, des Verkehrs und der Finanzierung kann in direkter Proportion zu den Notwendigkeiten oder Wünschbarkeiten eines sowohl kollektiven wie privaten gesellschaftlichen Aufstiegs und zu den gleichen Erfordernissen der Aufrechterhaltung eines erreichten Status — zum Beispiel der Vollbeschäftigung — stehen. Die Kontrolle wirkt in diesen Fällen lediglich sichernd; sie wird zu einer vollends gesellschaftspositiven Funktion. Sie kann sich weitgehend der privaten Initiative bedienen, der es nur nicht überlassen bleibt, selbst, in unbeschränkter Souveränität, den Rahmen ihrer Aktivität festzulegen.

e) Für den Bestand und die Fortentwicklung gesellschaftlich bereits hochdifferenzierter Demokratien sind gewisse Betriebs-, Unternehmens-, Kapital- und gesellschaftliche Macht-Konzentrationen, national und international, ausgenommen allein die der Einkommen und die räumlichen, eine zwingende Notwendigkeit. Immer dann, wenn dieser Zu-

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stand erreicht ist, stellt sich die Auseinandersetzung um die Kontrolle ein, die rein privatwirtschaftlich oder auch, allenfalls ausschließlich, im öffentlichen Interesse erfolgen kann. Diese Auseinandersetzung spiegelt sich in endlosen ideologischen Streitigkeiten um Vorteil oder Schaden der Konzentrationen für die Freiheit der Person und der gesellschaftlichen Gruppen wider. Im Ergebnis wird die Notwendigkeit der Konzentrationen ebenso bejaht wie die der Kontrollen, die Einführung und Handhabung praktischer Maßnahmen jedoch gehemmt, bis in weit größeren Zusammenhängen und aus viel tieferen Motivationen sich allenfalls ein entschlossener politischer Mehrheitswille formiert, der sich der Konzentrationen *bemächtigt*.

Diese spärlichen, mangels genauer Einsicht in die Zusammenhänge vorerst noch vage gefaßten „Regelhaftigkeiten", wenn es sich bei einer systematischen Klassifizierung des historischen Materials erweisen sollte, daß sie so — und vielleicht weitere — zutreffen, bestätigen aber nur zusätzlich, daß die Kontrolle der verschiedenen Konzentrationsvorgänge nicht ein „Modell"-, sondern ein Real-Problem ist, dessen Lösung immer nur sehr relativ gelingen kann, weil sie von vielerlei und *wechselnden* historischen Umständen abhängt. Ein allgemeingültiges Rezept, das wird daraus erst recht sichtbar, gibt es dafür nicht.

4. Grundsätzlich sind die praktischen Kontrollmaßnahmen von zweierlei Art: sie lassen entweder die bestehende Wirtschaftsordnung intakt, oder sie sind darauf angelegt und dazu angetan, das System selbst zu verändern. Die neoliberale Schule hat es fertiggebracht, für die erste Art von Eingriffen den Terminus „marktkonform" einzubürgern, obgleich er ganz und gar nicht sagt, was mit ihm wirklich gemeint wird[98].

Sowohl die systemerhaltenden (folglich systemkonformen) als auch die systemverwandelnden Mittel beziehen sich auf die betriebs-, die unternehmens-, die volkswirtschaftlichen- und die weltwirtschaftlichen Verhältnisse. Sie sind für jedes der vier Gebiete seit verschieden langer Zeit in verschiedenen Ländern verschieden wirksam entwickelt worden. Man darf aber sagen, daß sie, richtig kombiniert, im zureichenden Minimum ihren Zweck, wenn er tatsächlich angestrebt wird, erfüllen, wenigstens für eine jeweils längere Entwicklungsstrecke, worauf das Instrumentarium wieder überprüft und an die veränderte Situation angepaßt werden muß, so etwa, wenn wettbewerbssichernde Maßnahmen zu einer allmählichen, spürbaren Verschiebung der Positionen auf dem Markte dadurch geführt haben, daß sich Großbetriebe und Großunter-

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[98] Vgl. oben Abschnitt II C. Die Verschleierung erfüllt natürlich ihren objektiv ideologischen Zweck. Ganz ähnlich lag es, als die Positivisten in den Geisteswissenschaften seinerzeit anfingen, mit der sogenannten „Wertfreiheit", in ihrem Sinn höchst erfolgreich, zu operieren.

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nehmen den Anforderungen der Rationalisierung als weitaus besser gewachsen erwiesen haben.

Was *die Betriebs- und die Unternehmensverfassung* als Wirkfeld der Kontrolle betrifft, so begegnen wir hier einer merkwürdigen Paradoxie: Sämtliche gesetzlichen Kontrollinitiativen in den Hochindustrieländern haben sich als verhältnismäßig unwirksam erwiesen, aber die Tatsache, daß sie, nach endlosen Erörterungen schließlich doch, eingeleitet worden sind, hat in den Demokratien in der Regel genügt, die Machtumstände zu verwandeln. Öffentliche Meinung und mögliche Gerichtsurteile auf Grund vorhandener Gesetze haben es dahin gebracht, daß immerhin niemand mehr es wagt, unverhüllt für reaktionäre Privilegien als Norm oder auch nur als Ausnahme einzutreten.

Ein typisches Beispiel dafür bietet die Antitrust-Gesetzgebung und ihre Praxis in den USA[99]. Als sich von 1882 an durch die erstmalige Ausgabe von Trust-Certificates für Aktien der Standard Oil Company die „giants in the industrial world" zu bilden begannen, bewirkte der Sherman Anti-Trust Act von 1891, der bis heute die Grundlage der gesetzlichen Konzentrationskontrolle in den Vereinigten Staaten bildet, und die Ausdeutung, die ihm der Supreme Court in seinen Entscheidungen gab, keineswegs, daß die Entwicklung zu den „corporate consolidations" rückläufig wurde; sie nahm nur andere Formen an: 1901 war es möglich, daß die U. S. Steel Corporation mit einer kombinierten Herrschaft über rund eine Milliarde Dollar Gesellschaftskapitalien gebildet wurde. Trotzdem war es der noch in einer ganzen Reihe wichtiger Industriegebiete — beispielsweise in der Öl-, der Zucker-, der Tabakerzeugung — so konzentrierten Verfügungsmacht nicht möglich, sich über die nun alarmierte demokratische Öffentlichkeit einfach hinwegzusetzen: Die allgemeine Furcht, die ökonomischen Monopolbildungen könnten „die traditionelle Struktur des amerikanischen Gesellschaftslebens zerstören, dessen Idealnormen Gleichheit der Chancen und wirtschaftliche Unabhängigkeit sind", gab den neuen Maßnahmen unter der Präsidentschaft *Roosevelts* und dann *Wilsons* die moralisch-politische Fundierung.

Rein ökonomisch hat sich die Konzentrationsbewegung in der immer umfassender, intensiver und differenzierter entwickelten Industriewirtschaft unter dem Antrieb vor allem der technischen und der investitionsfinanziellen Erfordernisse unserer Güter- und Dienstleistungszivilisation in wichtigsten Kernbereichen mittlerweile fortgesetzt. Aber gegen die Einwirkungen auf das pluralistisch-demokratische Herrschaftssystem ist

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[99] *P. T. Homan*, Trusts, Enc. Soc. Sci., Vol. 15, 1950, S. 111—122, vor allem S. 115 f.; 121 f. die wesentlichen Literaturangaben. Vgl. ferner *J. G. Hervey* (Ed.), The Anti-Trust Laws of the United States, AAmAcPSocSci., Vol. 147 (1930) und *E. M. Patterson* (Ed.), Increasing Government Control in Economic Life, AAmAcPSocSci., Vol. 178 (1935), bes. S. 1—47.

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die Öffentlichkeit der USA überaus empfindlich geblieben. Das hat es der freiheitlichen Politik ermöglicht, sich nicht nur zu behaupten, sondern in dem schwierigen und langwierigen Prozeß der Wechselwirkung mit der im ökonomisch-sozialen Bereich vielfältig konzentrierten Verfügungsmacht sich durchzusetzen. Selbstverständlich nicht bedingungslos und vollständig; die Extreme von absoluter Herrschaft und absoluter Freiheit sind ja nicht typisch für die gesellschaftliche Wirklichkeit, am allerwenigsten in Demokratien[100]. Der erreichte Zustand läßt die Fortsetzung der evolutionären Gesellschaftsreform weiterhin als aussichtsreich erscheinen, was sie auf Grund der Fortschrittserfolge, die durch sie erzielt worden sind, gegenüber dem revolutionären Umsturz, der viel kostspieliger und in Hinsicht auf die Abschaffung der Machtprivilegien überhaupt am Ende überdies illusionistisch ist, zur weitaus vernünftigeren Methode macht.

5. Im großen und ganzen ist in allen pluralistisch-demokratischen Hochindustrieländern seit den katastrophalen Folgen der Weltwirtschaftskrise von 1929 bis 1933, die sich vor allem in Politik umgesetzt und so einige der wichtigsten Voraussetzungen für eine radikale Kräfteverschiebung in der Welt geschaffen haben, ein sehr wirksames währungs-, finanz- und wirtschaftspolitisches Instrumentarium entwickelt worden. Seine Anwendung in der dirigierenden Hand der jeweiligen politischen Klasse hat sich mittlerweile überall so erfolgreich angelassen, daß es als absurd erscheinen müßte, ökonomischen Kräften mit konzentrierter Verfügungsmacht — Produktionsmittelbesitzern oder Managern — noch einmal die alleinige Lenkungsbefugnis zu überantworten, obgleich es sich um Wirtschaft handelt. Erst recht wird man dies, solange die politische Herrschaftsschicht bei Sinnen bleibt, nicht tun, wenn es um mehr geht als nur um wohlkombinierte regulierende Einzelmaßnahmen.

Wirtschaftsordnende Verfügungen nehmen im Verhältnis einerseits zu den hochentwickelten, heute schon selbstverständlich gewordenen Mitteln der Finanz- und Wirtschaftspolitik, anderseits zu den systemverändernden Maßnahmen eine Zwischenstellung ein. Sie sind genau der Bezirk, in dem sich die Souveränität der politischen Klasse gegenüber den Ökonomisten bewähren muß, und in der Tat bewährt sie sich vielerorts vorzüglich, in den angelsächsischen Ländern sowohl als auch und insbesondere in den skandinavischen, gelegentlich darüber hinaus — so in Italien, man nehme nur das Beispiel, wie die bedeutende Erdölindustrie des Landes versuchsweise organisiert worden ist: im Norden staatlich, im Süden privatwirtschaftlich, in Mittelitalien unter staatlich-privatem Wettbewerb[101].

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[100] Vgl. hierzu *K. Mannheim,* Freedom, Power, and Democratic Planning, London 1951.

[101] Vgl. *J. Rovan,* VII. Europäisches Gespräch, a. a. O., S. 253 f.

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Wiederum belegen aber die Vorgänge in den USA den Tatbestand am deutlichsten: Der New Deal unter Präsident *Roosevelt* und die adaptierte Fortsetzung im Fair Deal unter Präsident *Truman* haben das Problem der Kontrolle enorm entfalteter ökonomisch-sozialer Verfügungsgewalten rein pragmatisch, in einer zumindest für den geschichtlichen Abschnitt zureichenden Weise mitgelöst, indem sie sie teils zu bedeutsamen Entscheidungen in beratender Funktion heranzogen, teils bewußt davon ausschlossen[102]. Die Angelsachsen nennen dieses System innerhalb ihrer pluralistischen Demokratie, ohne sich auf präzis erklärte Ziele festzulegen, bekanntlich „mixed economy".

Ein solcher, die geschichtliche Kompromiß-Realität andeutender Ausdruck ist ganz und gar nicht nach dem Sinn derer, die bei uns den „ordnungspolitischen Alternativ-Radikalismus" betreiben. *Albert* hat sich darüber sehr scharf geäußert[103]: „Die Behauptung, ‚daß neben der reinen Verkehrswirtschaft und der reinen Befehlswirtschaft weitere reine Wirtschaftsformen nicht denkbar sind', auf der dieser Alternativ-Radikalismus fußt, bezieht sich erstens ausschließlich auf die Sphäre bloßer Denkmöglichkeiten ..., und sie geht zweitens auf ein Einteilungsprinzip zurück, dessen Bescheidenheit angesichts der vorliegenden Probleme kaum überboten werden kann ... Eine Betrachtungsweise, in der die unzähligen historischen Ordnungen als — notwendig quantitative — Mischungen zweier Idealtypen erscheinen, kann nicht den Anspruch erheben, die große Antinomie des ökonomischen Denkens gelöst zu haben. Sie ist im Gegenteil durch und durch unhistorisch. Es ist daher nicht einzusehen, was eine solche Unterscheidung in der ordnungspolitischen Diskussion zu suchen hat, die die Entscheidung zwischen konkreten Realmöglichkeiten, nicht aber zwischen gedanklichen Konstruktionen vorbereiten soll. Die Schwere und Nichtdeduzierbarkeit der hier erforderlichen Entscheidung kommt erst dann voll zur Geltung, wenn man erkennt, daß die konkreten Möglichkeiten viel näher beieinander liegen, als eine noch so ausgefeilte idealtypische Betrachtung ahnen läßt"[104]. In der Praxis der an Demokratie gewöhnten Länder „ist die Geistesverfassung der stets fluktuierenden Mehrheit nicht auf die Wahl zwischen extremen Alter-

[102] Vgl. *A. G. Conns* (Ed.), Government Expansion in the Economic Sphere, AAmAcPSocSci., Vol. 206 (1939).

[103] *H. Albert*, a. a. O., S. 131—140.

[104] Hierzu sind im einzelnen zitiert: *L. Miksch*, Zur Theorie des Gleichgewichts, Ordo, Bd. 1 (1948), S. 176; *H. Peter*, Freiheit der Wirtschaft, Köln 1953, S. 90 und 102 f.; ferner; *H. Peter*, Einführung in die politische Ökonomie, Stuttgart u. Köln 1950, S. 226; *F. Haussmann*, Der extreme Neoliberalismus, Hannoversch-Münden 1952, S. 8 f. und 16 f.; *H. Haller*, Typus und Gesetz in der Nationalökonomie, Stuttgart u. Köln 1950, S. 74; *Th. Pütz*, Theorie der allgemeinen Wirtschaftspolitik und Wirtschaftslenkung, Wien 1948, S. 143; *F. A. Hayek*, Individualism and Economic Order, Chicago 1948, S. 36; *E. Salin*, Wirtschaft und Wirtschaftslehre nach zwei Weltkriegen, Kyklos, Bd. 1 (1947), S. 38.

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nativen abgestimmt," schreibt *MacIver*[105]. „In festgefügten Demokratien sieht das Volk, wenn von ihm auch wichtige Entscheidungen verlangt werden, keine Notwendigkeit für den plötzlichen Umsturz der ganzen Wirtschaft. Es will Teiländerungen hier und dort, die im Zusammenhang stehen mit Änderungen, die es schon vorher gewollt und erreicht hat. Es wünscht vielleicht die Verstaatlichung gewisser Teilgebiete der Wirtschaft, aber es verlangt nicht die Verstaatlichung der Gesamtwirtschaft."

6. Bei der Kompliziertheit der Wechselwirkungen im gesellschaftlichen Kräftefeld sind *die Grenzen zwischen systemerhaltenden und systemverwandelnden Kontrollmaßnahmen,* besonders wenn diese institutionalisiert werden, in den seltensten Fällen eindeutig zu ziehen. Auch das, was die neoliberale Schule unter „marktkonform" verstanden wissen will, schränkt zuweilen die Verfügungsfreiheit bereits so ein, daß nur mehr ein Rest bewahrt wird, — und die Einschränkung geschieht um dieses „Restes" willen, der uns oder den Betreffenden eben die Hauptsache ist und daher als so kostbar erscheint, daß wir notgedrungen bereit sind, die Genauigkeit der „Marktkonformität" — nicht der Absicht, sondern der Maßnahmen — und mehr oder minder preiszugeben.

Es ist nicht ausgemacht, daß es immer die radikaleren Mittel wären, die der Wirksamkeit der Kontrolle besser dienen würden. Aber es gibt offensichtlich Umstände, in denen nur *radikale Eingriffe* zum Ziel führen. Die jährliche Kapitalakkumulation in der Bundesrepublik dürfte von 1948 bis 1958 durchschnittlich bei 4—5 Milliarden Mark gelegen haben, am Ende dieser Periode vielleicht bei 8—9 Milliarden[106]. *O. v. Nell-Breuning* nannte die Verteilung dieser jährlichen Kapitalzuwachsrate seit der Währungsreform, unter Übernahme eines Urteils, das *Jostock* gefällt hat[107], „einen Skandal".

Die statistische Übersicht, teilweise bis Anfang, teilweise bis Mitte der sechziger Jahre, findet sich aus den verfügbaren amtlichen und privaten Quellen bei *Huffschmid*[108]. Struktur und Tendenz der Vermögenskonzentration in der BRD ergibt sich, wenigstens im groben, aus der Veranlagung zur Vermögenssteuer sowie aus der Statistik der Betriebs- und Kapitalvermögen.

1966 waren „rund 455 000 Personen mit einem gesamten Rohvermögen von 138,5 Milliarden DM zur Vermögenssteuer veranlagt worden; davon lag gut die Hälfte in den Vermögensklassen über 100 000, fast 20 % über 250 000 DM; das von ihnen gehaltene Rohvermögen machte jedoch fast neun Zehntel beziehungsweise rund zwei Drittel des gesamten steuerlich erfaßten Rohver-

[105] *R. M. MacIver,* a. a. O., S. 262.

[106] Siehe *B. Gleitze,* Wo schlägt sich neugebildetes Kapital in der modernen Wirtschaft nieder?, VII. Europäisches Gespräch, a. a. O., S. 91—101; ferner S. 164, 174 ff.

[107] *P. Jostock,* Das Sozialprodukt und seine Verteilung, Paderborn 1955.

[108] a. a. O., S. 28—37 (Zitate S. 31, 33 f.).

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mögens natürlicher Personen aus. Diese Anteile lagen damit erkennbar über denen von 1963, so daß die Konzentration und Verlagerung von Vermögen in die oberen Vermögensklassen unbezweifelbar ist. — Die gleiche konzentrierte Struktur ist bei den Großvermögen (mehr als 1 Million DM) natürlicher Personen zu beobachten. Am 1. 1. 1966 wurden in der Bundesrepublik und in Westberlin 15 404 Vermögensmillionäre gezählt, das sind 3,3 % der natürlichen Personen, die der Vermögenssteuer unterworfen sind. Diese 3,3 % waren im Besitz von fast 50 Milliarden DM oder 42,1 % des gesamten der Vermögenssteuer unterworfenen Vermögens natürlicher Personen, das sich auf 117,4 Milliarden DM belief".

Am 1. 1. 1960 waren „89 % des landwirtschaftlichen Vermögens, 84 % des Grundvermögens und 79 % des Geldvermögens, also der allergrößte Teil der drei wenig ertragreichen Vermögensarten, den Haushalten zuzurechnen, die weniger als 100 000 DM Vermögen haben; diesen 17,6 Millionen Haushalten, das sind 98,3 % aller Haushalte in der Bundesrepublik, gehören dagegen nur jeweils 30 %, d. h. weniger als ein Drittel des Betriebs- und Kapitalvermögens. Die übrigen 305 000 oder 1,7 % aller Haushalte, denen gut ein Drittel des Gesamtvermögens gehörte, besaßen jeweils 70 % des Betriebs- und des Kapitalvermögens. Auf weniger als 1 Promille aller Haushalte entfielen in der untersuchten Zeit mehr als ein Viertel des gesamten Betriebs- und 43,2 % des gesamten privaten Kapitalvermögens in der Bundesrepublik".

„Solange der Anteil, den die Arbeitnehmerschaft an dem zuwachsenden Reichtum der Nation gewinnt, kleiner ist oder kleiner bleibt als der Anteil, der den bisher schon besitzenden Kreisen zufällt, ändert sich grundsätzlich nichts. Zu einer Umkehr der Besitz- und Machtverhältnisse kommt es erst, wenn der Anteil, den die heute besitzlosen Kreise an diesem Vermögenszuwachs erhalten, wenigstens um ein geringes größer ist als der Anteil, der den bisher schon Besitzenden zuwächst."[109] Die Methoden, die der heutigen Klassen-Verfügungsmacht gegenüber anzuwenden wären, um einen solchen Zustand zu erreichen, würden das bestehende System so verändern, daß man es dann „Sozialkapitalismus" nennen könnte, und es bliebe dahingestellt, inwieweit dieser Terminus Verhältnisse decken würde, die sich mit dem gleichen Recht als „demokratischer Sozialismus" bezeichnen ließen[110].

Die Wirklichkeit lehrt, daß es innerhalb der pluralistischen Demokratien, ohne deren Aushöhlung und gar Abschaffung durch syndikalistische, korporativistische oder kommunistische Verfahren, möglich ist, auch sehr tiefgreifende Wandlungen der ökonomisch-sozialen Verfügungsordnungen herbeizuführen. Eine Fülle von institutionalisierten

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[109] *B. Gleitze*, VII. Europäisches Gespräch, a. a. O., S. 165.

[110] *MacIver* sagt hierzu a. a. O., S. 332, Fußnote zu 133: „Wo eine konkrete Struktur bedeutende Elemente zweier gegensätzlicher Typen enthält, müssen wir vielleicht eine Doppelbezeichnung wie ‚sozialkapitalistisch' wählen. Dem haftet jedoch eine Gefahr an: ein sozialkapitalistisches System kann ebensosehr sozialistisch wie kapitalistisch sein; aber der allgemeine Sprachgebrauch wird es doch als kapitalistisch und nicht als sozialistisch abstempeln."

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Regelungen solcher Art, hauptsächlich in Großbritannien, Frankreich, Schweden, den Niederlanden und in Österreich, beweist es.

In den Fällen, wo es sich um demokratische *Verstaatlichungen* handelte, hat sich dreierlei herausgestellt:

a) Soll konzentrierte ökonomisch-soziale Verfügungsmacht im Sinne der Zielsetzungen der pluralistischen Demokratie kontrolliert werden, so muß nicht notwendigerweise Besitzaufsplitterung stattfinden. Das Problem ist in erster Linie politischer, in zweiter Linie unternehmungsrechtlicher Natur: wessen Generaldirektiven die Generaldirektoren für ihr Management unterstellt werden. Die in öffentlicher Hand konzentrierte Verfügungsmacht braucht nicht freiheitsschädlich zu wirken, so wenig wie die privatwirtschaftliche. Es gilt vielmehr nur, was einer der ständigen Wirtschaftsberater des britischen National Coal Board, *Schumacher*[111] festgestellt hat: „Wenn ich erst einmal die Brutalität der staatlichen Macht voraussetze, dann sind Unterschiede der Eigentumsverteilung völlig wesenlos." *O. v. Nell-Breuning* hat dies vollends an dem treffenden Beispiel klargemacht, daß Eigenheimbesitzer vor dem Terror einer Geheimen Staatspolizei nicht sicherer sind als Mietblockbewohner[112].

b) Es genügt, quantitativ einen *Bruchteil* der industriewirtschaftlichen Verfügungsgewalt — anscheinend zwischen 15 und 25 %[113] —, allerdings in qualitativen Bereichen vor allem der Grundstoffindustrien, durch die Kräfte der politischen Demokratie herrschaftlich umbesetzen zu lassen, um die Möglichkeit zu haben, nicht nur dort, sondern auf die weitesten Teile der Gesamtwirtschaft und der gesellschaftlichen Entwicklung, soweit sie wirtschaftlich mitbestimmt ist, den kontrollierenden Einfluß im gemeinten Sinne auszuüben. *Albu* von den „New Fabians"[114] gab für Großbritannien die Zahl der Gesellschaften, die in Betracht zu ziehen seien, mit nur rund 12 000 an; „zusammen mit den verstaatlichten Industrien (sind sie aber) die Träger von gut und gern 50 Prozent der wirtschaftlichen Aktivität unseres Landes, ... so daß die Zahl der für die Sicherung einer ausreichenden Kontrolle in Mitleidenschaft gezogenen Gesellschaften, selbst wenn man die nichtverarbeitenden Gesellschaften mitrechnet, nicht übermäßig groß wäre".

c) Es ist ein Märchen, daß die Rentabilität der in öffentliche Hand überführten ökonomischen Verfügungsmacht geringer sein müsse oder

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[111] *E. F. Schumacher,* VII. Europäisches Gespräch, a. a. O., S. 84.

[112] *O. v. Nell-Breuning,* a. a. O., S. 66.

[113] Vgl. *P. Blau,* Erfahrungen mit der Industriesozialisierung in Österreich, VII. Europäisches Gespräch, a. a. O., S. 237—252 und S. 319—329; *E. F. Schumacher, D. Goldschmidt,* Erfahrungen mit der englischen Sozialisierung, a. a. O., S. 287—312.

[114] *A. Albu,* Die Organisation der Industrie, in: Neue Beiträge sozialistischer Autoren, Frankfurt/M. 1953, S. 185 f.

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sei als die andere. Wenn man natürlich nur „Schulden sozialisiert", nachdem die Gewinne, solange sie erzielt werden konnten, privatisiert worden sind, dann ist der Beweis für die Nachteiligkeit der Gebarung gemeinwirtschaftlicher Unternehmen, zumindest immer für einige Zeit, leicht zu erbringen. Der wéder für das eine noch für das andere System voreingenommene Blick wird jedoch an den Realitäten der genannten Länder — im übrigen auch aus dem Bereich der BRD, wobei wirklich nicht ausschließlich an das Volkswagenwerk gedacht zu werden braucht — rasch feststellen, daß die Ursachen von Rentabilität und Unrentabilität sich nicht nach Privatwirtschaft und Gemeinwirtschaft aufschlüsseln lassen, sondern daß sie in beiden Verfügungsbezirken gleicherweise anzutreffen sind.

Allerdings, so schreib *Albu* für die britischen Verhältnsisse[115], „in einer Zeit, da alle Kosten steigen, ist es nicht verwunderlich, daß vornehmlich die verstaatlichten Industriezweige zur Zielscheibe der Kritik gemacht werden; dabei enttäuscht lediglich, daß diese Industrien nicht imstande sind, der Öffentlichkeit klarzumachen, wieviel weniger ihre Preise im Verhältnis zu denen anderer Industrien gestiegen sind, und damit die böswilligen Angriffe gegen sich zu entkräften."

Generell hingegen stellt *Schumpeter* fest[116], daß die vollkommene Konkurrenz in mehrfacher Hinsicht „nicht allein unmöglich, sondern auch unterlegen" ist, und daß sie „keinen Anspruch erheben kann, als Muster idealer Leistungsfähigkeit zu gelten. Es ist deshalb ein Fehler, die Theorie der staatlichen Regulierung der Industrie auf das Prinzip zu gründen, daß die Großunternehmung so arbeiten sollte, wie die entsprechende Industrie es bei vollkommener Konkurrenz täte. Und die Sozialisten sollten in ihrer Kritik sich eher auf die Vorzüge einer sozialistischen Wirtschaft als auf die des Konkurrenzmodells berufen."

7. Was indes die faktische *Kontrolle politischer Interventionen* anlangt, die sozusagen am laufenden Fließband der Industriegesellschaft ausgeübt werden: Wenn die Einflußnahme als unzulässig angesehen werden muß, weil sie das partikuläre Interesse nicht wirklich als ein Stück Allgemeinwohl ausweist, sondern diesem zuwiderläuft, so kann überall an beispielhaften Fällen, die die Interventionspraxis eindämmen, die Richtigkeit der generellen Feststellung gezeigt werden[117], daß niemand

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[115] Ebenda, S. 177.

[116] *J. A. Schumpeter*, a. a. O., S. 175. Vgl. dort auch S. 156 f.

[117] Für Italien etwa tat es *J. LaPalombara* von der Michigan State University, der im besondern das Verhältnis von Interessenverbänden und Bürokratie untersucht hat; siehe The Utility and Limitations of Interest Group Theory in Non-American Field Situations, The Journal of Politics, Vol. 22 (1960), S. 29 f. Er weist nach, daß selbst die mächtige Katholische Aktion und nach ihr die „Confindustria" „in dem Maße erfolglos sind, in dem die Regierenden das Konzept vom ‚öffentlichen Interesse' als verbindlichen Mythos

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gezwungen ist, in öffentlichen Angelegenheiten der ökonomisch-sozialen Verfügungsmacht einzelner oder von Verbänden willfährig zu sein, mag sie noch so groß sein[118].

Ganz allgemein ist freilich das Problem einer voll befriedigenden Mediatisierung der ökonomisch-sozialen Interessen noch in keiner Demokratie gelöst, so nämlich, daß sie die staatliche Integrationsaufgabe nicht behindern oder in einzelnen Fällen gar zerfleddern, sondern, soweit sie sich ohne politische Regelungen nicht ordentlich verwirklichen lassen, in aufbereiteten Alternativen sich zur Entscheidung dartun. Der kommunistische Versuch bedient sich da gegenüber den Sowjets, also institutionalisierten Räten, denen innerhalb ihrer politischen Instrumentalisierung weitreichende Befugnisse zustehen, der richtungweisenden, die Richtung erzwingenden Kontrolle der Einheitspartei; das ist das Gegenteil des Pluralismus, mit dem außerhalb des kommunistischen Bereichs die Freiheit identifiziert wird. Der ökonomische und politische Effekt des kommunistischen Versuches dürfte aber die pluralistischen Demokratien früher oder später in eine wahrscheinlich scharfe Rivalität um ihre Lösung als die bessere drängen; dieser Nachweis allein ist zwischen der kommunistischen Scylla und der faschistischen Charybdis der Entwicklungsweg der Freiheit.

C. Bedingungen der Normalität des Interessenausgleichs

Die Verwirklichung der Kontrollmöglichkeiten ist unter den wechselnden, konkret-historischen Umständen sehr verschieden, es müssen aber unter *allen* Umständen bestimmte Voraussetzungen gegeben sein, damit man sagen kann, die pluralistische Demokratie als Herrschaftstypus bewege sich, hochentwickelt sowohl rechtlich, institutionell und verfahrensmäßig als auch industriewirtschaftlich, auf die für sie bezeichnenden Ziele hin: die Gleichheit der Chancen für vergleichbare Qualitäten; die in jedem Fall zureichende, möglichst aber optimale Versorgung aller mit Gütern und Dienstleistungen; aus der Gesamtheit der Staatsbürger die wirklichkeitsgerechte und wirksame Repräsentation der quantitativ relevanten Meinungs- und Willensströmungen; die Institutionalisierung von Opposition. Die beständige Bemühung, ein verbessertes Niveau solcher Art zu erreichen, macht die demokratische Normalität aus, und eben dafür gibt es einige durch Erfahrung erhärtete Bedingungen.

1. Mehr als jedes andere Herrschaftssystem ist das modern-demokratische in Gefahr, an seinem eigenen Ordnungsprinzip: dem Pluralismus

vertreten", und er sagt: „Ich war beeindruckt durch die Häufigkeit, mit der die interviewten Verwaltungsbeamten ihre politische Position oder ihr politisches Verhalten als im ‚nationalen Interesse' liegend oder dem ‚Allgemeinwohl' entsprechend klarzumachen versuchten", S. 35 und 49.

[118] Siehe oben Abschnitt II C, unter 4 (S. 610 f.).

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autonomer Kräfte, zugrunde zu gehen. Es ist daher noch radikaler darauf angewiesen, eine *politische Klasse* hervorzubringen und kontinuierlich zu erneuern, die befähigt und vor allem entschlossen ist, zu *herrschen.* Andernfalls schafft sich eine Klassengesellschaft den Klassenstaat der Privilegien oder des gemeinsamen Verfalls.

Den *Begriff des Pluralismus,* am angeblichen Beispiel der Weimarer Republik entwickelt, hat *Schmitt*[119] auf den negativen Zustand einer Polykratie einschränken wollen, deren Politik das Spiegelbild ihrer gesellschaftlichen Zerspaltenheit sei, und *W. Weber* folgt ihm darin für die Bundesrepublik von heute nach: er nennt unsere Verfassungswirklichkeit, wie bereits erwähnt, „ein System von Oligarchien" einerseits der Wirtschafts- und Interessenverbände, anderseits „apparathafter Parteiorganisationen", und eben dies Pluralismus[120]. Allerdings meint er, daß so die „politische Freiheit durch Vereitelung jedweder Machtkonzentration" in hohem Maße erreicht werde: „Man behauptet kaum zuviel, wenn man der geschilderten Lage das wesentliche Verdienst an dem real freiheitlichen Charakter unserer heutigen Verfassungszustände zumißt. Freilich ist die so bewirkte ‚balance des pouvoirs' untergeordnet und ohne konstruktive Konzeption, so daß auch die durch sie gewonnene Freiheit chaotische Züge aufweist und erst recht die bei aller Teilung unverzichtbare überwölbende Einheit der staatlichen Herrschaftsordnung verfehlt wird."

Mir scheint hier *beides* nicht richtig gesehen zu sein, weder der „real freiheitliche Charakter unserer heutigen Verfassungszustände", noch die Art und Weise, wie die „Vereitelung jedweder Machtkonzentration" zustande gekommen sein soll, — das eine nicht richtig, weil unsere reale Freiheit — hauptsächlich aus Gründen, die in der weltpolitischen Situation und in unserem eigenen konformistisch-behäbigen Bewußtsein liegen — gar nicht so groß ist, das andere, weil es mitnichten die Interessengruppen selbst sind, die einander daran hindern würden, Macht zu konzentrieren; sie konzentrieren recht kräftig. Soweit sie sich politisch gleichwohl nicht durchzusetzen vermögen, hindern sie daran diverse Faktoren, je nachdem beispielsweise parteipolitische Koalitionen oder auch verwurzelte Treue der Beamtenschaft gegenüber dem Staat, dem öffentlichen Interesse, den Aufgaben des Allgemeinwohls.

Aber es handelt sich hier nicht um die konkreten Verhältnisse in der Bundesrepublik; der Hinweis sollte lediglich der Klarstellung dienen, daß der Pluralismus als gesellschaftliches *und* politisches System entweder im *Schmitt-Weber*'schen Sinne als eine Verfallserscheinung aufzufassen ist, oder, wie es hier geschieht, sehr gegenteilig im Sinne hochentwickelter demokratischer Freiheit, was zur Bedingung hat, daß eine politische Klasse existiert, die fähig und willens ist, ihre Eigeninteressen loyal in Einklang zu setzen mit denen der Allgemeinheit. Das ist möglich; weil sich die moderne Gesellschaft weitgehend nach Interessen gliedert, braucht sich nicht die Staatspolitik entsprechend zu funktionalisieren.

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[119] *C. Schmitt,* Der Hüter der Verfassung, Tübingen 1931, S. 71 ff. u. 89 f.
[120] *W. Weber,* a. a. O., S. 49 u. 55 ff.

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Daß der Ausgleich der gesellschaftlichen und insbesondere der ökonomischen Interessen nicht „automatisch" erfolgt, das sehen heutigentags auch die Liberalen ein. „Abgetan ist die Staatsfremdheit des verwichenen Wirtschaftsliberalismus, des ‚Manchestertums'...: der neue Liberalismus denkt entschieden politisch", schreibt *Sternberger,* und er zitiert[121] aus einer Rede, die *Rüstow* als Vorläufer des Neoliberalismus am 28. September 1932 bei der Dresdner Tagung des Vereins für Socialpolitik gehalten hat: „Die Durchführung dessen, was ich vorschlage, fordert — wie übrigens auch schon die bloße Garantie der Marktfreiheit, die Garantie fairer Konkurrenz mit gleichen Spielregeln für alle — einen starken Staat, der über den Gruppen, über den Interessenten steht, einen Staat, der sich aus der Verstrickung mit den Wirtschaftsinteressen, wenn er in sie hineingeraten ist, wieder herauslöst. Und gerade dieses Sichbesinnen und Sichzurückziehen des Staates auf sich selber, diese Selbstbeschränkung als Grundlage der Selbstbehauptung ist Voraussetzung und Ausdruck seiner Unabhängigkeit und Stärke. Nur so kann er wieder kraftvoll, kann er wieder eigenständig, kann er wieder neutral im Sinne des höheren Ganzen werden, überlegen nicht durch Gewalt und Herrschaft, sondern durch Autorität und Führertum."

Die politische Klasse ist es, die dafür zu sorgen hat, daß im Staat keinem andern Interesse als dem der Allgemeinheit der Primat zukommt. Auf den Beitrag hin, der für das Allgemeinwohl geleistet wird, und auf die Gefahr hin, die das Gegenteil darstellt, ist jedes Partikulärinteresse von der politischen Klasse zu prüfen.

2. Noch viel wichtiger als die Verfahren, die verfassungsrechtlich festgelegt werden, um die Regierenden der Demokratie in einem immer wieder beendbaren Auftragsverhältnis in Funktion zu setzen, ist die politische Substanz, das heißt der Fonds an Zielvorstellungen, Gesinnungen, Bereitschaft und Erfahrung, die dem modern-demokratischen Prinzip entsprechen und die politische Führungsklasse instandsetzen, in der Wechselwirkung von vorgelebtem Beispiel und dann geleisteter Einordnung das System zu bewähren. Ist die Substanz — die verpflichtende demokratische *Konvention* — in ausreichendem Maße stets vorhanden, so leisten die staatlichen Gewalten das ihrige; ihre formale Trennung voneinander, damit sie einander kontrollieren, sichert die Demokratie in ihrem Bestand nicht[122]. Die kraftvolle Konvention lockt für das Parlament, für die Regierung und für die Verwaltung die Kräfte an, die das *Ganze* wollen.

Clark meint[123] idealistisch, die USA seien die einzigen, die, zur Förderung des Richtigen und zum Zwecke der Kontrolle gegen Mißbräuche, auf allen

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[121] *D. Sternberger,* Der Gelehrte als Arzt der Gesellschaft. Zu Alexander Rüstows 75. Geburtstag, FAZ v. 6. April 1960, S. 11.

[122] Gerade die Erfinder der formalen Trennung, nicht zuletzt *Montesquieu,* kannten für deren Funktionieren die Bedeutung der politischen Herrschaftsschicht. Vgl. *Martin Draht,* Verfassungsrecht und Verfassungswirklichkeit, Hess. Hochschulwochen für Staatswissenschaftliche Fortbildung 1952, Bad Homburg 1953, S. 39 ff.

[123] *J. M. Clark,* Government Regulation of Industry, Enc.Soc.Sci., Vol. 7/8, 1950[8], S. 126.

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Gebieten der Wirtschafts- und Sozialpolitik der demokratischen Konvention einen spezifischen Ausdruck in ihrem Verfassungsrecht gegeben haben, um klar definierte Unterscheidungsmerkmale für das vital Unerläßliche zu besitzen. Es ist, „verbunden im allgemeinen mit dem Interesse für Sicherheit, für Gesundheit und für Moral, jedem andern opponierenden Interesse übergeordnet, wenn auch nicht so, daß der private Unternehmensgeist verkümmern müßte". Als Beispiel, in dem eine entsprechende staatliche Kontrolle ausgeübt werde, nennt er etwa das Verbraucherinteresse an guter Warenqualität unter dem Gesetz jener dreifachen Forderung, wozu dann die Vergleichsmöglichkeit gehöre („interest in knowledge of what the market offers"), während alles andere — wie Wirksamkeit, Dauerhaftigkeit, Form — dem freien Urteil überlassen bleibe. Der Schutz der Arbeitnehmer, der sich daraus ergebe, sei besonders wichtig, denn „Armut ist der Demokratie abträglich". Auch die Gerichte hätten somit die Möglichkeit, sinnvoll einzugreifen, und doch sei der genannte Maßstab von Sicherheit, Gesundheit und Moral flexibel genug, um die Wirklichkeit nicht zu vergewaltigen. — Daß die Konventions*prinzipien* freilich nicht genügen zeigt die Generalkrise, in die die USA seit der Mitte der sechziger Jahre gelangt sind.

3. Die Qualität der politischen Klasse steht nicht in direkter Proportion zum allgemeinen Wahlrecht, sozusagen zur Weite des parteikontrollierten Einzugsgebietes der politischen Begabungen, sondern ist in erster Linie das Ergebnis einer vielfältigen Aktivität der ökonomisch-sozialen Führungsklassen. In den Demokratien unseres Typs sind es zwei — in ihnen, zwischen und über ihnen die Intellektuellen —: die *Unternehmerschaft und die Industriearbeiter.* Gewiß schaffen sie sich auch ihre direkten Repräsentationen an den Orten der politischen Autorität, aber das *System* der pluralistischen Demokratie funktioniert nur, wenn diese beiden Klassen, die wegen der Rolle, die sich in ihr spielen, nicht mit beliebigen Interessenorganisationen gleichgesetzt werden können[124], die Fähigkeit entwickeln, Politiker hervor und an die Macht zu bringen, die von den Normen demokratischer Konvention durchdrungen sind, eine realisable Vorstellung vom Ganzen zu vollziehen verstehen und Erfahrung in der überlegenen Manipulation von Interessen besitzen. Deren Ausgleich, nicht mit Hilfe einer einfachen Gruppenparitäts-Arithmetik, sondern als staatliche Integrationsaufgabe, müssen sie auch dann zustande bringen, ja gerade dann, wenn sie selbst sich in Übereinstimmung und in enger Fühlungnahme mit weitgreifenden legitimen gesellschaftlichen Teilinteressen befinden[125]. Nur in Ausnahmefällen wird diese Forderung befriedigend erfüllt. Das Mitglied der politischen Herrschaftsschicht, das einer der ökonomisch-sozialen Führungsklassen angehört oder nahesteht, ihr vielleicht sogar entstammt, repräsentiert sie in der Staatspolitik — macht sie dort gegenwärtig und wirksam —, so daß es als Abgeordneter, weil diese Interessen auch die seinigen sind,

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[124] Vgl. *F. Deus* (Hrsg.), III. Europäisches Gespräch v. 9.—11. 7. 1955, Düsseldorf 1956.

[125] Siehe oben unter III A, 9 u. 10.

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ihnen moralisch Rechenschaft schuldet über Prinzipien- und Zieltreue, — aber innerhalb eines Konzeptes, das von der objektiven Situation der einen oder der andern ökonomisch-sozialen Führungsklasse politisch seinen Ausgang nimmt und insofern mit dem Charakter eines „Groß-Teils" behaftet ist, das jedoch vom Ganzen her, auf das es zustrebt, von dem es bereits bestimmt ist, eine normierende Kraft gewinnen soll, die noch den eigenen Startgrund in sich einbezieht.

Das Verhältnis ist, wie man sieht, durch und durch dialektisch; die Gegner sind in der Tat Partner. Nur so kann der Pluralismus als System existieren; nur so gibt es eine Kontrolle der Konzentrationen in Freiheit, das heißt trotz den ökonomisch-sozialen Konzentrationen die politische Souveränität gewählter, auswechselbarer Repräsentanten der Teile *und* des Ganzen in einem.

Den *Gewerkschaften* als der Vertretungsorganisation der Arbeitnehmerschaft kommt in diesem Prozeß, demokratische Normalität als ein dynamisches Gleichgewichtsverhältnis herzustellen und zu bewahren, gegenüber den Organisationen der Unternehmerschaft, wenn man jedenfalls den Fortschritt auf die demokratischen Ideale hin meint, die wichtigere Rolle zu, solange die Gewerkschaften in Opposition sind. Ohne sie fehlte der ebenso prinzipielle wie konkrete Machtanstoß zur Kontrolle. Dies ist ja der Grund, warum der Oberste Gerichtshof der Vereinigten Staaten in seiner Rechtsprechung die Gewerkschaften vom Anwendungsbereich der Antimonopol-Gesetze bewußt ausnimmt, sie aber sofort einbezieht, wenn sie in Übereinstimmung mit der Unternehmerschaft und in Zusammenarbeit mit ihr die ökonomisch-sozialen Verhältnisse zu beherrschen versuchen[126]; sie sind für das universelle Konkurrenz-System eine zentrale „countervailing power", ohne die es darin keine Normalität gibt[127]. Allerdings muß, wenn die Gewerkschaften als systemerhaltende Gegenkraft wirksam sein sollen, selbstverständlich die Notwendigkeit der Mitbestimmung erkannt und der Wille, von ihr umfassend Gebrauch zu machen, vorhanden sein. Dann genügt vielfach schon, wie so häufig in

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[126] Siehe *J. M. Clark,* a. a. O., S. 128; *P. T. Homan,* a. a. O., S. 120, *Murray T. Quigg,* Trade Union Activities and the Sherman Law, AAmAcPSocSci., Vol. 147 (1930), S. 51 f.

[127] Ich kann daher *S. Landshut,* Bestimmt die Klassenzugehörigkeit unser gesellschaftliches Dasein und Denken?, Referat beim V. Europäischen Gespräch in Recklinghausen (1956), Köln 1957, S. 25—38, nicht zustimmen, wenn er meint, in der auf Egalität angelegten modernen Demokratie seien „die Interessen, die die Organisationen vertreten, per definitionem und auf dem prinzipiellen Fundament der Gleichheit alle untereinander an sich gleichwertig. Sie mögen mit verschiedenem Erfolg, mit größeren oder geringeren Mitteln sich zur Geltung bringen, aber es gibt auf dem Boden der allgemeinen Gleichheit und im Rahmen der Einheitsgesellschaft kein Kriterium, an dem sich das größere oder geringere Recht, der höhere oder niedrigere Rang irgendeiner der partikularen Interessen bemessen ließe. Es gibt nur quantitative Maßstäbe." (S. 34.)

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der Politik, die pure Möglichkeit einer Gegenaktion — die „power in being" —, um eine unerwünscht erscheinende Entwicklung zu verhindern oder wenigstens zu mäßigen[128].

4. Wie die politische Klasse im pluralistischen System der ökonomisch-sozialen Führungsklassen bedarf, so bedürfen diese jener. Auch hier liegt ein zwingendes dialektisches Verhältnis vor, oder wir haben es nicht mehr mit einer funktionierenden pluralistischen Demokratie zu tun[129].

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[128] *B. D. Bensch,* Die Mitbestimmung der Arbeitnehmer im Großbetrieb — Schranke gegen den Mißbrauch wirtschaftlicher Macht?, in: Konzentration ohne Kontrolle, a. a. O., S. 223—240, untersucht die Erfolgsbedingungen institutionalisierten Arbeitnehmereinflusses im Betrieb, im Unternehmen und in der Gesamtwirtschaft. *O. v. Nell-Breuning* gibt in den beiden Schriften „Mitbestimmung" und „Streit um Mitbestimmung", Frankfurt/M. 1968, als deren engagierter Befürworter einen Überblick. Die Literatur zum Thema ist im übrigen in der Bundesrepublik Legion, und der Strom der Veröffentlichungen hält unentwegt an.

[129] *S. Landshut* sieht a. a. O., S. 35 ff., unser pluralistisches System auf eine lediglich organisierte, weil klassenlos werdende, mobile Einheitsgesellschaft sich zubewegen, die folglich, nach *Marx,* auch staatsfrei sein werde, weil „die öffentliche Gewalt den politischen Charakter" verloren hätte, sobald „alle Produktion in den Händen der assoziierten Individuen konzentriert" wäre („Kommunistisches Manifest"). Die ökonomisch-soziale und die politische Gleichheit der Chance bringen jedoch in Wahrheit nicht reale Gleichheit, sondern eine grundsätzlich kontrollierte Ungleichheit hervor, weil die Gleichheit der Chancen und ihre Folgen im dialektischen Verhältnis unserer gesellschaftlichen Wirklichkeit nur komplementäre Gegensätze sind; die Marxsche Projektion ist daher, um mit Landshut selbst zu sprechen, nicht mehr „als ein konsequentes Zu-Ende-Denken der Ansätze, die im Prinzip einer Gesellschaft des allgemeinen Wettbewerbs auf dem Boden der Gleichheit im Keime angelegt sind ... So hat Marx die ‚klassenlose Gesellschaft' aus der ‚Anatomie der bürgerlichen Gesellschaft' im wörtlichsten Sinne ‚entwickelt': er hat in Gedanken entfaltet, was die Wirklichkeit im Keime in sich enthielt." Enthielt *und* enthält, gewiß, aber wegen der fortwirkenden *Ursachen* ihrer eigenen Dialektik kann sie diese nicht bis zu ihrer Aufhebung weitertreiben. *Dolf Sternberger* ist im Zusammenhang jener Debatte, a. a. O., S. 59—61, noch viel weiter gegangen. Er meinte, die Opposition sei etwas so „Ursprüngliches", daß sie der ökonomisch-sozialen Gegensätze gar nicht bedürfe. (Deren Hinschwinden wäre daher, dies die logische Folgerung, ohne sonderliche Bedeutung für die Demokratie; wohl vermutlich eher sogar ein Vorteil.) Das parlamentarische System Großbritanniens habe die Opposition im 18. Jahrhundert, das in dieser Hinsicht „charakteristisch" gewesen sei, innerhalb eines einheitlichen aristokratischen Regimes entwickelt. „Das Gegensatzspiel von Regierung und Opposition ist gerade klassisch in einem Parlament ausgebildet worden, das ein rein adeliges Parlament gewesen ist, das eine gesellschaftliche Einheit gebildet hat und in dem nicht etwa auf der einen Seite Aristokraten und auf der anderen Seite bürgerliche Kaufleute ursprünglich gestanden hätten. Dieses Element ist erst im 19. Jahrhundert eingedrungen." (S. 59 f.) Sicherlich, Opposition als Methode ist keine Erfindung der pluralistischen Demokratie; aber für diese ist sie absolut und radikal wesentlich, — dem System inhärent; das macht einen der Grundunterschiede zu jedem andern politischen Herrschafts-Typus aus. Und historisch-konkret ist dieser Unterschied außerdem mitcharakterisiert gerade durch das, was „erst im 19. Jahrhundert eingedrungen" ist: durch die ökonomisch-sozialen Gegensätze.

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Wiederum hieße es, in einer altliberalen Weise die Wirklichkeit gründlich verkennen, wollte man annehmen, im puren Wettbewerb der ökonomisch-sozialen Führungsklassen entstehe die gemeinsame politische Schicht als eine Art Harmonie-Resultat. Vielmehr muß sie ja selbst die jeweils in der Minderheit gebliebene Grundauffassung mit ihrem Anhang als *Opposition* enthalten, damit ein „alternative system of conduct" entsteht, ein Auswahl- und Auswechslungsprogramm zur Regierungsrealität, das es möglich macht, diese durch Kritik vorwärtszutreiben oder zu moderieren[130]. Die Existenz der Opposition erst ist die praktische Artikulierung der modernen demokratischen Möglichkeit, Machtkonzentrationen zu kontrollieren. Nach Übernahme der Regierungsgewalt ihrerseits behält die gewesene Opposition, ohne Verletzung der Homogenität der allgemeinsten, ungeschriebenen, gemeinsamen Gültigkeiten, von dem, was der Widerpart verwirklicht hat, das eine bei, schafft das andere ab und besorgt das Dritte neu. Nur so, durch Übereinstimmung in den letzten Grundanschauungen vom Lebenswichtigen und vom Wenigerwichtigen, die in den deklarativen Verfassungsnormen niedergelegt sind, bewährt sich die Evolution.

Die „Gleichgewichts-Theorie", derzufolge sich die Interessen einigermaßen „auspendeln", wird also nur dann — bedingt — Realität, wenn es alternierende politische Führungsgruppen gibt, die unter der von *Mills* großartig formulierten Erfahrungsregel wirken, daß „Machtgleichgewicht Gleichheit der Macht" voraussetzt[131]. Die reale Möglichkeit solcher Gleichheit muß wenigstens gegeben sein. Dann besorgen jene Führungsgruppen und ihre Repräsentanten, die für deren Allgemeinwohl-Konzeptionen wirken, bewußt den Ausgleich. Die an der Herrschaft befindliche Gruppe wird und kann es nicht in erhabener Neutralität tun, das ist in Anbetracht der elementaren Existenzbedeutung und bei der Verflechtung der Probleme in der modernen Gesellschaft völlig unmöglich; aber sie ist imstande, unter wachsamer Beobachtung seitens der Opposition, die verschiedenen Interessen gegeneinander auswägend und ausspielend, es auf das eigene Konzept hin zu tun, allenfalls radikal, doch in dem Rahmen, den die starken demokratischen Konventionsnormen bilden.

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[130] Als eine — gegenüber der klassischen (liberalen) — „andere Theorie der Demokratie" hat dies *J. A. Schumpeter*, a. a. O., S. 427 ff., dargetan, im einzelnen aber und im historischen Zusammenhang vor allem *S. Landshut*, Formen und Funktion der Oppositon, Referat auf der Jahrestagung 1954 der Vereinigung für die Wissenschaft von der Politik, vgl. ZfP (NF), Jg. 1 (1954), S. 365 ff.

[131] *C. W. Mills*, a. a. O., S. 246. Das Kapitel: The Theory of Balance, S. 242 ff., enthält eine mit Reihen von Tatsachen vorgenommene Demaskierung des Ideologie-Charakters jener romantischen, wenn nicht härter zu bezeichnenden Illusion, die von den Klassensituationen absehen zu können meint.

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Mit allen seinen Schwächen ist dieses Verfahren jedenfalls besser als der bare Sozialdarwinismus, der sich mit menschenfreundlichen Lösungen lediglich drapiert.

5. Das System der gegenseitigen checks and balances, der einander kontrollierenden Kräfte, die in einem dynamischen, die Entwicklung nicht blockierenden, sondern fördernden Gleichgewicht zueinander stehen, wie es die Angelsachsen lange Zeit praktiziert haben, setzt aber ferner, damit es einigermaßen optimal funktioniert, voraus, daß das Autoritäts-, das heißt das Entscheidungsgefüge in Gesellschaft und Staat richtig ausgewogen ist. (Was politisch richtig ist, kann nur prinzipiell *und* historisch-konkret beantwortet werden.)

Hier tritt das *föderalistische Problem* der Kompetenz der Zentralen gegenüber den Autonomien und umgekehrt zutage. Es ist in keiner industriewirtschaftlich hochentwickelten pluralistischen Demokratie bisher auch nur annähernd befriedigend gelöst, ja man weiß nicht einmal, ob gewisse wirtschaftliche Konzentrationen, die unter den gegebenen Anforderungen der zivilisatorischen Bedürfnisse rational notwendig und vordringlich sind, zwingend querliegen zu den individuellen, familialen, lokalen und regionalen Autonomien. Bisher schien es so zu sein; Föderalismus und Kapitalismus vertrugen sich nur schlecht miteinander, und es war nicht der Föderalismus, der sich dabei erfolgreich behauptete. Mit anderen Worten: die Kontrolle der Konzentrationsvorgänge ist auch aus diesem Grunde bis heute eine fragwürdige Angelegenheit geblieben.

Das Beispiel der USA zeigt, daß sich die ökonomisch-sozialen Konzentrationen innerhalb eines traditionellen Staatsföderalismus durch geschickteste Anpassung zwar keineswegs reibungslos, aber doch höchst wirksam vollziehen konnten. Die kapitalistische Macht hat die doppelte Qualität einerseits der zentralen Steuerung, andererseits lokal und regional der wirtschaftlich-politischen Personalunionen entwickelt; die föderalistische Macht wurde folglich teils durch Interessengleichsetzung ausmanövriert, teils, wenn dies unerläßlich erschien, ganz einfach weitgehend korrumpiert. Gegenüber den politischen Zentralgewalten war dies nicht annähernd in gleichem Maße möglich[132]. Offensichtlich bedarf es in föderalistischen und in stark dezentralisierten Staaten spezifisch begrenzter, aber überallhin wirkender Vollmachten der Zentralautorität, und zwar sowohl in Gesetzgebung als auch in Regierung und Verwaltung, um die lokalen und regionalen Möglichkeiten der Kontrolle erfolgreich zu ergänzen.

Der Zusammenhang ist weder im ganzen noch im einzelnen untersucht. Es müßte angesichts der Tragweite demokratisch richtiger oder falscher Entwicklungen objektiv um so gründlicher, umfassender und rascher geschehen, als

[132] Vgl. *V. O. Key Jr.*, a. a. O., S. 188 ff.

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sich durch die Zentralsteuerungsprozesse der Automation und der Versorgung mit Atomenergie nunmehr — erstmals in der industriewirtschaftlichen Entwicklung — ungeahnte Möglichkeiten der Verbindung von Konzentration und Dezentralisierung zu eröffnen scheinen. In diesem Zusammenhang — freilich nicht nur in diesem — bedürfte auch das wechselseitige Verhältnis von Urbanismus, wirtschaftlichen Konzentrationen und Demokratie soweit wie möglich der präzisen Feststellung und Analyse.

6. Schließlich ist eine der Grundbedingungen der Normalität des demokratischen Interessenausgleiches die *Publizität der Verhältnisse*. In dieser Beziehung liegen die Dinge meist sehr im argen. Denn obwohl es grundsätzlich beinahe überall durchaus möglich ist, die Wirklichkeit der ökonomisch-sozialen Konzentrationen zu durchleuchten — und in der Regel sogar die ihres Einflusses auf die Politik — geschieht es doch in den seltensten Fällen. Das hängt bei der Tagespresse mit der demokratischen Entwicklungsmerkwürdigkeit zusammen, die anscheinend nicht zu vermeiden war und die heute nicht mehr beseitigt werden kann, daß die Zeitungen das öffentliche Interesse vertreten, aber in einem privaten ertragswirtschaftlichen Wettbewerb; bei den Rundfunk- und Fernsehanstalten, sofern sie rechtlich anders strukturiert sind, mit ihrer durch die paritätische Zusammensetzung der Überwachungsorgane verursachten Praxis, in den Angelegenheiten der Öffentlichkeit eine „neutrale" Objektivität durch Ausschaltungen und Abstriche erreichen zu wollen und vorzutäuschen.

Daß die gesetzlichen Publizitätsvorschriften des Handelsrechtes nicht ausreichen, die Machtverhältnisse kontrollierbar offenzulegen, weiß jedermann. Die prinzipielle Eingriffsbereitschaft im öffentlichen Interesse auf Grund ständiger und systematischer Beobachtung hat jedoch überall dort eine bessere Basis erhalten, wo man entschlossen zu einer möglichst ideologiefreien Planung im jeweiligen pragmatischen Ausmaß X mit Hilfe der *volkswirtschaftlichen Gesamtrechnung* und in Abstimmung auf die weltwirtschaftlichen Zusammenhänge überging[133].

Nur das Zusammenwirken vieler und verschiedenartiger Kräfte der Demokratie kann, was Übersicht und Einblick betrifft, einigermaßen und immer von neuem Abhilfe schaffen. Für die Kontrolle der Konzentrationen durch Offenlegung gilt jedenfalls die Maxime: Je größer die

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[133] Für die BRD gab den ersten gründlichen Anstoß dazu, ohne daß der Initiative ihr voller Verwirklichungserfolg beschieden gewesen wäre, der vormalige niedersächsische Finanzminister G. *Strickrodt*, Nationalbudget oder Gesamtfinanzplan?, Mitt.Inst. Rf., 1951/9; *ders.*, Das Nationalbudget, seine Bedeutung für die Politische Strategie und das unternehmerische Handeln, Berlin 1954; *ders.*, Die Volkswirtschaftliche Gesamtrechnung in der Verfassungsordnung, Heidelberg 1957; *ders.*, Die Volkswirtschaftliche Gesamtrechnung als Realisierungsinstrument des öffentlichen Vertrauens, Sozialer Fortschritt 1957, S. 217 ff.; *ders.*, Die sozialpolitische Bedeutung der Volkswirtschaftlichen Gesamtrechnung, Schriften der Ges. f. Soz. Fortschritt, Bd. 8, Berlin 1958.

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Machtmöglichkeit, um so präziser im öffentlichen Interesse die Einblicknotwendigkeit. Das trifft nicht zuletzt auch auf eine so neuralgische Beziehung zu, wie es die *Finanzierung der politischen Parteien* ist: Vergleichbar dem Zustand der nur relativ freien Presse, sind sie auf die partikulären Interessen, die sie überwinden sollen, vielfältig und oft konkreter, als es gut ist, angewiesen. Die Erfüllung der Maxime bleibt daher, wie die moderne Demokratie insgesamt, eine produktive Utopie.

D. Die Bedeutung der Konzentration in Grenzsituationen

Die pluralistischen Demokratien gehen, wenn ihre Normalität zureichend gefestigt ist, nicht am Einfluß ökonomisch-sozialer Konzentrationen zugrunde. In mannigfacher Hinsicht verstehen sie es vielmehr, sich ihrer, unter Schwierigkeiten, auf die angestrebten optimalen Bedingungen der Gesellschaft hin zu bedienen. Aufgeklärte und wachsame demokratische Politiker lassen es sodann nicht darauf ankommen, daß sich durch Unachtsamkeit Ausnahmesituationen entwickeln; sie alarmieren lieber vorzeitig; und es ist in solchen Demokratien nicht allzuschwer, Massenkräfte gegen politisch gefährlich werdende Konzentrationsvorgänge zu mobilisieren.

Anders in ungefestigten Demokratien. Es gibt deren nicht wenige — mehr als gefestigte; wie viele gefestigte denn in der ganzen Welt, außerhalb des angelsächsischen und des skandinavischen Bereiches? — Dieser Tatbestand ist es, der dem Problem des Einflusses ökonomisch-sozialer Verfügungsmacht auf die Politik der nachimperialistischen Ära — noch nationalstaatlicher Struktur, aber bereits globaler Systemgegensätze[134] — überhaupt erst seine Bedeutung gibt: die Normalität ist, historisch gesehen, vorerst nur ein eingeschränkter Idealfall, die pluralistische

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[134] Der Terminus „nachimperialistisch" bezieht sich hier auf die Politik der alten Nationalstaaten; ihr Imperialismus ist seit der Dekolonisationsbewegung am Ende, er befindet sich seit längerem im Zustand des Übergangs zu einem System-Imperialismus verschiedener Varianten. Daß *dieser* Imperialismus nicht primär ökonomisch bestimmt ist, so erheblich die Bedeutung des Ökonomischen für ihn überall ist, bedarf meines Erachtens zumindest im Verhältnis der beiden Weltführungsmächte zueinander — und erst recht, was die Volksrepublik China angeht — kaum eines Nachweises im einzelnen. Das Wort erhält durch die Wirklichkeit selbst seinen ursprünglichen Sinn zurück: Es handelt sich um die Ausbreitung von Herrschaft und Herrschaftssystemen, die sich auf das gesamte gesellschaftliche Leben erstrecken. Der Primat der Politik tritt im radikalen Gegensatz von pluralistischer Demokratie und Totalitarismus wieder klar zutage. (Der Vorgang ist ein weiteres gewichtiges Beispiel für die Richtigkeit des Nachweises, den frühzeitig schon auf Grund eingehender Zusammenhangsanalyse *J. A. Schumpeter* innerhalb seiner Studie, Zur Soziologie der Imperialismen, Arch. f. Sozwiss., Bd. 46 (1919), S. 287 ff., geführt hat: daß der Imperialismus, soweit er in der neueren Geschichte die Form eines Reflexes objektiver kapitalistischer Klasseninteressen angenommen hat, sich mehr und mehr abschwächen werde.)

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Demokratie noch immer eine Anfangserfahrung unter bisher eher ungünstigen als günstigen Bedingungen.

1. Das *kapitalistische Grundinteresse* ist in der Phase der Entkolonisierung und der Organisation großräumiger, zureichend sich institutionalisierender Kooperationen auf Dreierlei gerichtet: die Hochkonjunktur mit Vollbeschäftigung in Gang zu halten, die majoritäre Anteilsquote am jährlichen Zuwachs des Investitionskapitals zu behalten und sich in der Konkurrenz um die „internationalen Entwicklungshilfen am richtigen Ort" zu behaupten. In allen drei Bereichen steht das Schicksal der pluralistischen Demokratie, auf verschiedene Weise, mit auf dem Spiel. Geht es um Hochkonjunktur und um ausgebaute, gesicherte, gleichberechtigte Mitbestimmung, so hängt der Bestand der Demokratie von der Einsicht, der Geschicklichkeit und der Erfahrung der ökonomisch-sozialen Führungsklassen ab; im dritten Fall ist es eine Frage der Überlegenheit der politischen Herrschaftsschicht.

Noch sind wir, was diese drei Probleme betrifft, seit dem Ende des Zweiten Weltkrieges in keiner Demokratie über Gebühr in Anspruch genommen worden — ausgenommen die Entkolonisierungsvorgänge in Indonesien, in Indochina, in Ägypten und in Teilen des übrigen Afrika —; der Einfluß konzentrierter ökonomisch-sozialer Verfügungsmacht hat sich dort nirgends gleichartig oder gar einheitlich geltend gemacht. Nur diese — einander widersprechenden — Erfahrungen stehen uns aus der Gegenwart zur Verfügung, wenn wir die Bedeutung der Konzentration in Grenzsituationen beurteilen wollen. Dazu freilich die Erfahrungen der Vergangenheit. Man wird sie nicht unterschätzen, aber auch nicht für unveränderlich ansehen dürfen. Nur wenn wir es beim Verhalten von Klassen mit einer determinierenden Gesetzlichkeit zu tun hätten, die selbst unter wechselnden Verhältnissen konstant bliebe und die gleichen Ergebnisse hervorbrächte (was eindeutig der geschichtlichen Wirklichkeit widerspricht), könnten wir nicht erwarten, daß sich die Möglichkeiten, gegenüber früher auf „Herausforderungen" die geeignete Antwort zu finden, vielleicht verbessert haben. Man soll es nicht ausschließen; daß Klassen rechtzeitig „begreifen", hieße lediglich, daß ihre materiellen Interessen sie nicht blind zu machen brauchen, sondern daß sie fähig bleiben können, Zusammenhänge zu erfassen, denen sie sich anpassen müssen, um weiter zu bestehen.

2. Der erste Testfall ist die *ökonomische Krise,* die tiefgreift und andauert, ohne indes schon das soziale Gefüge erschüttert zu haben und die Politik in Gefahr zu bringen, ihre Souveränität zu verlieren. Vormals pflegte die Unternehmerschaft dieser Ausnahmesituation bar jedes politischen Verstandes, das heißt ohne Sinn für Folgen im außerökonomischen Bereich, zu begegnen. Die Lasten der Depression zu tragen und

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damit fertig zu werden, nachdem die Vorteile der Konjunktur privatisiert waren, galt als Sache des „Staates", die Unternehmen gingen nach ihren privatwirtschaftlichen Rentabilitätserwägungen vor; die auf Konjunktursicherung gerichtete Kooperation wurde im Krisenfall, den sie nicht hatte verhindern können, alsbald preisgegeben.

Es spricht einiges dafür, daß man sich mittlerweile der Grundeinsicht in die Zusammenhänge des gesellschaftlichen Ganzen angenähert hat. Man scheint zu ahnen, daß die Überwindung ökonomischer Krisen von vornherein nicht ausschließlich mit ökonomischen Mitteln und schon gar nicht mit den Normalmethoden der Privatwirtschaft gelingen kann (weil die Funktionen der Gesamtwirtschaft nicht identisch sind mit dem Ablauf der Gesamtheit der Privatwirtschaften, und weil diese in der Krise freiwillig nicht auf einen Handlungs- oder auch nur Verhaltensnenner zu bringen sind, — das „ökonomische Interesse" wirkt in der Krise keineswegs regulativ). Die konzentrierte Verfügungsmacht im Bereich der Produktion, vor allem im Bereich der Finanzierung verschärfte bislang das Unheil, da sie rein privatwirtschaftlich und folglich nach der Maxime „Rette sich, wer kann" vorging — die Starken an der Spitze. Jetzt gewinnt es den Anschein, als könnte sie umgekehrt wegen ihrer schon gewohnten Zusammenarbeit mit dem „Sozialpartner" der Arbeitnehmerschaft und mit der politischen Herrschaftsschicht der Demokratie sanierend wirken, indem sie die erforderlichen außerökonomischen Maßnahmen auch dann mitmacht, wenn sie, gemessen an den kapitalistischen Prinzipien von früher, ökonomisch widerspruchsvoll sind.

Nur: Gegen eine in Krisen noch unerprobte junge steht eine unerfreuliche, aber lange Erfahrung. Gerade die für jede Demokratie besonders notwendigen Segnungen der überall erreichten — relativen — Konjunkturstabilität erhöhen das Risiko, sich allein auf die anhaltende Kooperationsbereitschaft der Inhaber des partikulär organisierten Wirtschaftspotentials zu verlassen; — in der Normalität hochentwickelter Demokratien, unter deren eingeschränkten Privilegienverhältnissen dient es; es besitzt dann kein das Allgemeinwohl gefährdendes Sondergewicht. Für den Krisenfall jedoch muß es zumindest die Potentialität einer Gegenmacht im ökonomisch-sozialen Bereich selbst geben, von der auf Grund ihrer Interessenlage und ihrer Gewohnheiten mit größerer Sicherheit erwartet werden darf, daß sie dem Wohl des Ganzen zugewandt bliebe. Nach Lage der Dinge können das nur die Gewerkschaften sein. Ihr Vorhandensein „erleichtert" der Repräsentanz der anderen ökonomisch-sozialen Führungsklasse im Krisenfall die Kooperationsbereitschaft.

3. Hier wird aber die *zentrale ökonomisch-soziale Herrschaftsposition* berührt, und das ist für die privatkapitalistische Unternehmerschaft genau jene Ausnahmesituation, auf die *sie* es keinesfalls ankommen lassen

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will. Sie ist sich durchaus bewußt, daß konzentrierte Verfügungsmacht in pluralistischen Demokratien, ganz ohne Kommunisten, nicht unangefochten bleiben kann. Eben deshalb wird sie mit allen Argumenten der „Heiligkeit des Privateigentums" und des Nutzens für die Gesamtheit ideologisch geschützt. Es handelt sich um das zweite der erwähnten kapitalistischen Grundinteressen von heute, und es kann nur politisch aufrechterhalten werden.

Damit sich nichts Entscheidendes ändert, wenn die Majorität konform ist den tatsächlichen ökonomisch-sozialen Privilegienverhältnissen, oder damit sich der Gefahrenzustand, in den die Privilegien geraten sind — allenfalls zu geraten drohen —, entscheidend wieder zu ihren Gunsten ändert, sorgt die konzentrierte Verfügungsmacht stets, soweit sie es von sich aus kann, für eine möglichst massive Ungleichheit der politischen Start-Chancen zuungunsten der wirklichen oder vermeintlichen Gegner. Das gilt vor allem für die *Wahlen*. Daß dies eine Verfälschung der Grundbedingungen der pluralistischen Demokratie darstellt, könnte nur jemand bestreiten, der die Prämissen dieser Demokratie nicht kennt oder nicht anerkennt. Der Verfälschung praktisch entgegenzuwirken, erfordert Maßnahmen von vielerlei Art; wie bereits erwähnt, haben die bisher — freilich nur sporadisch und stückweise — angewandten Methoden noch nirgends durchschlagenden Erfolg gehabt; das beste Abhilfemittel, innerhalb der pluralistischen Demokratien, bleibt die systematische Organisation der oppositionellen Macht.

Das gleiche gilt für die *Beeinflussung der Öffentlichen Meinung auf lange Sicht*. Auch diese Bemühung hat entweder die Verfestigung eines genehmen Zustandes, der besteht, zum Ziel oder die Veränderung von Verhältnissen, die als widrig angesehen werden. Gewiß ist es kein Monopol ökonomischer Verfügungsmacht, die übrigen Schichten eines Volkes für eine bestimmte Politik zu gewinnen; ebensowenig ist der Erfolg sicher. Aber erstens steht es fest, *daß* aus dem Bereich konzentrierter ökonomischer Verfügungsmacht — obschon nicht von jeder — solcher Einfluß in den Demokratien unter dem Aspekt von Ausnahmesituationen versucht und ausgeübt wird, sei es ursprünglich, sei es im nachfolgenden Bündnis mit anderen Kräften, die sich als einflußmächtig erweisen, und zweitens gibt es kaum eine Propaganda, die aus der werbenden Kraft ihrer Ideen allein, ohne die Stütze konzentrierter ökonomischer Verfügungsmacht, gleich wirksam wäre. Für das Deutsche Kaiserreich ist es beispielhaft an den fünf Organisationen aufgezeigt worden[135]: Alldeutscher Verband, Deutsche Kolonialgesellschaft, Reichsverband gegen

[135] *J. Kuczynski*, Studien zur Geschichte des deutschen Imperialismus, 2. Bd., Propagandaorganisationen des Monopolkapitals, Berlin 1950. Die erklärt kommunistische Tendenz des Werkes — samt entsprechendem Jargon — ändert nichts an den vorgebrachten Tatsachen.

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die Sozialdemokratie, Deutscher Flottenverein, Deutscher Ostmarken-Verein. Für die Weimarer Republik liegen ähnliche Untersuchungsergebnisse vor[136].

4. Die Grenzsituation, auf die hin oder in der sich konzentrierte ökonomisch-soziale Verfügungsmacht als ausschlaggebend erweisen kann und häufig genug erweist, ist indes die *politische Krise*. Alles von gesellschaftlicher Relevanz erhält durch sie Sonderbedeutung, aber wie im Krieg können in ihr Geld und Apparat die Entscheidung herbeiführen.

Es geschieht unter Umständen auf die einfachste Weise durch *ökonomischen Rückzug*. So hat die Suez-Kanalgesellschaft — die „Compagnie Maritime Universelle du Canal de Suez" — deren konzentrierte Verfügungsmacht vertraglich festgelegten Monopolcharakter hatte, durch ihre vor Konzessionsablauf jahrelang bewußt betriebene Praxis, entgegen ihrer Verpflichtung nicht mehr zu investieren[137], jene Krise mitheraufbeschworen, in die Großbritannien und Frankreich, die beiden führenden europäischen Demokratien damals, im Herbst 1956, während des Ungarn-Konfliktes, schließlich auf das unheilvollste eingegriffen haben. Eine Variante solchen Vorgehens privilegierter ökonomischer Verfügungsmacht — hier von Handelskompagnien und Banken — trug sich in Indochina vor seiner Auflösung als französisches Kolonialreich zu. Auch die — allerdings von der Weltwirtschaftskrise der beginnenden dreißiger Jahre unseres Jahrhunderts bedingte — plötzliche Zurückziehung von Milliarden kurzfristiger Kredite aus der Wirtschaft der Weimarer Republik, die als Demokratie mit daran zugrunde gegangen ist, gehört in diesen Zusammenhang.

Es ist erstaunlich, daß die Wissenschaft derartige Phänomene von so nachhaltiger politischer und ökonomisch-sozialer Wirkung bisher in keiner Weise systematisch untersucht und dargestellt hat. Allein die *Wechselwirkung von Börsenkursen und politischen Krisen* während der Zeit von etwa 1850 bis heute — bis zur Beeinflussung des gegenwärtigen Verhältnisses der Südafrikanischen Union innerhalb des britischen Commonwealth im Zusammenhang mit der Apartheid-Politik — wäre doch eine umfassende Monographie oder mehrere Dissertationen wert (— mehrere, weil es sich typologisch meines Erachtens um unterschiedliche Phänomene handelt; was ist jeweils Ursache, was Folge, was sodann deren Verflechtung?).

Hingegen ist die Lage, in der eine *präfaschistische Intervention* stattfindet, durch Polarisation feindlicher Radikalkräfte bei Eingriffsunfähigkeit der demokratischen Autoritäten gekennzeichnet. Um sich gegen die

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[136] *F. Pritzkoleit*, Wem gehört Deutschland, a. a. O., immer wieder detailliert zurückverweisend auf die Weimarer Zeit. Über die bundesrepublikanischen Verhältnisse siehe vom gleichen Autor: Männer, Mächte, Monopole, Düsseldorf 1960.

[137] Vgl. *M. Peters* in den „Frankfurter Heften", Jg. 11 (Nov. 1956), S. 767 ff., zusammenfassender Dokumentationsbericht nach „L'Express", Paris.

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vermeintliche oder die wirkliche kommunistische Gefahr zu sichern und die „Ordnung" wiederherzustellen, entscheidet sich in Ländern mit noch vorwiegend agrarwirtschaftlicher Struktur die Klasse der Grundbesitzer, in Ländern mit bereits industriewirtschaftlicher Struktur die Klasse der Unternehmer für die antikommunistisch-antidemokratische Gewalt. Repräsentative Einzel- oder Gruppenkräfte dieser Klassen rüsten die faschistischen Kader — teilweise in der Erwartung, sie bald wieder ablösen lassen zu können — mit allem zur Niederschlagung des Gegners und zur „Machtergreifung" Notwendigen aus und finanzieren ihre Führung[138].

Nicht, als ob die private ökonomisch-soziale Verfügungsmacht die faschistischen Revolutionen — oder Machterschleichungen — verursachen müßte; aber vor die Alternative gestellt, entweder die Sache der legitimen und legalen Autorität im demokratischen Staat auf das loyalste geduldig und unter Opfern zu vertreten oder sich durch eine eventuell siegreiche kommunistische Revolution enteignen zu lassen, wählt die bedrohte Klasse, nach meist kurzem Schwanken ihrer Führungspersonen, den Ausweg des vermeintlich geringeren Risikos: die Förderung der radikalen Gegengewalt. Und sie trägt, nachdem die extreme Polarisation stattgefunden hat, unter Umständen, zusammen mit nicht mehr loyalen Kräften der Exekutive, durch ihr Eingreifen endgültig dazu bei, daß im faschistischen Antikommunismus auch die Demokratie abgeschafft wird. Die Technik des „schleichenden Staatsstreiches" inmitten allgemeiner Radikalisierung ist bereits derart entwickelt, daß dagegen auch die Möglichkeit des politischen Generalstreiks

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[138] Vgl. *E. Kogon*, Wirtschaft und Diktatur. Das italienische Beispiel, Hochland XXIV (1926/27), S. 385 ff.; *G. W. F. Hallgarten*, Hitler, Reichswehr und Industrie. Zur Geschichte der Jahre 1918—1933, Frankfurt 1955². Auch hier ist ein bemerkenswertes Versagen der Wissenschaft zu beklagen: nichts ist präzis untersucht, keine der präfaschistischen Situationen, wie sie sich in unserem Jahrhundert seit dem Ersten Weltkrieg so zahlreich entwickelt haben — in Ungarn, in Italien, in der Türkei, in Polen, in Portugal, in Griechenland, in Jugoslawien, in Deutschland, in Österreich, in Spanien, in Rumänien, in Brasilien, in Argentinien, mit Ansätzen vor dem Zweiten Weltkrieg sogar in den USA unter Father *Coughlin* („America First"-Bewegung, fast 13 Millionen Anhänger), dann unter Gouverneur *Hue Long*, nach dem Zweiten Weltkrieg unter *McCarthy* (fast 17 Millionen Anhänger). Angesichts der Größe und Tragweite der Vorgänge liegt es nahe, die Abneigung der Wissenschaft, sie zu behandeln, auch als eine ideologische Erscheinung erklärlich zu machen. Ein primitiver Antikommunismus, der die Dialektik der Gewalt so weit treibt, daß er schon jede objektive Untersuchung der Zusammenhänge als Verrat ausgibt, dürfte dabei, abschreckend für Gelehrte, die das noch nicht voll Abgestandene als Gegenstand der Forschung scheuen, wohl mit eine Rolle spielen. Des weiteren das, was *J. K. Galbraith*, Gesellschaft im Überfluß, München—Zürich 1959, S. 199 ff., 278, den „Waffenstillstand in der Frage der Ungleichheit" genannt hat: Er wirkt als ein mächtiges Abkommen des Stillschweigens auf der besitzbürgerlichen Seite der Gesellschaft. Zur objektiven Erkenntnis präfaschistischer Situationen gehört aber die Behandlung des Problems der Privilegien.

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kaum mehr ankommt: Er funktioniert allenfalls noch gegen Putschisten, nicht hingegen in dem unlöslichen Widerspruch, defensiv der Demokratie aufhelfen zu sollen, ohne daß die Streikenden den Willen bekunden dürften und die Möglichkeit hätten, die staatliche Gewalt selber in die Hand zu nehmen, das heißt, die politische Herrschaftsschicht zu ersetzen, deren Parlament und Regierung an spezifischer Blindheit und an lange währenden Unterlassungen zugrunde gehen.

Gegen den Mitentscheidungseinfluß, den prinzipiell zugelassene private Konzentrationsmacht in präfaschistischen Situationen ausübt, gibt es kein spezifisches Heilmittel; man muß die Entwicklung der Situationen selbst, generell und von deren Anfängen an, verhindern.

5. Was die dritte der Grundinteressen betrifft, die für die gegenwärtige Phase des Kapitalismus innerhalb der pluralistischen Demokratien bezeichnend sind: sich in der *Konkurrenz um die „internationalen Entwicklungshilfen am richtigen Ort"* zu behaupten, so ist hierfür die Konzentration der ökonomischen Verfügungsmacht absolut unerläßlich. Die private Beteiligung spielt dabei nur mehr die sekundäre Rolle, sofern sie überhaupt stattfindet[139]. Zunächst einmal, weil die ungeheuerliche Größe der Aufgabe den privatwirtschaftlichen Rahmen von vornherein sprengt; zum zweiten, weil das Risiko *von einzelnen und von Finanzierungsgruppen* in solchem Umfang nicht getragen werden kann; zum dritten, weil weltpolitisch vom Ausgang der Investitionshilfe zuviel abhängt. „Die Welt von heute ist ein zu ungastlicher Ort für den Kapitalgeber vom alten Schlag", schreibt *Strachey*[140], „— das geistige Klima unserer Zeit ist für diese Art der Unternehmer äußerst ungünstig." So wenig, wie man nach dem Zweiten Weltkrieg noch daran denken konnte, das zerstörte europäische Wirtschaftspotential durch Anleihen bei pri-

[139] Vgl. *W. J. Elliott* (Chairman), The Political Economy of American Foreign Policy, Report of a Study Group, New York 1955, besonders S. 326 ff. Der Bericht empfiehlt zwar den Amerikanern die private Kapitalinvestition im Ausland und unterstreicht ihre allgemeinen Vorteile, kommt aber nach Darlegung der tatsächlichen Verhältnisse zu folgendem Ergebnis (S. 331 f.): „In recent years, privat American investment abroad has been mainly for two purposes — the extraction and refining of oil and other minerals, and the establishment of manufacturing or assembling facilities in foreign countries to provide products for markets previously supplied by finished exports from the United States. Since World War II, almost 70 percent of direct private American investment abroad has been in petroleum extracting, refining and distributing facilities. Of the remainder, more than three-quarters has been invested in Canada and Latin America. Thus, only some 8 percent of total direct private American investment has gone into activities other than petroleum in Western Europe, Africa, Oceania and non-communist Asia. So-called ‚portfolio' investments—the purchase by Americans in the major security markets of the world of newly-issued bonds or stocks of foreign companies or governments—have been practically non-existent in the postwar years."

[140] Aufgaben und bisherige Leistungen der Labour-Partei, Neue Beiträge sozialistischer Autoren, a. a. O., S. 264.

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vaten amerikanischen Geldgebern wiederherzustellen — was doch die nach dem Ersten Weltkrieg allein angewandte Methode gewesen war —, so sehr muß die Hilfe an die Entwicklungsländer im wesentlichen aus dem Steueraufkommen der Hochindustrieländer geleistet werden. „Der Umfang der zur Hebung des Lebensstandards rückständiger Gebiete erforderlichen Auslandsinvestitionen ist größer als das Leistungsvermögen jeder Verbindung von Ländern, an der die Vereinigten Staaten nicht beteiligt sind. Nach Schätzungen eines Berichts der Vereinten Nationen aus dem Jahre 1951 wären für eine jährliche Hebung des Lebensstandards um 2 Prozent Kapitalinvestitionen in Höhe von 3,8 *Milliarden Mark im Jahr erforderlich.*"[141]

Ob die in den ökonomischen und in den politischen Gremien Entscheidenden rechtzeitig oder verspätet, richtig oder falsch disponieren, ist von allgemeinster Bedeutung, — man kann Affären wie die der mißglückten „West"-Finanzierung des Assuan-Staudammes sich nicht beliebig wiederholen lassen, und selbst die intensive, anhaltende Stützung von Neutralitäten, die sich abenteuerlich über die Demarkationen der feindlichen Weltsysteme und Machtkonstellationen hinwegsetzten — wie etwa zur Zeit der Präsidentschaft des Prinzen *Sihanouk,* in dem nur fünf Millionen Einwohner zählenden Kambodscha —, oder von Regimen, die mit pluralistischer Demokratie (noch) wenig zu tun haben, kann eine zwingende Notwendigkeit sein. Die Transformationsverhältnisse[142] der ehemaligen, nun „selbständig" gewordenen Kolonialländer sind äußerst kompliziert geworden.

Sowohl beim Empfänger wie beim Geber der in der internationalen Systemkonkurrenz zu gewährenden Entwicklungsbeiträge setzt die Bedeutung, die Größenordnung und die Ausführung dieser Politik *staatliche Planung* voraus. Das braucht nicht bürokratische Planung zu sein; an den zwischen- und übernationalen Autoritäten, die sich mehr und mehr in Europa selbst bilden, damit seine die nationalstaatlichen Bereiche längst überschreitenden Probleme gelöst werden, sind, ganz im Sinne der pluralistischen Demokratie, viele Kräfte kollektiv beteiligt; innerhalb der Grenzmarkierungen von (rein idealtypischer) Privatwirtschaft und (ebensolcher) Zentralverwaltungswirtschaft bilden die prak-

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[141] *D. Healey,* Die Stellung der Labour-Partei zur „Großen Politik", Neue Beiträge sozialistischer Autoren, a. a. O., S. 235. Vgl. ferner *R. N. Gardner,* Sterling—Dollar Diplomacy/Anglo-American Collaboration in the Reconstruction of Multilateral Trade, Oxford 1956; dort ist geschildert (bes. S. 292 f.), wie vor dem seiner Größenordnung nach geringeren Problem der finanziellen Nachkriegssanierung sogar die International Bank for Reconstruction and Development, die über ein Ausleih-Potential von insgesamt 3,2 Milliarden Dollar verfügte, versagen mußte und versagt hat.

[142] Einen guten (kritischen) Ein- und Überblick für das Jahrzehnt nach dem Zweiten Weltkrieg gibt *T. Mende,* Die Dritten Mächte. Der Westen und die Entwicklungsländer, Düsseldorf 1959.

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tischen Notwendigkeiten ein reichhaltiges Mischsystem aus. Nur ist schon jetzt überall ersichtlich, in den Bereichen des europäischen Zusammenschlusses und in denen der außereuropäischen Entwicklungshilfen, daß es just die richtunggebenden Investitionserfordernisse sind — also die konzentrierteste Verfügung über Produktionsmittel —, die im Interesse des nationalen und des internationalen Bestandes der pluralistischen Demokratien auf deren Ziele hin gemeinschaftlich kontrolliert werden müssen: damit insbesondere, unter Wahrung der politischen Freiheitsrechte, die Gleichheit der Start-Chancen für jedermann ökonomisch-sozial sichergestellt werden kann.

IV. Zusammenfassung

1. Der Zusammenhang von Wirtschaft und Politik, im besondern von Kapitalismus und Demokratie, müßte um so mehr wissenschaftlich untersucht und dargestellt werden, als er Gegenstand weitverbreiteter Generalthesen ist. Nicht einmal für den Imperialismus der kapitalistischen Nationalstaaten sind die Tatbestände umfassend und im einzelnen festgestellt. Um den Einfluß konzentrierter ökonomisch-sozialer Verfügungsmacht auf die pluralistische Demokratie gründlich zu kennen, fehlt es sowohl an zuverlässigem Erhebungsmaterial hierüber als auch an einem bewährten Erfassungsschema. Die vorliegende Abhandlung hat lediglich den Wert eines Versuchs zu systematischer Skizzierung des Themas.

2. Die Betrachtung des historischen Zusammenhangs zeigt, daß die pluralistische Demokratie nicht als das Ergebnis der kapitalistischen Wirtschaft angesehen werden kann. Die Entwicklung zur Demokratie hatte mannigfache, vor allem geistige und politische Ursachen. Die Inhaber kapitalistischer Monopolprivilegien waren es nicht, die während der Zeit des merkantilistischen Absolutismus für besondere Dienste politische Freiheiten gefordert hätten.

3. Als die Menschenrechte revolutionär proklamiert waren, mußte die neue „Souveränität des Volkes" in erster Linie den bürgerlichen Schichten zugute kommen. Sie haben als gesellschaftliche Klasse die politische Sicherstellung der errungenen Freiheiten allmählich durchgesetzt. Hierbei hat ihre rasch entwickelte ökonomische Macht entscheidend mitgewirkt. Es war die Phase der Übereinstimmung von Demokratie und Kapitalismus.

4. Die beiden industriewirtschaftlichen Fundamentalprozesse: Akkumulation des nationalen Investitionskapitals und neuer Arbeitsdisziplin der Lohnabhängigen bäuerlicher und handwerklicher Herkunft, schufen auf dem Entwicklungsweg zu den Zielen der pluralistischen Demokra-

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tie: Autonomie aller Individualitäten und Gleichheit der Start-Chancen, hiergegen die konkreten Antinomien: ökonomische, finanzielle, soziale, territoriale Konzentration.

5. Es erwies sich, daß die konstitutiven Merkmale der modernen Wirtschaft politische Freiheit nur sehr bedingt voraussetzen. Hingegen kann die hochentwickelte pluralistische Demokratie auf das industriewirtschaftliche Leistungssystem nicht mehr verzichten. Damit im Sinne der pluralistischen Demokratie ökonomischer Machtmißbrauch (= Verwendung privilegierter Verfügungsmacht gegen die Entwicklung und Aufrechterhaltung der Gleichheit der Start-Chancen) wenigstens eingeschränkt sei, bedarf die freie Marktwirtschaft (worunter eine möglichst staatsinterventionsfrei für den Markt arbeitende Wirtschaft verstanden wird) des politisch verfügten und jeweils gesicherten Konkurrenz-Prinzips.

6. Ehe die Symbiose von Demokratie und Kapitalismus das gedachte Stadium harmonischer Liberalität erreichen konnte, entwickelten sich infolge der bezeichneten Antinomien zwei Grundschwierigkeiten: die nationalstaatlich-kollektive Expansionsrivalität und der Sozialismus-Kommunismus. Beide haben die pluralistische Demokratie in erhebliche Existenzgefahren gebracht.

7. Die Frage nach der Zukunft der Freiheit in der Welt und in den Massendemokratien bei Aufrechterhaltung des erreichten Hochzivilisationsstandes ist somit zur Frage nach der Möglichkeit der Evolution von zureichender Entscheidungsautorität inmitten der mannigfachsten Autonomien und zur Frage nach der Möglichkeit der Evolution voller Mitbestimmung in allen Bereichen des Allgemeininteresses geworden, — dies unter dem Druck der totalen Konkurrenz des Sowjetsystems. Die ökonomisch-sozialen Konzentrationen haben hierbei je nach Voraussetzungen und Zielstellungen eine sehr verschiedenartige politische Wirkung. Es ist aber begreiflich, daß unter solchen Umständen die Bedeutung der Konzentrationen von ideologischen Vorurteilen überlagert ist.

8. In der Normalität der pluralistischen Demokratie, die keine „charismatischen", sondern nur rationale Integrationen kennen soll, versteht sich die Einflußnahme der Interessenkollektive auf die Behörden, den Gesetzgeber, die Regierungspolitik, die Parteien und die Organe der öffentlichen Meinungsbildung von selbst. Sie braucht, wenn die Moral und das Strafgesetz funktionieren, keine allgemeine Korruption hervorzubringen. Sie schafft auch nicht unvermeidlicherweise eine „ungeordnete Vielzahl oligarchischer Gruppen"; sie unterliegt vielmehr einem ordnenden Klassenschema, innerhalb dessen nicht die privaten, sondern nur die „politischen" Interventionen wichtig sind.

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9. Die Tatsache, daß die ökonomisch-sozialen Führungsklassen heute nicht mehr streng — also ständisch — abgeschlossen sind, rechtfertigt nicht die Auffassung, die demokratische Gesellschaft sei klassenlos. Sehr im Gegenteil ist es gerade der Klassenzusammenhang, der konzentrierte ökonomisch-soziale Macht überhaupt erst nachhaltig auch politisch wirksam machen kann. Die ökonomisch-sozialen Führungsklassen bilden in der pluralistischen Demokratie die politische Herrschaftsschicht, in der die Ordnungsvorstellungen vom Ganzen rivalisieren. Die überlegene ökonomisch-soziale Verfügungsmacht braucht sich politische Parteien nicht zu „kaufen", wenn die Ordnungsvorstellungen und die Interessen ohnehin übereinstimmen.

10. Da die Konzentration von Betrieben, Unternehmen, Einkommen und Vermögen, sowie die räumlichen und die internationalen Konzentrationen die Bedingungen der persönlichen und der gesellschaftlichen Existenz beeinflussen, besteht nach den Prinzipien der pluralistischen Demokratie ein öffentliches Interesse daran, die Vorgänge unter Kontrolle zu halten — schon das Entstehen von Konzentrationen, wenn sie als solche dem Allgemeinwohl abträglich sind, aber auch ihren „Preis" an Begleiterscheinungen, wenn sie als erwünscht, ja als notwendig erscheinen. Das Problem kann nicht an Hand von „Idealtypen" gelöst werden, sondern nur historisch-konkret.

11. Es gibt die Möglichkeit, die Konzentrationsvorgänge zu kontrollieren, und einige erste Ansatz-Erfahrungen. Die Wirksamkeit der Kontrollen hängt wesentlich vom Gesamtzustand einer Demokratie ab. Konzentrationen sind in ihrer Wirkung um so eindringlicher und um so schwerer kontrollierbar, je weniger entwickelt die gesellschaftlichen Verhältnisse sind. Agrarische Monokulturen fördern die Gefahr der Plutokratie. Gegen Rationalisierungsfusionen sind Gesetze verhältnismäßig unwirksam. Über die Notwendigkeit von Kontrollmaßnahmen hat jedoch in letzter Instanz die politische Herrschaftsschicht zu entscheiden, nicht die Klasse der Produktionsmittelbesitzer. Die offiziellen Vertreter des Allgemeininteresses brauchen sich, solange sie die Möglichkeit haben, sich an eine lebendige Opposition zu wenden, keinem Druck zu unterwerfen.

12. Es gibt systemkonforme und systemverändernde Kontrollen. Innerhalb der ersten Art ist seit den dreißiger Jahren des Jahrhunderts ein reiches Instrumentarium wirtschaftsordnender Verfügungen entwickelt worden, die den Einfluß konzentrierter ökonomisch-sozialer Verfügungsmacht beschränken. Einige Demokratien sind auf dem Weg zum „Sozialkapitalismus". Es kann aber auch sein, daß nur radikale Eingriffe das System der pluralistischen Demokratie zu sichern imstande sind. Doch ist dann Besitzaufspaltung, die sonst wünschenswert sein

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mag, zur Kontrolle nicht erforderlich, und es genügt die Herrschaft über einen qualitativ bedeutsamen Bruchteil der ökonomisch-sozialen Verfügungsmacht.

13. Aber die demokratische Normalität, für die alles dies gilt, ist historisch bisher eher eine Ausnahme. Die Grenzsituationen sind es, die den Einfluß der Konzentrationen auf die Demokratie besonders bedeutsam machen: die ökonomische Krise, die Möglichkeiten der Majoritätsveränderung, die politische Krise — mit der Gefahr präkommunistischer und präfaschistischer Entwicklung —, sowie die Konkurrenz um die „internationalen Entwicklungshilfen am richtigen Ort". Die Tragweite der Folgen von Unterlassungen oder Fehleingriffen in jeder dieser politischen Grenzsituationen ist für den Bestand der pluralistischen Demokratie heute so groß, daß gemeinschaftliche Kontrolle der Konzentration unerläßlich geworden ist.

Summary

Impacts of Concentration on Democracy

1. The present article is merely an attempt to sketch the theme systematically.
2. The study of the historical context shows that pluralistic democracy can not be regarded to be the outcome of capitalistic economy. The development towards democracy has manifold—above all intellectual and political reasons.
3. When the human rights had been proclaimed the new "sovereignty of the people" had to benefit the bourgeois classes. Their developed economic power has contributed decisively in this connexion. This was the stage of harmony between democracy and capitalism.
4. The two basic economic processes created in the course of development towards the targets of pluralistic democracy: autonomy of individuals and equality of chances, against this: economic, financial, social, spatial concentration.
5. The constituent characteristics of modern economy presuppose limited political freedom only. In order to restrict the abuse of economic power the free market is in need of the politically provided principle of competition.
6. Before the symbiosis of democracy and capitalism had been able to be realized two basic problems developed from the shown antinomies: nationalistic-collective expansion-rivalry and socialism-communism. They have endangered the existence of pluralistic democracy.
7. The future of freedom in the Western world and in the mass-democracies has become a question of the possibilities of evolution of sufficient competence in the midst of the manifold antinomies and a question of evolution of full co-determination in all spheres of general interest.
8. Pluralistic democracy does not unfailingly create an "unarranged" multiplicity of oligarchic groups; it is governed rather by an organizing scheme of classes inside of which not the private but only the "political" interventions are important.

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9. The economically and socially leading classes establish the ruling class in pluralistic democracy. The economicallly and socially superior power of control is not in want of "buying" political parties if ideas of order and interests coincide anyway.
10. Because concentration of plants, enterprises, incomes, properties just as spatial and international concentrations influence the conditions of individual and public existence, the public interest demands the control of these processes.
11. The necessity of controlling measures has to be decided by the ruling class at last instance, not by the class of owners of the means of production.
12. There are system-conform and system-changing controls. For ruling the control over a qualitatively important fraction of economic-social factors is sufficient.
13. The marginal situations — economic crisis, the possibility of a change in majorities, political crisis (including the danger of pre-communist and pre-fascist development) and so on — demonstrate the influence of concentration upon democracy. The consequences of omissions or mistakes are today so great for the continuance of pluralistic democracy that public control of concentration has become indispensable.

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Pressekonzentration

Von *Walter J. Schütz*, Bonn

I. Pressekonzentration als kommunikationspolitisches Problem
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I. Pressekonzentration als kommunikationspolitisches Problem

Weitgehend losgelöst von seiner ursprünglichen Bedeutung ist der Begriff „Pressekonzentration" heute zur Sammelbezeichnung für Veränderungen im Pressewesen schlechthin geworden. Eine besondere Akzentuierung hat er dadurch erfahren, daß einerseits — meßbare, quantitative — Veränderungsvorgänge im Pressewesen aus wirtschaftlichen Überlegungen grundsätzlich als unerwünscht angesehen, andererseits von einer sog. „kritischen Öffentlichkeit" aus politischen Gründen Eingriffe in die Pressestruktur gefordert werden.

Hierbei zeigt sich jedoch, daß nicht das objektive Maß einer vorhandenen oder nicht vorhandenen Konzentrationstendenz den Stand der öffentlichen Auseinandersetzung zum Problem der Pressekonzentration bestimmt. Vielmehr sind es innerhalb einer fortlaufenden Entwicklung einzelne Vorgänge im Pressewesen, die besondere Aufmerksamkeit erregen. Als Beispiele der jüngsten Zeit seien für Großbritannien die Übernahme der „Times" in die Thomson-Gruppe, für die Vereinigten Staaten die Einstellung der „New York Herald Tribune" und für die Bundesrepublik Deutschland (BRD) das Problem der Springer-Presse genannt. Gerade der zuletzt genannte Fall zeigt aber auch, wie politische Aspekte unabhängig von wirtschaftlichen Überlegungen die Diskussion

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beeinflussen[1]. Die Problematik tendenziell gleichgerichteter Aussagen untereinander verbundener Zeitungen trat als eine mögliche Auswirkung der Pressekonzentration rasch in das öffentliche Bewußtsein — obwohl der Vorgang der Pressekonzentration als solcher im Falle *Springer* bereits zwei Jahrzehnte vorher eingesetzt hatte und im Grunde seit fast einem Jahrzehnt abgeschlossen war[2]. Da jedoch die von dieser Konzernbildung ausgehenden politischen Wirkungen bis dahin nicht sonderlich beachtet wurden, blieb die Registrierung von Pressekonzentrationsvorgängen zunächst auf die fachlichen Bereiche der Wirtschafts- und der Kommunikationswissenschaft beschränkt. Ihre Konsequenzen wurden vor allem als Mobilitätsproblem der Journalisten erörtert.

Pressekonzentrationsvorgänge hat es seit jeher gegeben. Ein Blick in die Pressegeschichte beweist, daß das, was mit dem Vorgang des „Zeitungssterbens" ausgedrückt wird, immer schon zu verzeichnen war: die Flut der Neu- und Umgründungen, vor allem in politisch bewegten Zeiten oder nach Aufhebung restriktiver behördlicher Maßnahmen, aber auch die Kurzlebigkeit der meisten dieser Organe, ihr Aufgehen in anderen Blättern, Fusionen, kooperative Zusammenschlüsse, das Entstehen (und Verschwinden) großer Zeitungsketten und Zeitschriftengruppen in horizontaler Konzentration, der Aufbau vertikal strukturierter Konzerne von der Papierfabrik bis zum eigenen Vertrieb und schließlich die diagonale Konzentration durch Verflechtungen der Presse mit großen Industriegruppierungen. Solche Vorgänge werden ausgelöst durch vielfältige äußere Anstöße, etwa kriegerische oder revolutionäre Auseinandersetzungen, durch wirtschaftliche Rezessionsvorgänge, aber auch durch wachsende oder zurückgehende Kommunikationsbedürfnisse der Gesellschaft und entsprechende Ansprüche an die Qualität und Quantität der Informationsvermittlung. Das läßt sich für alle Epochen und viele Länder nachweisen[3].

Wenn die Pressekonzentration trotzdem als sich in der Öffentlichkeit abspielender Vorgang für lange Zeit kein die Öffentlichkeit und mithin auch die politischen Instanzen berührender Vorgang war, so lag das vor allem daran, daß zwar der Pressemarkt in ständiger Bewegung blieb, aber dem Abgang an Presseerzeugnissen eben auch ein entsprechender

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[1] So etwa *R. Haarmann,* Pressekonzentration — Gefährdung der Demokratie, in: *D. Grosser* (Hrsg.), Konzentration ohne Kontrolle, Köln, Opladen 1969, S. 176—191.

[2] Zur Entstehungsgeschichte des Springer-Konzerns vgl. *H.-D. Müller,* Der Springer-Konzern, München 1968.

[3] Vgl. hierzu *H. Stratz,* Das Konzentrationsproblem der deutschen Presse, Säckingen 1928; *R. Strüder,* Das ökonomische Konzentrationsproblem im deutschen Zeitungswesen unter besonderer Berücksichtigung der Provinzpresse, Neuwied 1933; *R. Großkopf,* Die Zeitungsverlagsgesellschaft Nordwestdeutschland GmbH. 1922—1940, Dortmund 1963, S. 8 ff.

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Zugang an neuen Objekten gegenüberstand[4]. Erst mit der Verringerung des Marktangebotes und mit der Minderung der Markteintrittschancen für neue Objekte wird die Pressekonzentration zum kommunikationspolitischen und damit auch zum allgemeinpolitischen Problem. Dieser Schwellenwert liegt jedoch für verschiedene Länder unterschiedlich hoch und kann nicht generell bestimmt werden: Dort, wo überhaupt erst ein Markt für die gedruckten Medien erschlossen werden muß, liegen andere und im Regelfall schwierigere Voraussetzungen für Pressekonzentrationsvorgänge vor als in Ländern, in denen bei einer Marktsättigung Marktlücken kaum noch bestehen und Marktanteile nur unter großen Wettbewerbsanstrengungen behauptet oder gar vergrößert werden können. Aber auch innerhalb eines Landes lassen sich unterschiedliche Entwicklungsrichtungen mit gegensätzlichen Auswirkungen auf den Stand der Konzentration beobachten: etwa der Rückgang der Tageszeitungen neben einer Stagnation der Blätter mit unterhaltendem Charakter und wachsender Entwicklung bei den Fach-, Verbands- und Berufszeitschriften.

Als charakteristisch für eine von zunehmender Pressekonzentration bestimmte Marktsituation kann die BRD angesehen werden: Hier ging die Zahl der als Herausgeber von Tageszeitungen tätigen Zeitungsverlage zwischen dem 1. Dezember 1954 und dem 31. Dezember 1970 von 624 um 139 auf 485, also um 22,3 % zurück, während die verkaufte Auflage im gleichen Zeitraum um 25,5 % von täglich 13,4 auf 18,0 Mill. Stück stieg. Im gleichen Zeitraum kam es nur zu 17 Neugründungen von Zeitungsunternehmen, von denen neun rasch scheiterten; die übrigen acht — alle Ableger von bestehenden Zeitungsverlagen — bereicherten den Markt lediglich um zwei neue Straßenverkaufsblätter, sonst aber nur um verlegerisch selbständige zusätzliche Ausgaben bereits existierender Abonnementszeitungen[5].

II. Wirtschaftliche und publizistische Voraussetzungen der Pressekonzentration

Die Markteintrittschancen sind für Presseunternehmen sehr gering oder fehlen ganz, da einmal der Aufwand für technische und betriebliche Einrichtungen hoch ist und zum anderen die für eine feste Marktposition von Titeln mit Massenverbreitung notwendigen Vertriebs-

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[4] Vgl. die Zahlen für das deutsche Zeitungswesen bei *W. J. Schütz,* Zeitungsstatistik, in: *E. Dovifat* (Hrsg.), Handbuch der Publizistik, 3. Bd., Berlin 1969, S. 331 ff. (Tabellen 1 und 3) sowie *K. Reumann,* Entwicklung der Vertriebs- und Anzeigenerlöse im Zeitungsgewerbe seit dem 19. Jahrhundert, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 269 f. (Anm. 206).

[5] Eigene Berechnungen des Verfassers.

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und Anzeigeneinnahmen — wenn überhaupt — nur langfristig erreicht werden können.

Als weitere für die Presse als Wirtschaftsunternehmen[6] charakteristische und durch die publizistische Funktion bedingte Merkmale, die sie von anderen Wirtschaftszweigen z. T. erheblich unterscheiden und die zu spezifischen Konzentrationsformen führen, sind zu nennen: Zeitungen und Zeitschriften sind Produkte geistiger Leistungen (Redaktion). Sie entstehen in einem wirtschaftlichen Organismus (Verlag), wobei ihrem Absatz (Vertrieb) ein aufwendiger technischer Herstellungsprozeß (Satz und Druck) vorausgeht. Unabhängig von der Höhe der Auflage fällt bei Presseorganen ein erheblicher Aufwand für die redaktionelle und technische Vorbereitung an. Da der Anteil dieser Kosten hoch ist, hat die Höhe des Absatzes (ausgedrückt durch die verkaufte Auflage) entscheidenden Einfluß auf das wirtschaftliche Ergebnis. Die Bedingungen, unter denen publizistischer Wettbewerb gleicher oder ähnlicher Leistungen stattfindet, sind daher — bei unterschiedlicher Auflagenhöhe — von ungleichen wirtschaftlichen Voraussetzungen in der Produktion bestimmt. Zeitungen und Zeitschriften werden zudem auf zwei verschiedenen Märkten getrennt angeboten und abgesetzt: auf dem Markt der Leser als publizistische Erzeugnisse und auf dem Anzeigenmarkt als Werbeträger[7]. Beide Märkte hängen aber gegenseitig voneinander ab: Eine große Zahl von Lesern oder ein spezifischer Leserkreis ist Voraussetzung für hohe Anzeigenerlöse, da der Anzeigenpreis weitgehend von der Reichweite des Presseorgans abhängig ist. Umgekehrt ermöglicht ein großes Anzeigenaufkommen eine restriktive Bezugspreispolitik oder ein stärkeres redaktionelles Angebot, was wiederum die Gewinnung zusätzlicher Leser erleichtert und begünstigt. Der Zwang zu hoher Auflage als auslösender Faktor einer Unternehmenskonzentration im Pressebereich ist evident. Da den Stoff für die Presse in erster Linie die Ereignisse im Erscheinungsintervall liefern, muß ihre Weitergabe aktuell, periodisch und kontinuierlich erfolgen. Die Aktualität erzwingt — auch im Hinblick auf die Konkurrenz der elektronischen Medien — die raschestmögliche Herstellung; die durch die Kontinuität bedingte Periodizität bedingt regelmäßiges Erscheinen in kurzen Abständen, erfordert also ständig neue geistige Leistungen. Jede neue Folge ergänzt daher nicht nur die vorhergehende, sondern überholt und ersetzt sie auch. Periodische Druckerzeugnisse sind daher kein lagerfähiges Produkt. Der Vertrieb jeder Ausgabe muß unmittelbar nach Herstellung erfolgen und endet in der Regel spätestens mit dem Erscheinen der darauffolgenden Ausgabe (Presse als „leichtverderbliche Ware").

[6] Vgl. hierzu *E. Dreppenstedt,* Der Zeitungs- und Zeitschriftenmarkt, Hamburg 1969; Artikel „Pressewirtschaft", in: *E. Noelle-Neumann, W. Schulz* (Hrsg.), Fischer-Lexikon Publizistik, Frankfurt/M. 1971.

[7] Vgl. *K. Reumann,* a. a. O., S. 226—271.

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III. Formen und Ursachen der Pressekonzentration

Das Zusammentreffen dieser Faktoren[8] wirkt sich in zwei Richtungen aus: Einmal in der Tendenz, die vorhandenen redaktionellen, technischen und betrieblichen Einrichtungen für die Herausgabe mehrerer Produkte nutzbar zu machen. Das geschieht, da Neugründungen von Presseorganen in der Regel nicht erfolgversprechend erscheinen, entweder durch Übernahme bereits bestehender Zeitungen und Zeitschriften auf dem Wege des Kaufes oder der Pacht, auf Grund von Marktabgrenzungen (horizontale Konzentration) oder durch das Bemühen, die eigene Marktposition zu verbessern, also im wirtschaftlichen Wettbewerb das mögliche Aufkommen an Lesern und Anzeigen ganz oder teilweise an sich zu ziehen (Streben nach regionaler oder überregionaler Alleinstellung) und so die vorhandenen Konkurrenten auszuschalten. Diese Möglichkeiten stehen in der Regel nur Unternehmen offen, die bereits über eine entsprechende Marktposition verfügen oder von ihrer Unternehmensgröße her die Voraussetzungen besitzen, den dadurch ausgelösten verschärften Wettbewerb zu bestehen.

Auf der anderen Seite führt der Zwang, bessere Leistungen auch bei kleinerer Unternehmensgröße zu erbringen, um den wachsenden Leseransprüchen gerecht zu werden, zur vermehrten Bereitschaft von Verlagen, auf einigen Gebieten miteinander zu kooperieren. Das Ausmaß dieser Kooperation kann dabei alle denkbaren Stufen zwischen einer losen Arbeitsgemeinschaft und völliger Fusion annehmen. Tatsächlich sind daher im Bereich der Presse die Übergänge zwischen Kooperation und Konzentration fließend und häufig nicht eindeutig zu bestimmen[9]. So kann zum Beispiel bei weiterhin bestehender rechtlicher Selbständigkeit einzelner Verlage das Ergebnis redaktioneller Kooperation eine publizistische Konzentration sein: wie etwa eine einheitliche, von mehreren Verlagen herausgegebene Zeitung. Umgekehrt schließt

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[8] Zu den wirtschaftlichen Voraussetzungen der Pressekonzentration vgl. insbesondere *J. van Springel,* Aufwands- und Ertragsstruktur von Zeitungen bei wechselndem Anzeigenumfang, Publizistik, 8. Jg. (1963), H. 1; *J. van Springel,* Commercial Television and the Concentration of the Press, Gazette, Vol. 9 (1963), Nr. 1, S. 16—42; *The Economist Intelligence Unit* (Hrsg.), The National Newspaper Industry. A Survey, London 1966; *H. Arndt,* Die Konzentration in der Presse und die Problematik des Verleger-Fernsehens, Frankfurt/M., Berlin 1967; *F. Rittner,* Wirtschaftliche Konzentration und Presse, in: Die deutsche Presse 1967. Konzentration und Wettbewerb, Evangelische Akademie Loccum 1967 (Loccumer Protokolle 30/1967); *H. Arndt;* Recht, Macht und Wirtschaft, Berlin 1968; *F. H. Fleck,* Aktuelle Presseprobleme in wirtschaftlicher Sicht, Fribourg 1969; *U. Nussberger,* Bekannte und unbekannte Ursachen der Pressekonzentration, Bern 1970 (Werbeclub Bern); *F. H. Fleck,* Überlegungen zur Pressekonzentration, Publizistik, 16. Jg. (1971) H. 1, S. 39—47; *U. Nussberger,* Die Mechanik der Pressekonzentration, Berlin 1971.

[9] Vgl. *E. Dovifat, K. Bringmann* (Hrsg.), Konzentration und Kooperation. Zur Klärung der Begriffe, Düsseldorf 1968 (Journalismus, Bd. 4).

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unternehmerische Konzentration publizistischen Wettbewerb nicht aus: Man denke an die „Mehr-Zeitungs-Verlage".

Unterschiedliche Konsequenzen von Vorgängen der Pressekonzentration ergeben sich auch aus der differenzierten Struktur des Pressemarktes. Bei Zeitschriften, und hier insbesondere den Publikums-(Unterhaltungs-)zeitschriften mit überregionaler (nationaler), also nicht lokalgebundener Verbreitung, läuft die Verminderung der Zahl der Titel mit einer Zusammenführung der verbleibenden Zeitschriften in wenigen Verlagen zusammen. Dabei verschärft sich jedoch gleichzeitig auch der großräumig, also im gesamten Gebiet eines Staates, ausgetragene Wettbewerb um Leser und Anzeigen, insbesondere dann, wenn diese Zeitschriftenketten annähernd gleiche Größe besitzen oder durch zusätzlichen Erwerb von Zeitschriften anstreben.

Bei lokalgebundenen Presseerzeugnissen, vor allem aber bei Tageszeitungen, soweit sie — und das ist der Regelfall — nur lokal oder regional angeboten und abgesetzt werden, ist die Wettbewerbspolitik darauf gerichtet, eine Alleinanbieterposition innerhalb des vorhandenen Verbreitungsgebietes zu erzwingen, also letztlich den Wettbewerb auszuschalten. Umgekehrt sind Versuche, das vorhandene Verbreitungsgebiet auszudehnen und damit einen verstärkten Wettbewerb auszulösen, im allgemeinen nicht anzutreffen. Generell kann man feststellen, daß die Pressekonzentration im Bereich der Presse mit vorwiegend unterhaltendem Inhalt (Publikumszeitschriften) die jeweilige Wettbewerbslage verstärkt (falls nicht im nationalen Bereich ein Verlag oder eine Verlagsgruppe endgültig marktbeherrschend wird), im Bereich der Tagespresse jedoch auf örtliche und regionale Alleinstellung abzielt und damit den Wettbewerb verringert und schließlich ganz aufhebt.

A. Pressekonzentration auf dem Zeitungsmarkt

So ist die Zahl der Zeitungen z. B. in Dänemark von 140 (1945) auf 62 (1967) zurückgegangen, in Frankreich in der gleichen Zeit von 203 auf 84, in Italien von 136 auf 79. In den Niederlanden wurden 1950 115, 1967 aber nur noch 96 Tageszeitungen herausgegeben. In Schweden ging die Zahl der Zeitungen von 181 (1948) auf 114 (1967) zurück[10]; die ent-

[10] Zur Entwicklung der Pressekonzentration in den einzelnen Ländern vgl. u. a. *Royal Commission on the Press,* Report 1961/62, Cmnd. 1811, London 1962; *A. Y. Pers,* The Swedish Press, Stockholm 1963; *H. Thomas,* Newspaper Crisis in Britain, Zürich 1967; *Féderation Internationale des Editeurs de Journeaux et Publications;* Bulletin, No. 73 (Juli 1967), Themenheft zur Pressekonzentration in mehreren Ländern; *A. del Boca,* Giornale in Crisi, Turin 1968; Die Konzentration im schweizerischen Pressewesen, Veröffentlichungen der schweizerischen Kartellkommission, 4. Jg. (1969), H. 3, S. 171—240; *H., Prakke, W. B. Lerg, M. Schmolke* (Hrsg.), Handbuch der Weltpresse, Bd. 1: Die Pressesysteme der Welt, Köln, Opladen 1970; *H. R. Hardt,* The Plight of the Daily Press in Western Europe, in *H.-D. Fischer, J. C. Merrill* (Hrsg.), In-

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sprechenden Zahlen für die Bundesrepublik Deutschland wurden schon weiter oben genannt[11].

1. „Zeitungssterben"

Hinter diesen globalen Zahlen der Pressestatistik verbergen sich neben unterschiedlichen Ursachen auch unterschiedliche Formen des Prozesses der Konzentration im Zeitungsgewerbe.

Für die Tageszeitungen in der BRD ließen sich im Zeitraum vom Dezember 1954 bis Dezember 1970 insgesamt 266 allgemein strukturverändernde Vorgänge, also Fälle von Pressekonzentration im weitesten Sinne ermitteln[12].

An der Spitze stehen hier die 163 Fälle, in denen von der Änderung der Unternehmensstruktur auch die Ausgabenstruktur der Zeitungen, also das publizistische Angebot, mitbetroffen wurden. Ihnen folgen an 2. Stelle 58 Fälle, in denen die Änderung der Unternehmensstruktur ohne Einfluß auf die Ausgabenstruktur blieb, während in weiteren 45 Fällen sich zwar die Ausgabenstruktur änderte, ohne daß davon die Unternehmensstruktur berührt wurde.

Unter den 163 Vorgängen der erstgenannten Gruppe (Einstellung und Zusammenschlüsse von Zeitungsunternehmen in der Tagespresse der BRD zwischen 1954 und 1970) finden sich 63 Fälle, bei denen Zeitungen ihr Erscheinen einstellten und damit zugleich Zeitungsverlage erloschen, ohne daß andere Unternehmen der Presse hieran unmittelbar beteiligt waren[13]. Neben den auf die Dauer nicht lebensfähigen Neugründungen waren davon vor allem kleine und kleinste Zeitungen betroffen, die dem wirtschaftlichen Wettbewerb größerer Blätter so wenig gewachsen waren, daß sie auch von ihren Lesern kaum noch als publizistische Alternative angesehen wurden. Aus den gleichen Gründen stellten sie sich auch den Mitbewerbern als wenig geeignete Objekte für eine Übernahme dar, vor allem in den in dieser Gruppe besonders häufigen Fällen, wo mit der Einstellung dieser Zeitung der verbleibenden Zeitung automatisch die Alleinstellung im Verbreitungsgebiet zufiel.

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ternational Communication, New York 1970, S. 288—294; *U. Nussberger,* Mechanik, a. a. O., S. 5 ff.; *J. A. Castro Fariñas,* De la libertad de prensa, Madrid 1971, S. 332—446: El fenómeno de la concentración; Artikel „Massenmedien", in: *E. Noelle-Neumann, W. Schulz* (Hrsg.), Fischer-Lexikon Publizistik, a. a. O.

[11] Vgl. dazu auch Stichworte Presse: I. Allgemeine Entwicklung *(M. Schmolke)*, II. Presserecht (*W. Mallmann*), in: *Görres-Gesellschaft* (Hrsg.), Staatslexikon, 11. Bd./3. Erg bd. Freiburg/Brsg. 1970, Sp. 11—27.

[12] Die folgenden Zahlen zur Entwicklung auf dem Zeitungsmarkt der BRD zwischen 1954 und 1971 sind (vorläufige) Ergebnisse einer bisher unveröffentlichten Untersuchung des Verfassers.

[13] Zwei weitere Blätter stellten ihr Erscheinen als Tageszeitungen ein und wurden in unpolitische lokale Wochenblätter umgewandelt.

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In dieser Gruppe des „Zeitungssterbens" sind zahlreiche Blätter vertreten, die politischen Parteien nahestanden. Richtungsbestimmte Blätter erweisen sich im Konkurrenzkampf der Zeitungen als besonders gefährdet, sofern es ihnen nicht gelingt, die führende Position zu erringen. Tatsächlich fällt diese Marktstellung jedoch im Regelfall der politisch weniger profilierten Zeitung zu (die mehr dem Typ des „General-Anzeigers" entspricht) oder den Zeitungen, die mehr oder weniger deutlich den Auffassungen der sog. „bürgerlichen" Mitte nahestehen. Die Wettbewerbsnachteile, die sich aus der geringeren Auflage ohnehin ergeben, treffen die kleinere parteigebundene oder einer Partei nahestehende Zeitung besonders hart, wenn sich Inserenten zusätzlich aus politischen Motiven von der Anzeigenvergabe zurückhalten!

Gerade im lokalen Zeitungsmarkt kommt der Wechselbeziehung „viele Anzeigen — niedriger Bezugspreis" eine erhebliche Bedeutung zu. Der Bezugspreis, den die Leser der meisten Presseerzeugnisse zu zahlen haben, deckt die Kosten nicht einmal annähernd; auf der Erlösseite übersteigen heute die Anzeigenerlöse die Vertriebserlöse bei weitem. Durch attraktive Bezugspreise oder bessere redaktionelle Leistungen werden zusätzliche Käufer und Leser gewonnen, die wiederum ein zusätzliches Anzeigenaufkommen nach sich ziehen. Aus dieser fortwährenden Wechselbeziehung ergibt sich eine „Anzeigen-Auflagen-Spirale", die bei der im örtlichen oder regionalen Bereich führenden Zeitung aufwärts, bei den konkurrierenden kleinen Zeitungen abwärts gerichtet ist[14].

Beschleunigt wird diese Entwicklung sowohl durch die Vergabepraxis der Anzeigenagenturen als auch der örtlichen Inserenten: Obwohl Tageszeitungen kaum nebeneinander, sondern fast ausschließ exklusiv gelesen werden, werden Anzeigen auf die größere Zeitung gehäuft und die kleineren Zeitungen nicht berücksichtigt, auch wenn damit dann der Leserkreis dieser Blätter werblich überhaupt nicht angesprochen wird. Die tatsächlichen oder angenommenen Wettbewerbsnachteile der kleineren Zeitungen (wie hohe Tausenderpreise, abweichende Formate, umständliche Auftragsabwicklung und geringe Transparenz als Werbeträger) kommen hier voll zum Tragen.

Oft wird diese Entwicklung gehemmt, wenn die Abonnenten aus politischen Gründen oder aus Anhänglichkeit an ihre „Heimatzeitung" bereit sind, mangelnde redaktionelle Leistungen zu akzeptieren. Nicht selten wird aber eine kleine Zeitung auch deshalb nicht eingestellt, weil der

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[14] Zum Problem der Anzeigen-Auflagen-Spirale vgl. *L. Furhoff*, Die Theorie von der Anzeigenspirale, ZV + ZV, H. 38—39 (1968), S. 1636 ff. sowie *C. O. Sommar*, Kritische Stellungnahme zur Theorie von der Auflagenspirale, ZV + ZV, Heft 38—39 (1968), S. 1640 ff.

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Verleger infolge eines nicht ausgebauten Rechnungswesens die Verluste aus dem Zeitungsgeschäft nicht erkennen kann — nämlich dann nicht, wenn die Verluste durch Gewinne aus anderen Geschäftssparten (Druck, Buchverlag) kompensiert werden.

2. *Änderungen der Unternehmensstruktur*

In der Mehrzahl aller 163 Zeitungseinstellungen in der BRD seit 1954, nämlich in 88 Fällen, erfolgte eine Zeitungsübernahme durch Eigentumswechsel oder eine Änderung der Besitzverhältnisse: Die größere Zeitung am Ort kaufte das Konkurrenzblatt auf und legte es mit der eigenen Zeitung zusammen. Die dadurch entstehende Verbesserung der Wettbewerbssituation ist offensichtlich: In 41 Fällen konnte die übernehmende Zeitung damit die Alleinstellung, also ein örtliches Monopol, erreichen; in den übrigen 47 Fällen, in denen weiterhin örtlicher Wettbewerb erhalten blieb, vergrößerte sie den Abstand zu den Mitbewerbern. Die zunächst überraschende Tatsache, daß solche Zeitungsübernahmen sich vor allem in Perioden einer für die Zeitungsbranche günstigen Konjunkturlage häufen, dürfte auf den Umstand zurückzuführen sein, daß in Zeiten einer Rezession oder einer wirtschaftlichen Krise das Anzeigengeschäft der Presse wesentlich rascher als das Vertriebsgeschäft beeinträchtigt wird. Infolge der steigenden Anzeigenabhängigkeit und Konjunkturanfälligkeit der größeren Zeitungen können diese daher attraktive Übernahmeangebote an stärker vertriebsbetonte kleinere Zeitungen nicht so sehr in wirtschaftlichen Krisenzeiten machen, sondern erst in Zeiten wirtschaftlichen Aufschwungs, wenn sich der an sich schon vorhandene Vorsprung im Anzeigengeschäft noch verstärkt.

Obwohl die Zeitungseinstellungen durch Zeitungsaufkäufe nach außen hin häufig als „Fusionen" oder „Beginn einer Zusammenarbeit" deklariert werden, sind echte Zusammenlegungen von Zeitungen durch Unternehmensfusion auf der Basis der Gleichberechtigung beider Vertragspartner selten: Zwischen 1954 und 1970 kam es nur zu zehn Fällen solcher Zusammenschlüsse in der BRD, darunter sechs, in denen eine örtliche Monopolstellung der aus der Fusion hervorgegangenen Zeitung erreicht wurde. In 58 Fällen kam es im gleichen Zeitraum zum Eigentumswechsel oder zur Änderung der Beteiligungsverhältnisse bei Zeitungsunternehmen, ohne daß nach außen hin für den Leser eine Verringerung des Zeitungsangebotes eintrat: Die Zeitungen als publizistisches Produkt werden also weitergeführt, wenn auch häufig als zweiter oder dritter Titel innerhalb des gleichen Verlages oder der gleichen Verlagsgruppe. In elf dieser 58 Fälle wurde aber durch die Zusammenfassung mehrerer Titel in der gleichen Unternehmensgruppe (Zeitungs-

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kette) ebenfalls eine „Alleinstellung" innerhalb des Verbreitungsgebietes erreicht, obwohl die Zeitungen scheinbar weiterhin dem Publikum gegenüber als „Konkurrenten" auftreten.

3. Änderungen der Ausgabenstruktur

Aber auch ohne Veränderung der Unternehmensstruktur können Konzentrationstendenzen und Wettbewerbsveränderungen ausgelöst werden. Durch Gebietsabsprachen, also die Neuabgrenzung von Verbreitungsgebieten zwischen miteinander konkurrierenden Zeitungen, wurden in 17 Fällen Ausgaben eingestellt, wobei in sieben Fällen den davon begünstigten Zeitungen im verbleibenden Verbreitungsgebiet ein örtliches Monopol zufiel. In die gleiche Gruppe fallen mit 28 Fällen seit 1954 auch solche Kooperationsvereinbarungen zwischen Zeitungsverlagen, bei denen sich als Auswirkung der Zusammenarbeit auf verschiedenen Gebieten, insbesondere im redaktionellen Bereich, das Nebeneinander bisher konkurrierender Ausgaben als überflüssig erweist und zu ihrer Zusammenlegung führte. Bei 13 dieser Vorgänge ergab sich für die kooperierenden Verlage eine örtliche oder regionale Alleinstellung, in den übrigen 15 Fällen, in denen neben den kooperierenden Zeitungen noch eine oder mehrere weitere Zeitungen bestanden, verbesserten die durch die Kooperation gestärkten Verlage ihre führende Wettbewerbssituation nachhaltig.

Die hier mit Zahlen für den Bereich der Tagespresse in der BRD belegten Möglichkeiten der durch Pressekonzentration ausgelösten Strukturveränderungen lassen sich analog auch für andere Länder nachweisen. Das Verhältnis, in dem diese Möglichkeiten zueinander stehen, ist jedoch außerordentlich variabel: Die aktuelle Entwicklung in den verschiedenen ausländischen Staaten hängt ab von der allgemeinen Presseentwicklung und dem bisher erreichten Konzentrationsgrad. Von erheblicher Bedeutung ist dabei, ob die Pressestruktur in sich weitgehend ausgeglichen (Wettbewerb zwischen annähernd gleich großen Unternehmen) oder bei einem Nebeneinander von wenigen großen und vielen kleinen Unternehmen der Presse ungleichgewichtig und damit außerordentlichen Spannungen ausgesetzt ist.

B. Pressekonzentration auf dem Zeitschriftenmarkt

Im Zeitschriftensektor haben Vorgänge der Pressekonzentration unterschiedliche Tendenz: Verlage von Publikumszeitschriften sind bestrebt, einzelne oder alle Titel aus konkurrierenden Verlagen zu übernehmen, um sie dann entweder in eigenen Titeln aufgehen zu lassen oder sie im eigenen Verlag weiter zu führen. Verlage von Fachzeit-

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schriften sind eher zu einer Fusion von ursprünglich konkurrierenden Objekten in Form der Verlagsgemeinschaft oder des Gemeinschaftsverlages bereit (doch ist auch hier die generelle Tendenz unübersehbar, in bestimmten Fachbereichen durch Aufkäufe oder verschärften Wettbewerb den Titeln des eigenen Verlages die Alleinstellung zu sichern). Die wachsende Spezialisierung vieler Fachbereiche hat umgekehrt auch dazu geführt, den davon ausgelösten Kommunikationsbedürfnissen durch Gründung neuer Fachorgane zu entsprechen — wobei hier wiederum Verlage führend sind, die bereits mit einer Vielzahl von themenähnlichen oder benachbarten Titeln über die notwendige Marktposition zur Durchsetzung neuer Objekte verfügen.

Konzentrationsvorgänge haben aber das Titelangebot in einigen Gruppen der Publikumszeitschriften stark zurückgehen lassen (z. B. bei den aktuellen Illustrierten, wo sich in der BRD die Zahl von 15 Titeln im Jahre 1954 auf vier im Jahre 1971 verringert, die Durchschnittsauflage je Titel sich im gleichen Zeitraum aber mehr als vervierfacht hat) bzw. die entsprechenden Titel in einem oder wenigen Verlagen zusammengeführt (in der BRD werden 1971 mehr als vier Fünftel der Auflage der größeren Publikumszeitschriften von insgesamt fünf Verlagen oder Verlagsgruppen herausgebracht).

Wegen ihrer meist überregionalen Verbreitung mußte sich hier der intramediäre Wettbewerb auf dem Anzeigensektor besonders auswirken. Bei der weitgehenden Abhängigkeit von Anzeigenerlösen haben stagnierende oder zurückgehende Anzeigenumsätze dazu geführt, daß auch Zeitschriften mit hohen Auflagen ihr Erscheinen einstellen oder daß sie mit anderen Blättern zusammengelegt werden mußten. Für diese international zu beobachtende Erscheinung sind im wesentlichen zwei Gründe maßgebend: 1. Eine Zeitschrift kann trotz großer Auflage unter drei Gesichtspunkten relativ uninteressant sein: a) Die Zusammensetzung ihrer Leserschaft entspricht nicht (mehr) den Zielgruppen der Werbung, b) Käufer und Leser bringen zwar eine hohe Reichweite, die jedoch mit zuviel Streuverlusten zu teuer bezahlt erscheint und c) es bestehen Überschneidungen mit den Leserschaften anderer Zeitschriften, die nach Meinung der Werbetreibenden aber durch ihr redaktionelles Umfeld bessere Voraussetzungen für die Rezeption der Werbeaussage bieten. 2. Fehlende, stagnierende oder zurückgehende Anzeigenerlöse können nicht durch eine Erhöhung der Vertriebspreise ausgeglichen werden, da sich für vergleichbare Zeitschriftentitel im meist nationalen Markt weitgehend übereinstimmende Verkaufspreise herausgebildet haben. Eine länger anhaltende Kostenunterdeckung führt daher bei den meist auflagestarken Zeitschriften zu solchen Verlusten, die selbst große Verlagsunternehmen nur begrenzte Zeit tragen können. Die Schwierigkeiten,

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in die Presseorgane durch Erreichen des sog. „Papierpunktes" geraten können, hängen eng damit zusammen, sind aber doch mehr theoretischer Natur, da heute im Gegensatz zu früher Anzeigenpreise — außer bei bereits vorliegenden Abschlüssen — nicht mehr auf längere Zeit festgelegt werden: Bei rasch wachsender Käufernachfrage (wie sie bei Neugründungen, die in eine Marktlücke stoßen, zu beobachten ist) können, wenn nicht gleichzeitig auch die auf niedrigerer Auflagenhöhe kalkulierten Anzeigenpreise sofort angehoben werden, die durch die höhere Auflage ausgelösten Papiermehrkosten schließlich stärker als die Vertriebserlöse ansteigen und zu Verlusten führen.

IV. Publizistische Konzentration durch redaktionelle Kooperation

Zu den Eigenarten des Pressemarktes gehört es, daß kostensenkende Rationalisierungsmaßnahmen für das einzelne Presseorgan nur im geringen Maß möglich sind: Weder das redaktionelle Angebot (also der Stoffumfang — weniger Journalisten bearbeiten ein geringeres Nachrichtenangebot auf weniger Seiten —) noch die redaktionelle Leistung (also die Darbietung des Stoffes) können unter ein bestimmtes, wiederum vom Wettbewerb diktiertes Mindestmaß dessen gesenkt werden, was im Vertrieb noch an den Bezieher absetzbar erscheint. Lokale und regionale Tageszeitungen haben daher den Ausweg gefunden, die redaktionellen Kosten durch Aufgabe ihrer „publizistischen Selbständigkeit" drastisch zu senken. Das geschieht durch Abbau der bisher für alle Sparten arbeitenden (Voll-)Redaktionen und Beschränkung auf eine Redaktion, die nur noch den Lokal- und Regionalteil selbst herstellt. Für den gesamten übrigen Zeitungsinhalt, insbesondere aber den sog. „Mantel" (den aktuellen Teil mit überregionaler Politik) wird fremdgefertigtes Material in Form von Spalten- oder Seitenmatern von einer Zentralredaktion oder einer anderen Zeitung außerhalb des eigenen Verbreitungsgebietes übernommen[15]. Es hängt dabei von den im Zusammenhang mit solchen Kooperationsmaßnahmen getroffenen Vereinbarungen ab, ob und wieweit eine Einflußnahme der abhängigen Verlage auf den übernommenen Zeitungsinhalt möglich ist, in der Praxis ist es jedoch so gut wie ausgeschlossen.

Dieser Vorgang der „publizistischen Konzentration" läuft weitgehend unabhängig ab von Veränderungen der Unternehmensstruktur, also der wirtschaftlichen Konzentration. Lediglich in den Fällen, wo die redaktionelle Kooperation mit einer konkurrierenden Zeitung aufgenommen

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[15] Vgl. *P. Nestel,* Mehrköpfige oder halbfertige Zeitungen in Deutschland, Phil. Diss. Leipzig 1923 (Masch.schr.); *W. J. Schütz,* Deutsche Tagespresse in Tatsachen und Zahlen, Publizistik, 1. Jg. (1956), H. 1, S. 31—48.

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werden muß (weil sich z. T. infolge schon weiter fortgeschrittener Pressekonzentration kein anderer Partner mehr findet), macht das die gegenseitige Abgrenzung von Verbreitungsgebieten oder die Zusammenlegung von inhaltlich sich ganz oder teilweise überschneidenden lokalen Ausgaben der betreffenden Verlage erforderlich, löst also auch Veränderungen in der Zeitungsstruktur aus.

Solche redaktionellen Verflechtungen durch Maternbezugsverträge oder Mitarbeit an (teilweise auch genossenschaftlich betriebenen) Gemeinschaftsredaktionen haben in der Presse der BRD ein beträchtliches Ausmaß[16] erreicht, da die deutsche Zeitungsstruktur mit ihrer Fülle lokaler Ausgaben für dieses System die besten Voraussetzungen bot. Für 1500 lokale und regionale Ausgaben von Tageszeitungen arbeiteten 1954 in der BRD 225 Vollredaktionen. Das bedeutete, daß im Durchschnitt knapp 7 Zeitungen im politischen Inhalt weitgehend übereinstimmten und sich nur durch den lokalen Text- und Anzeigenteil und vielfach nach dem Titel unterschieden. Diese 225 „publizistischen Einheiten" wurden von insgesamt 624 deutschen Zeitungsverlagen unterhalten. Bis Anfang 1971 war die Zahl der Ausgaben nur geringfügig auf rund 1300 (aus 485 Verlagen) zurückgegangen. Ihr allgemeiner Teil kam aber nur noch aus 141 „publizistischen Einheiten"; durchschnittlich haben also heute mehr als 9 Ausgaben das gleiche Gesicht. Wer wissen wollte, was die Presse der BRD insgesamt zu aktuellen politischen Fragen zu sagen hatte, mußte 1954 noch 225 Zeitungen lesen; 1971 genügen dafür 141 Titel. In allen übrigen mehr als 1100 Ausgaben stand und steht — abgesehen vom lokalen Text- und Anzeigenteil — praktisch der gleiche Inhalt[17].

V. Kooperation als Vorstufe der Konzentration

Diese redaktionelle Kooperation kann auch von einer wirtschaftlichen Kooperation begleitet sein: Durch gemeinsamen Druck und Vertrieb können Einsparungen erzielt und durch die zusammengefaßte höhere Auflage günstigere Voraussetzungen zur Anzeigenakquisition geschaffen werden. Allerdings ist in der BRD der redaktionelle Verbund, weil er vielfach die einzige Überlebenschance für kleinere Zeitungen darstellt, weiter vorangetrieben als die Zusammenarbeit in den übrigen Bereichen, während z. B. in den skandinavischen Ländern der besonders per-

[16] Vgl. dazu *R. Hofsähs*, Veränderungen in der redaktionellen Struktur der deutschen Tageszeitungen zwischen 1964 und 1967, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 197—204.

[17] Fortschreibung von statistischen Erhebungen des Verfassers, zuletzt: *W. J. Schütz*, Veränderungen im deutschen Zeitungswesen zwischen 1954 und 1967, Publizistik, 12. Jg. (1967), H. 4, S. 243—246 und *ders.*, Zeitungsstatistik, a. a. O., S. 354 ff.

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sonalintensive Vertrieb selbst von konkurrierenden Unternehmen gemeinsam organisiert wird[18].

Eine Kooperationsvariante, die auf lange Sicht geeignet sein könnte, ein Nebeneinander von kleineren und größeren Zeitungen zu garantieren, wurde in der BRD entwickelt: Die auflagenstarke Zeitung beschränkt sich auf ihr engeres Verbreitungsgebiet (meist eine Großstadt), redigiert und druckt den allgemeinen Teil und setzt und druckt zugleich für die kooperierenden „Anschlußzeitungen", deren überregionales Anzeigengeschäft außerdem von ihr mitverwaltet wird. Vertrieb und lokales Anzeigengeschäft nehmen die angeschlossenen, rechtlich weiterhin selbständigen kleineren Zeitungen innerhalb ihres jeweiligen Verbreitungsgebietes (dem Umland der Großstädte) selbst wahr und sie unterhalten auch die jeweiligen Lokalredaktionen.

Den Redaktionsgemeinschaften fehlt demgegenüber die größere Zeitung als Kern; eine wirtschaftliche Kooperation in der Zeitungsherstellung (Druck), bei der Anzeigenbeschaffung und beim Vertrieb ist hier ebenfalls kaum anzutreffen, so daß nur eine redaktionelle Zusammenarbeit zwischen Zeitungen kleiner und kleinster Auflage besteht. Angesichts der generellen Gefährdung solcher Zeitungen in Zeiten fortschreitender wirtschaftlicher Pressekonzentration sind daher auch deren Redaktionsgemeinschaften im gleichen Maße bedroht.

Umgekehrt können in sog. Anzeigengemeinschaften und in Anzeigenringen (Tarifgemeinschaften) auch Zeitungsverlage wirtschaftlich zusammenarbeiten, ohne daß redaktionelle Verflechtungen zwischen diesen Zeitungen bestehen müssen. Die Ringe stellen jedoch nur lockere Zusammenschlüsse zur gemeinsamen Abwicklung von überregionalen Anzeigenaufträgen dar; da aber ihre Anzeigentarife häufig, vor allem bei kleineren Zeitungen, nur wenig niedriger sind als die Summe der Einschaltpreise aller Mitglieder, können dadurch die Vorteile der auflagenstarken Presse und der im Anzeigengemeinschaft eng verflochtenen Verlage kaum wettgemacht werden.

Kooperationsvorgänge sind in der Regel als Übergangsstufen zur Pressekonzentration anzusehen. Die Schwelle wird — im publizistischen Bereich — bereits mit der Übernahme redaktioneller Zeitungsinhalte erreicht und — im wirtschaftlichen Bereich — mit der Zusammenlegung von Titeln, beim Erlöschen von Verlagen als Rechtspersönlichkeit oder bei Übernahme von Zeitungen durch bereits bestehende Verlage überschritten.

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[18] Vgl. *E. Meier*, Reform des Pressevertriebs, Publizistik, 6. Jg. (1961), H. 3, S. 160—163.

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VI. Folgen der Konzentration und Kooperation im Pressewesen

Von Pressekonzentrationsvergängen sind in den meisten Ländern im allgemeinen nur auflagenschwache Zeitungen betroffen worden; auch der Rückgang der Zahl der „publizistischen Einheiten" (als Merkmal der publizistischen Konzentration) in der BRD hat sich nur unterhalb einer Auflagengrenze von 40 000 Exemplaren vollzogen[19]. So kann als Auswirkung der Pressekonzentration im weitesten Sinne zunächst nur die Verdrängung leistungsschwacher Objekte vom Markt konstatiert werden, die den gegenwärtigen Aufgaben nach einer qualifizierten Informationsvermittlung kaum gewachsen waren, geschweige denn in der Lage wären, die Investitionen aus technischen Entwicklungen finanziell zu verkraften. Bei der Diskussion um die durch das „Zeitungssterben" geringer werdende Vielfalt wird immer wieder übersehen, daß die Vorstellung des sich allseits informierenden Bürgers, der aus einer Fülle von miteinander konkurrierenden Blättern seine Auswahl trifft und sie vergleichend liest, in der Realität nicht anzutreffen ist. Empirisch nachweisbar ist dagegen, daß größere Zeitungen kleineren publizistisch überlegen sind: Sie sind auf Grund ihrer besseren wirtschaftlichen Situation in der Lage, beispielsweise mehr Nachrichtenquellen zu abonnieren[20], den Zeitungsinhalt sorgfältiger zu redigieren, mehr Meinungsbeiträge zu veröffentlichen, kurz: dem Leser ein publizistisch wie technisch besseres Produkt anzubieten[21]. Große Zeitungen können dem Versuch von Interessengruppen oder Anzeigenkunden, die Einfluß auf den redaktionellen Inhalt der Zeitungen nehmen wollen, besser widerstehen. Befürchtungen, die Beschäftigungslage für Journalisten oder ihre journalistische Berufsausübung könnten sich bei einer Verringerung der Titelzahl verschlechtern, haben sich bisher nicht bestätigt. Eher ist die gegenteilige Entwicklung zu beobachten: Der Verlust an Arbeitsplätzen beim Verschwinden kleinerer, wegen der angespannten Finanzlage personell unterbesetzter Zeitungen ist gering im Vergleich mit den erweiterten Beschäftigungsmöglichkeiten bei den durch die Pressekonzentration gestärkt verbleibenden Konkurrenten[22]. Durch die Höhe der von ihnen gezahlten Gehälter und Honorare sind größere Unternehmenseinheiten ferner in der Lage, qualifiziertere Journalisten einzusetzen und die Zahl der festangestellten und freien Mitarbeiter so zu erhöhen, daß sie in Arbeitsteilung jeweils besondere Fachgebiete betreuen.

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[19] Vgl. *E. Noelle-Neumann,* Pressekonzentration und Meinungsbildung, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 108 f.

[20] Vgl. *B. Kearl,* Effects of Newspaper Competition on Press Service Resources, Journalism Quarterly, Vol. 35 (1958), S. 56—65.

[21] *R. B. Nixon, R. L. Jones,* The Content of Non-Competive vs. Competive Newspapers, Journalism Quarterly, Vol. 53 (1955), S. 299—314 und *E. Noelle-Neumann,* a. a. O., S. 108—113.

[22] Vgl. *K. -H. Flach,* Die Lage der deutschen Presse heute, in: Die deutsche Presse 1967, a. a. O., S. 62 ff.

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Im Bereich der Publizistik trägt ökonomischer Wettbewerb nicht von sich aus dazu bei, dem Publikum höherwertige Leistungen anzubieten. Der Kampf um zusätzliche Leser als Voraussetzung für weitere Anzeigenaufträge kann vielmehr zu einer erheblichen Senkung des redaktionellen Niveaus einer Zeitung oder Zeitschrift führen, von der in Wechselwirkung dann wiederum weitere Titel, die diesem Wettbewerb ausgesetzt sind, betroffen werden[23].

Als besorgniserregende Auswirkungen der Pressekonzentration, die auch durch die schon genannten Vorteile nicht aufgewogen werden können, werden in der öffentlichen Diskussion vor allem zwei Komplexe angesehen: 1. das örtliche Zeitungsmonopol und 2. die Vermutung, daß die Akkumulierung von Marktanteilen durch wachsende Auflagenkonzentration[24] wenigen Verlagen bzw. Verlagsgruppen (im Extremfall nur einer Gruppe) eine den Interessen der Gesellschaft zuwiderlaufende, nicht zu kontrollierende publizistische Macht bereits verschafft hat oder ihr dazu verhelfen könnte, die sich wiederum zu politischer Einflußnahme mißbrauchen ließe[25].

Der zweite Komplex wirft zwar eine Fülle von Problemen auf (insbesondere dann, wenn eine publizistische Ausrichtung aller Organe innerhalb einer Verlagsgruppe besteht), doch ist, solange es noch damit konkurrierende andere Presseerzeugnisse und Mediensysteme (Hörfunk, Fernsehen) gibt, der Wettbewerb zwar beeinträchtigt, aber noch nicht aufgehoben. Dagegen beschneidet die örtliche oder regionale Alleinstellung von Presseerzeugnissen als Ergebnis von Pressekonzentrationsvorgängen die freie Information des Bürgers in nicht mehr zu vertretendem Maße: Er kann sich über das örtliche oder regionale Geschehen nur noch aus einer einzigen Quelle informieren (aus der er in der Regel dann auch — wenn er nicht auf eine nicht lokalgebundene Zeitung ausweicht — die überörtlichen Informationen bezieht)[26]. Hier

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[23] Vgl. *H. Arndt,* Die Konzentration . . ., a. a. O., S. 10 ff., sowie *H. Arndt,* in: Bedroht die Pressekonzentration die freie Meinungsbildung, Hamburg 1967 (Bergedorfer Protokolle, Bd. 19), S. 29.

[24] Zur Entwicklung der Auflagenkonzentration in der deutschen Tagespresse 1954—1967 vgl. *W. J. Schütz,* Zeitungsstatistik, a. a. O., S. 367 f. (Tab. 10 und 11).

[25] Für diese Auffassung vor allem *J. Aufermann, P. Heilmann, H. Hüppauf, C. W. Müller, U. Neveling, G. Wersig* (Hrsg.), Pressekonzentration. Eine kritische Materialsichtung und -systematisierung, München 1970; typisch für die gegenteilige Auffassung *A. Springer,* Deutsche Presse zwischen Konzentration und Subvention, Kiel 1967 (Kieler Vorträge, [NF] 48). Der gegenwärtige Stand der Diskussion wird erfaßt in: Freiheit der Zeitung / Freiheit in der Zeitung — Ideologie und Wirklichkeit, Bonn 1970 (Bericht über eine vom BDZV veranstaltete Tagung) sowie vor allem *F. Ronneberger,* Konzentration und Kooperation in der deutschen Presse aus kommunikationspolitischer Sicht, Publizistik, 16. Jg. (1971), H. 1, S. 5—38.

[26] Vgl. *E. Gehrhardt,* Das örtliche Zeitungsmonopol, Publizistik, 14. Jg. (1969), H. 3, S. 287—297.

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wird die Gefahr darin gesehen, daß durch einseitige Festlegung der von der „Monopol"-Zeitung vertretenen Haltung ihre inhaltliche Ausgewogenheit nicht gewährleistet ist und somit die von Minderheiten oder auch von Mehrheiten in der Öffentlichkeit vertretenen Auffassungen entweder falsch oder ungenügend wiedergegeben oder überhaupt unterdrückt werden. In der Praxis hat sich die örtliche oder regionale Zeitung mit Alleinstellung im Verbreitungsgebiet eher zur „kommunalen Versorgungseinrichtung" entwickelt, die vielfach infolge Fortfall des Wettbewerbsdrucks ihr Informationsangebot reduziert und ihren Meinungsteil farbloser gestaltet[27].

Der fortschreitende Prozeß der Pressekonzentration hat dazu geführt, daß im Bundesgebiet zwischen 1954 und Ende 1970 die Zahl der Kreise und kreisfreien Städte, in denen nur noch eine örtliche Zeitung angeboten wird, von 85 (= 15 % aller Kreise) auf 189 (= 34 % aller Kreise) angestiegen ist[28]. Bereits 1966 wurden in der BRD mehr als 30 % der Auflage der deutschen regionalen und lokalen Abonnementszeitungen ohne Konkurrenz abgesetzt oder in Gebieten vertrieben, in denen die Mitbewerber so zur Bedeutungslosigkeit herabgesunken waren, daß ein Wettbewerb kaum noch stattfand[29]. Ähnliche Feststellungen lassen sich nicht nur für Schweden (1945: 42, 1968: 62 Orte mit nur einer Zeitung)[30] und die Vereinigten Staaten (1968: drei Städte mit drei, 55 Städte mit zwei konkurrierenden, 1387 Städte mit nur einer Zeitung)[31], sondern auch für viele andere Länder treffen.

VII. Maßnahmen gegen die Pressekonzentration

Da Markteintrittschancen im Zeitungsgewerbe kaum noch bestehen und die Schaffung von Marktgegengewichten mit staatlicher Hilfe wegen der Gefahr der Wettbewerbsverzerrung erhebliche Bedenken auslösen muß, ist die Diskussion von Maßnahmen gegen die Pressekonzentration vor allem von der Absicht bestimmt, die noch bestehende „Vielfalt" zu bewahren. Die Möglichkeiten hierfür sind jedoch sehr begrenzt. Soweit

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[27] Als Untersuchungen zu diesem Themenkreis sind zu nennen: *M. Knoche, W. Schulz,* Folgen des Lokalmonopols von Tageszeitungen, Publizistik, 14. Jg. (1969), H. 3, S. 298—310 und *E. Blankenburg, U. Theer, R. Theis,* Auswirkungen lokaler Pressekonzentration, Soziologische Studien des Instituts für Soziologie der Universität Freiburg, Nr. 1 (1970).

[28] Fortschreibung der Untersuchung von *W. J. Schütz,* Die Zeitungsdichte in der Bundesrepublik Deutschland 1967/69 und die Zunahme der „Ein-Zeitungs-Kreise" seit 1954, Publizistik, 14. Jg. (1969), H. 3, S. 311—323.

[29] BT-Drucksache V/2120, Bericht in der Kommission zur Untersuchung der Wettbewerbsgleichheit von Presse, Funk/Fernsehen und Film (1967; Bericht der „Michel-Kommission"), S. 73 ff.

[30] Vgl. *I. Petzke,* Zwischen Ehrengericht und Subvention. Zur inneren Pressefreiheit in Schweden, Publizistik, 15. Jg. (1970), H. 2, S. 139 (Tabelle 3).

[31] Vgl. *U. Nussberger,* Mechanik, a. a. O., S. 10.

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Erlösverbesserungen durch gezielte Subventionen vorgenommen werden (unmittelbare Zuschüsse des Staates, der Parteien, Verbände und Interessengruppen), lassen sich dadurch Wettbewerbsnachteile in den wenigsten Fällen beeinflussen oder gar aufheben, so daß diese Art der Hilfe langfristig im allgemeinen ohne Erfolg bleiben muß. Das zeigen auch die Erfahrungen in Schweden, wo die Parteien aus öffentlichen Mitteln Zuschüsse für die ihnen nahestehenden Zeitungen erhielten[32]. Kommen aber bestimmte Hilfen der Presse insgesamt oder bestimmten Pressetypen[33] zugute (z. B. Steuerermäßigungen, Kredithilfen, Senkung von Gebühren beim Postvertrieb und im Fernmeldedienst oder die Zollbefreiung bei der Papiereinfuhr), so stärkt das auf die Dauer den Kostenvorsprung der wirtschaftlich gesunden Blätter gegenüber den schwachen, der sich mit dem Qualitätsvorsprung kumulativ steigert. Die Folge ist, daß die Wettbewerbslage noch mehr verschärft wird. Differenziert man jedoch die Förderungsmaßnahmen, etwa durch eine Staffelung nach der Höhe der Auflage, so läßt man den Gesichtspunkt außer acht, daß weniger die absolute Höhe der Auflage als vielmehr die Marktstellung im Verbreitungsgebiet über den wirtschaftlichen Erfolg eines Blattes entscheidet. Eine progressive Besteuerung des Anzeigenaufkommens stößt ebenfalls auf Schwierigkeiten: Marktbeherrschende Zeitungen wären, da die werbetreibende Wirtschaft nicht auf die von ihnen gebotenen Insertionsmöglichkeiten verzichten wird, in der Lage, die Anzeigenpreise heraufzusetzen — mit der Folge, daß bei gleichbleibenden Werbeetats die kleineren Wettbewerber noch weniger am Anzeigenaufkommen teilhaben[34].

Fusionskontrollen im Pressewesen sind in einigen Ländern eingeführt worden, in anderen in der Diskussion[35]. Sie haben den Vorgang der Pressekonzentration nicht aufhalten, kaum verzögern können, da wirtschaftlich notwendige Konsequenzen — wenn auch mit Auflagen für die publizistische Seite der zu behandelnden Fälle[36] — unabweislich erschienen. Zudem würde ein Fusionsverbot die aus publizistischen Gründen notwendige Marktbereinigung zugunsten leistungsfähigerer Einheiten behindern. Publizistische Großunternehmen sind zudem häufig nicht aus Fusionen hervorgegangen, sondern durch Expansion gewachsen. Un-

[32] Vgl. *I. Petzke*, a. a. O., S. 141 ff.

[33] Zur Problematik, Förderungmaßnahmen von der Erfüllung bestimmter politischer Voraussetzungen oder publizistischer Leistungen der Presse abhängig zu machen, vgl. *G. Konow*, Gibt es eine „staatspolitisch wertvolle" Presse?, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 279—284.

[34] Vgl. dazu *K. Reumann*, a. a. O., S. 257 f.

[35] Vgl. hierzu: Pressefreiheit, Entwurf eines Gesetzes zum Schutz freier Meinungsbildung und Dokumentation des Arbeitskreises Pressefreiheit, Neuwied 1970.

[36] Als Beispiel für eine solche Auflage siehe *The Monopolies Commission*, The Times Newspaper and the Sunday Times Newspaper. A Report on the Proposed Transfer to Newspaper Proprietor, London 1966.

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erwünschte Monopole[37] hinwiederum sind im Pressebereich fast nur im lokalen Bereich entstanden, daher — gemessen an der Größe eines nationalen Marktes — auf ihre absolute Größe bezogen kaum erfaßbar.

Marktanteilsbegrenzungen für Großunternehmen[38] der Presse sind ein denkbares Mittel, ungleichgewichtigen Entwicklungen im Pressewesen entgegenzuwirken, dürften sich aber in der Praxis als nahezu undurchführbar erweisen[39]. Eine Auflagenbegrenzung schließlich erweist sich als Eingriff in die Freiheit des Bürgers, selbst über die Auswahl seiner Informationsmöglichkeiten zu bestimmen.

In den Auseinandersetzungen um die sog. „Wettbewerbsverzerrungen" ist von seiten der Verleger immer wieder behauptet worden, durch die Werbesendungen des Fernsehens werde das Werbeaufkommen der Presse beeinträchtigt und damit die Tendenz der Pressekonzentration verstärkt[40]. Eingehende Untersuchungen, die von der sog. „*Michel*-Kommission" in der BRD vorgenommen wurden, haben diesen Vorwurf widerlegt. Danach sind die wirtschaftlichen Probleme weder durch die Entwicklung des Fernsehens noch durch das Werbefernsehen erklärbar. Bei allen Pressetypen ist die intramediäre Konkurrenz stärker als es die intermediären Wettbewerbsbeziehungen sind[41]. Dennoch wird von vielen Verlagen dort, wo der Rundfunk öffentlich-rechtlich organisiert ist, ein Zugang zum Fernsehen — sei es in Form eines von den Verlegern allein getragenen Programms oder einer Beteiligung an privaten Fernseheinrichtungen — als Mittel zur Überwindung pressespezifischer Probleme angestrebt. In den Ländern, in denen der Rundfunk privatwirtschaftlich organisiert und damit auch den Presseunternehmen zugänglich ist, haben sich jedoch Pressekonzentrationsvorgänge nicht aufhalten lassen. Vielmehr ist der intermediäre Wettbewerb zu Lasten der Presse auch in den regionalen und lokalen Bereich hineingetragen worden, ohne daß sich die intramediäre Konkurrenzsituation der Presse selbst wesentlich geändert hätte. Außer wirtschaftlichen sprechen aber auch

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[37] Kritisch zur Anwendung des Monopol-Begriffs in der Publizistik *P. Glotz, W. R. Langenbucher,* Monopol und Kommunikation, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 137—179.

[38] Dieser Vorschlag war der Kern der BT-Drucksache V/3122: Schlußbericht der Kommission zur Untersuchung der Gefährdung der wirtschaftlichen Existenz von Presseunternehmen und der Folgen der Konzentration für die Meinungsfreiheit in der BRD (1968; Bericht der „Günther-Kommission"); dazu BT-Drucksache V/3856: Stellungnahme der Bundesregierung (zum Bericht der „Günther-Kommission", 1969).

[39] Gegenteiliger Ansicht ist *M. Löffler,* Die Pressekonzentration bedroht die Pressefreiheit, Zeitschrift für Rechtspolitik, 1. Jg. (1968), H. 1, S. 12—17.

[40] Dazu *Bundesverband Deutscher Zeitungsverleger,* Pressefreiheit und Fernsehmonopol. Beiträge zur Wettbewerbsverzerrung zwischen den publizistischen Mitteln, Bad Godesberg o. J. (1964); gegenteilige Ansichten werden vertreten in *ARD* (Hrsg.), Rundfunkanstalten und Tageszeitungen, Frankfurt/Main, 1965/66 (Bd. 1—4), Mainz 1969 (Bd. 5).

[41] Bericht der „Michel-Kommission", a. a. O.

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noch gewichtige publizistische Gründe für das in fast allen Ländern mit öffentlich-rechtlicher Rundfunkstruktur beibehaltene kommunikationspolitische Prinzip der sog. „publizistischen Gewaltenteilung" zwischen Presse und Rundfunk[42].

Wegen der zu erwartenden personellen und technologischen Anforderungen an moderne leistungsfähige Presseunternehmen, die neben wachsendem Kapitalbedarf eine nach Pressetypen unterschiedliche, generell aber sich immer mehr erhöhende Mindestauflage erfordern, sind auch in Zukunft Vorgänge der Pressekonzentration kaum aufzuhalten[43]. Die Maßnahmen, ihnen Einhalt zu gebieten, reichen nicht aus oder sind auf die Dauer wirkungslos. Angesichts der bereits entstandenen Situation, die wie die Bildung von Monopolen lokaler Zeitungen auch kaum rückgängig zu machen ist, ist die Forderung nach einer „Vielfalt *der* Presse" ohnehin illusorisch geworden. In der kommunikationspolitischen Diskussion[44] ist deshalb eine neue Position bezogen worden: mit dem Anspruch, allen gesellschaftlichen Kräften in Zeitungen und Zeitschriften Raum zu geben und auf diese Weise eine „Vielfalt *in der* Presse", also eine ausgewogene Berichterstattung und einen Meinungspluralismus in jeder einzelnen Zeitung selbst anzustreben[45]. Ob und wie dieses Ziel zu erreichen sein wird — durch Ausbau der sog. inneren Pressefreiheit, Redaktionsbeiräte, Appellation an Presseausschüsse, normative Vorschriften für ausgewogene Inhaltsgestaltung[46] oder letztlich durch Überführung von Monopolzeitungen in einen öffentlich-rechtlichen Status — das ist der durch die Pressekonzentration ausgelöste Auftrag an die Kommunikationspolitik der Zukunft.

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[42] Vgl. hierzu insb. die bei *H. Arndt*, Die Konzentration . . ., a. a. O., S. 51—65 und im Bericht der „Michel-Kommission" genannten Gründe zur „publizistischen Gewaltenteilung"; vgl. auch Information und Meinungsbildung, Evangelische Akademie Loccum, Loccumer Protokolle 28 (1968) sowie BT-Drucksache VI/692, Zwischenbericht der Bundesregierung über die Lage von Presse und Rundfunk in der BRD (1970); gegenteiliger Ansicht *K. Müller-Neuhof*, Das Modell der Zeitungslandschaft zwischen Konzentration und Integration, Publizistik, 14. Jg. (1969), H. 3, 258—267.

[43] Vgl. *A. Silbermann, E. Zahn*, Die Konzentration der Massenmedien und ihre Wirkungen, Düsseldorf 1970.

[44] Vgl. dazu *K. D. Baldus*, Konzentration auf dem Pressemarkt und kommunikationssoziologische Diskussion sowie *G. Kieslich*, Wettbewerb der Massenmedien und Konzentration im Pressewesen. Dokumentation der drei Untersuchungskommissionen und der parlamentarischen Diskussion, Publizistik, 13. Jg. (1968), H. 2, 3, 4, S. 101—106 und S. 180—196.

[45] Hierauf hat insb. *H. Starkulla* in seinen Arbeiten mehrfach hingewiesen (vgl. vor allem *H. Starkulla*, Presse, Fernsehen und Demokratie. Der „Wettbewerb" der Medien als kommunikationspolitisches Problem, Publizistik, 10. Jg. (1965), H. 3, S. 382 ff.), auf die sich *H. Wagner*, Die unverstandene Pressekonzentration, Stimmen der Zeit, 95. Jg. (1970), H. 7, S. 5—17 bezieht.

[46] Vgl. die Diskussion solcher Möglichkeiten vor allem bei *P. Glotz, W. R. Langenbucher*, Der mißachtete Leser. Zur Kritik der deutschen Presse, Köln 1969, S. 185—187: Entwurf eines Gesetzes gegen den Mißbrauch der Presse [Pressefreiheitsgesetz]; *E. Gehrhardt*, a. a. O.; *H. Ehmke*, Verfassungsrechtliche

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Summary

Concentration of the Press

Processes of concentration as well as of cooperation are essentially consequences of existing competition in a free economy press. Changes in the structure of the daily press and of periodical literature are not oriented at the "public assignment" of the press, but are exclusively produced by economic considerations, above all earning situation and profit-maximizing. Therefore it is increasingly demanded in the public to counter the process of press concentration — which is executed in multifarious forms — by measures of communications policy.

Above all the decrease in the number of journalistically independent newspapers and the growing number of areas which are monopolized by one newspaper are considered as restrictions of information opportunities; the concentration of circulation with big enterprises is supposed to cause an increase of uncontrolled journalistic and hence political influence. Though by concentration and cooperation predominantly low efficiency publishing houses are ousted and the remaining publications mostly furnish journalistically better products; the reduction of competition and the possibility of streamlining of newspapers and periodicals within publishing houses and publishing groups present serious problems.

The facilities for the control of press concentration provided up to now prove to be—with closer investigation—little efficient to stop the advancing process or even to undo it.

Because the "variety of the press" does not exist any longer in all spheres it must be secured that the opinions of all socially relevant forces manifest themselves in the „variety *within* the press".

Fragen einer Reform des Pressewesens, in: *H. Ehmke, C. Schmid, H. Scharoun* (Hrsg.), Festschrift für Adolf Arndt, Frankfurt/M. 1969, S. 77—139, insb. S. 111 ff.; die Dokumentation des Arbeitskreises Pressefreiheit, a. a. O.; *J. Aufermann* u. a. (Hrsg.), Pressekonzentration, a. a. O., *D. Stammler,* Die Presse als soziale und verfassungsrechtliche Institution, Berlin 1971, S. 75—82 (Gefahren der Konzentration in einem privatwirtschaftlichen Pressewesen) und S. 303—356 (Aufgaben und Möglichkeiten einer Pressereform), sowie zuletzt *F. Ronneberger,* a. a. O.

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Konzentrationsprobleme im gesellschaftlichen Raum

Von *Oswald von Nell-Breuning*, Frankfurt a. M.

I. Gleichlaufende Entwicklung in Gesellschaft und Wirtschaft

Interdependenz der Ordnungen — Von der atomisierten Gesellschaft zur Gruppengesellschaft — Klassenbildung — Mehrzahl der Machtkörper — Gesellschaft bzw. Wirtschaft und Macht — Vermachtete Gesellschaft und Wirtschaft — Begriff der pluralistischen Gesellschaft — Zwei-Klassen-Gesellschaft und pluralistische Gesellschaft zugleich

II. Bestandsaufnahme (Verbandsbildung)

Wirtschaftsverbände — Öff.-rechtl. Organisation der Wirtschaft — Genossenschaftsverbände — Hausbesitzer- und Mieterverbände — Verbraucherverbände — Aktionärvereine und Schutzvereinigungen — Eigentümer- oder Manager-Herrschaft — Sparerschutz — Verbände von Versicherungsnehmern — Bund der Steuerzahler — Organisationen der freien Berufe — Paramilitärische Verbände — „Alt-Herren-Verbände" — Arbeitsmarktparteien — kollektives Arbeitsrecht — Autonomie der Sozialpartner — Fernsteuerung durch Mitbestimmung?

III. Schlußbemerkungen

Staat, *vor*staatliche Gebilde, *inner*staatliche pressure-groups — Liberalismus der 1. und 2. Phase — Nivellierte „Konsumentengesellschaft" — Gesellschaftliche Bedeutung des Eigentums im Wandel — Freie Gruppenbildung und Apparatschik-Problem.

I. Gleichlaufende Entwicklung in Gesellschaft und Wirtschaft

Vom „gesellschaftlichen Raum" zu sprechen ist — man ist sich dessen nicht immer bewußt — eine abkürzende Sprechweise. Unbestreitbar ist die Wirtschaft — von der nur als Denkmodell interessierenden Robinson-Wirtschaft abgesehen — ein Sozialprozeß; die Wirtschaft gehört also selbst dem gesellschaftlichen Raum an, bildet einen Teil von ihm. Stellt man also den „gesellschaftlichen Raum" der Wirtschaft gegenüber, so müßte man streng genommen vom außerwirtschaftlichen gesellschaftlichen Raum sprechen. Die hier angewandte abkürzende Sprechweise hat sich aber im allgemeinen Sprachgebrauch so vollkommen durchgesetzt, daß dieser Hinweis genügen dürfte, um der Mißdeutung vorzubeugen, als solle die Wirtschaft außerhalb des gesellschaftlichen Raumes gestellt werden. Das gerade Gegenteil ist der Fall.

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Seitdem wir gelernt haben, in Interdependenzen, insbesondere in der Interdependenz der Ordnungen, zu denken, kann es für uns keinen Zufall bedeuten, daß gesellschaftlicher und wirtschaftlicher Raum vor 100 bis 200 Jahren gleicherweise atomistisch-individualistisch gesehen und gedeutet und — soweit man es vermochte — auch gestaltet wurden; ebensowenig, daß der Wandel, der sich seither sowohl in der geistigen Sicht als auch im Zuständlichen vollzogen hat, für beide Räume — den gesellschaftlichen und den wirtschaftlichen — in der *gleichen* Richtung, d. i. im Sinne *zunehmender Konzentration,* verlaufen ist.

Zur selben Zeit, als die französische Revolution die corps intermédiaires und damit auch die pouvoirs intermédiaires zwischen dem Einzelnen und der im Staat organisierten Gesellschaft beseitigte in dem Glauben, auf diese Weise den Einzelnen ganz auf sich selbst und damit zugleich allen anderen in Freiheit und Gleichberechtigung gegenübergestellt zu haben, erlag auch die soeben zum Bewußtsein ihrer selbst erwachende nationalökonomische Wissenschaft — wir nennen sie heute meist kurz die „klassische" Ökonomie — der Täuschung, die Wirtschaftsgesellschaft sei ein Markt oder, um mit *Goetz Briefs* zu reden, eine Gesellschaft von „Händlern" (bereits *Adam Smith* ‚merchants'). Gesellschaftliches und wirtschaftliches Leben stellte man sich gleicherweise vor unter dem Bilde freien Wettbewerbs, an dem alle mit gleichen Startchancen teilzunehmen sowohl das Recht als auch die tatsächliche Möglichkeit besäßen. Mag sein, daß die jüngeren Wissenschaften von der Gesellschaft die Lehre vom *gesellschaft*lichen Wettbewerb bis zum heutigen Tag nicht mit der gleichen Akribie entwickelt haben, wie ihre ältere Schwester — die nationalökonomische Wissenschaft — die Lehre von dem in Gestalt entgeltlicher Tauschhandlungen sich abspielenden *wirtschaftlichen* Wettbewerb mit Marktformenlehre usw. ausgebildet hat. Für beide aber war es lange Zeit eine als selbstverständlich angesehene, wenn nicht sogar unter der Bewußtseinsschwelle liegende, stillschweigende Voraussetzung, daß dieser Wettbewerb *atomistisch* sei. Die Vorstellungen von Gesellschaft und Wirtschaft dieser von der Mitte des 18. bis zur Mitte des 19. Jh. reichenden Zeit entsprachen, zugespitzt ausgedrückt, dem naturwissenschaftlichen Bild der kinetischen Gastheorie; die gesellschaftlichen Institutionen sind bloße äußere Raumbegrenzung; aktuell sind nur die als *punktförmig* vorgestellten, in regelloser Bewegung aufeinanderprallenden und durch diese Zusammenstöße immer wieder in eine neue Bahn geschleuderten *Massenteilchen.*

Diese Vorstellung, die menschliche Gesellschaft sei eine Gesellschaft atomistisch konkurrierender Händler, das ganze Leben, nicht allein sein ökonomischer Sektor, sei zentriert um eine Art „Markt", auf dem jeder, der zu dieser Gesellschaft gehöre, irgendein Gut, wonach Nach-

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frage bestehe oder doch geweckt werden könne, anzubieten habe und dadurch nicht allein sein physisches Überleben zu sichern, sondern auch seinen gesellschaftlichen Standort zu behaupten vermöge, hat sich als ein grandioser Irrtum erwiesen. Wäre sie zutreffend, dann gäbe es Konzentrationsprozesse in Gesellschaft und Wirtschaft nur als mehr oder minder interessante Randphänomene; ernsthafte Bedeutung käme ihnen nicht zu. Die übermächtige Konzentration in Gesellschaft und Wirtschaft, der wir uns gegenüber sehen, hat ihren letzten Grund in nichts anderem als in der Tatsache, daß das genaue Gegenteil dieser Vorstellung zutrifft.

In dem Augenblick, da man die Gesellschaft freier und gleichberechtigter (atomisierter) Individuen geschaffen zu haben glaubte, war in Wirklichkeit eine Spaltung vollzogen: hier die Gesellschaft der „Händler", der die nationalökonomische Wissenschaft ihre ganze Aufmerksamkeit zuwandte, dort die gestalt- und gesichtslose Masse derer, die nur „Arbeitskräfte" waren, eine Masse, die allerdings sehr bald als proletarische Klasse Selbstbewußtsein und damit Gestalt und Gesicht gewinnen sollte. Die imposanteste Konzentrationsbewegung des 19./20. Jahrhunderts im gesellschaftlichen Raum ist die *Klassenbildung,* aus der die moderne Klassengesellschaft hervorgegangen ist. Der Prozeß begann damit, daß diejenigen, die vor 100 und mehr Jahren tatsächlich vor den Toren der Gesellschaft standen, sich zur kämpferischen proletarischen Klasse formierten; heute, nachdem die Tore der bürgerlichen Gesellschaft sich ihnen längst geöffnet haben, stehen sie vor uns als die staatsbürgerlich bewußte Arbeiterbewegung, deren Organisationen (Gewerkschaften) sehr viel mehr sind und mehr sein wollen als bloße Lohnkartelle.

Aber auch innerhalb der im Besitzstand befindlichen Klasse, also der engeren Gesellschaft der „Händler" oder, jetzt besser gesagt: der Unternehmer, entspricht — das ist inzwischen zum Gemeinplatz geworden — weder der gesellschaftliche noch im besonderen der wirtschaftliche Wettbewerb der Vorstellung eines freien Wettbewerbs, der allen den gleichen freien Zutritt zum Markt und die gleichen Startchancen böte, noch kommt er dieser Vorstellung auch nur nahe. Für die Wirtschaftswissenschaft ist die Welt der atomistischen Konkurrenz schon längst zur Idylle geworden; sie steht für uns in einer Linie mit der Robinson-Wirtschaft. Beider bedienen wir uns als Modelle, an denen wir die ABC-Schützen unserer Wissenschaft ihre ersten Denkübungen anstellen lassen. Gelegentlich erliegen allerdings auch wir selbst noch einmal der Schwäche, den Abstraktionsgrad dieser Modelle zu vergessen; sobald wir uns aber auf dieser Schwäche ertappen, sind wir uns auch schon wieder bewußt, daß machtfreie Wirtschaft, d. h. eine Wirtschaft, in der völlig ausgewogenes Machtgleichgewicht be-

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stünde, ein blutleeres Schemen ist, daß es eine im strengen Sinne des Wortes machtfreie Wirtschaft überhaupt nicht geben kann, niemals gegeben hat und am allerwenigsten heute gibt. Aber nicht allein für den Raum der Wirtschaft, sondern für die gesamte Gesellschaft setzt sich die Vorstellung eines Neben-, Mit- oder auch Gegen-einander einer Vielzahl sich das Gegengewicht haltender Machtkörper immer mehr durch.

Zunächst die Herausbildung der *Zwei-Klassen*-Gesellschaft, sodann die *Blockbildung* und die dadurch in die Wege geleitete, heute noch nicht abgeschlossene Umbildung der Zweiklassengesellschaft zur *pluralistischen* Gesellschaft einer Mehr- oder Vielzahl gesellschaftlicher Machtblöcke, das sind die beiden Stufen des Konzentrationsprozesses im gesellschaftlichen Raum; eben damit sind auch schon die Konzentrationsprobleme gekennzeichnet, die uns heute in diesem Raum beschäftigen.

Daß der *gesellschaftliche* Raum von der Macht gestaltet werde, ja gestaltet werden müsse und daher konzentrierter Macht an irgendeiner Stelle bedürfe, war im Grunde niemals strittig. Meinungsverschiedenheit bestand nur darüber, ob diese Gestaltung durch eine einzige sozusagen *über*gesellschaftliche Macht zu erfolgen habe, die wir „Staat" nennen, oder durch eine Mehrzahl irgendwie einander zugeordneter *inner*gesellschaftlicher Machtgruppen (Korporationen, Verbände). Was dagegen den Raum der Wirtschaft angeht, so hat man zeitweilig geglaubt, es müßten zwar gewisse Rahmenbedingungen von der übergeordneten Macht des Staates gesetzt werden, im Binnenraum der Wirtschaft aber ließen die sogenannten Wirtschaftsgesetze, näherhin die Automatismen des Marktes, wenigstens auf längere Sicht der Macht keinerlei Raum zur Einflußnahme. So hat noch *Böhm-Bawerk* über „Macht oder ökonomisches Gesetz?" geschrieben; für ihn war es eine Alternative. Wir heutigen formulieren das Problem „Macht *und* ökonomisches Gesetz"; daß für beide nebeneinander Platz sei, ist für uns schlicht und recht der Tatbestand, der uns allerdings eine Fülle von theoretischen und praktisch-politischen Problemen stellt: Konzentrationsprobleme sowohl im wirtschaftlichen Raum als auch im außerwirtschaftlichen gesellschaftlichen Raum. — Wirken doch sowohl im Wege über die ökonomischen Gesetze als auch auf tausend anderen Wegen die außerwirtschaftlichen gesellschaftlichen Mächte auf die Wirtschaft und umgekehrt die wirtschaftlichen Mächte auf Gesellschaft und Staat.

An Stelle der vermeintlich machtfreien Gesellschaft und Wirtschaft, die nur von einem als „neutral" verstandenen, d. h. ausschließlich die formale Rechtsordnung wahrenden, nicht jedoch bei Interessen-

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kollisionen intervenierenden Staat überdacht wurde, ist die vermachtete Gesellschaft und Wirtschaft getreten. Hatte die französische Revolution — zunächst in Frankreich, dann ausstrahlend auf mehr oder weniger ganz Europa — die pouvoirs intermédiaires und corps intermédiaires beseitigt, so läßt sich der die ganze seither verlaufene Zeit ausfüllende gesellschaftliche Konzentrationsprozeß so verstehen: in den entstandenen Hohlraum wachsen neue corps intermédiaires mit neuen pouvoirs intermédiaires hinein. Während aber die alten corps intermédiaires, wenn auch nur schlecht und recht, den gesellschaftlichen Raum gegliedert und durch Gliederung geordnet hatten, sind die in unübersehbarer Vielfalt neu entstandenen Gebilde, wenn schon nicht Wucherungen, so doch ausgesprochenermaßen gesellschaftlicher Wildwuchs. Dadurch ist unsere heutige Gesellschaft in eigentümlicher Weise zugleich „organisierte" und „desorganisierte" Gesellschaft: „organisiert", weil die Menschen in dieser Gesellschaft ihre Interessen, gleichviel ob wirtschaftliche oder außerwirtschaftliche — nicht als einzelne, sondern durch Organisationen, zu denen sie sich zusammenschließen, geltend machen und n u r auf diese Weise geltend machen können; „desorganisiert", weil diese Organisationen in keiner Weise gesamtgesellschaftlich integriert sind. In der Kennzeichnung dieser Gesellschaft als pluralistisch, so wie wir sie heute verstehen, klingt ein tadelnder Unterton mit: statt eines organischen Pluralismus haben wir als unausbleiblichen Rückschlag gegenüber der versuchten, aber unmöglichen Atomisierung der Gesellschaft einen — jedenfalls in der Hauptsache — *un*organischen Pluralismus.

Der tiefere Grund für den stattgehabten Wandel ist, wie bereits angedeutet, zweifellos dieser, daß eine atomistische Struktur von Gesellschaft und Wirtschaft unvollziehbar ist; bis zu einem gewissen Grade konnte man sich diesem Zustand nähern, aber selbst diese Annäherung ließ sich auf die Dauer nicht aufrechterhalten. Daß der „freie Wettbewerb", so wie das Unternehmertum des 19. Jahrhunderts ihn verstand, zu seiner Selbstaufhebung führen mußte, ist so oft ausgeführt und begründet worden, daß es sich nicht lohnt, das vielmal gesagte noch einmal zu sagen. Nicht ebensooft ist dargelegt worden, daß und warum die Atomisierung der Individuen (oder allenfalls noch der Familien) im *gesellschaftlichen* Raum ebensowenig Bestand haben konnte. Sowohl das allgemeine als auch das wissenschaftliche Interesse scheint sich jedoch weniger dieser Entwicklung zuzuwenden als ihrem *Ergebnis*, d. i. dem gegenwärtigen Zustand.

Der Ausdruck „pluralistische Gesellschaft", mit dem wir die heutige Gesellschaft bezeichnen, bringt zum Ausdruck, daß die Mehrzahl von Großgruppen, aus denen sie sich zusammensetzt, nicht bloß statistische Größen (Sammelbegriffe), sondern machtvolle Realitäten sind, so

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machtvoll, daß sie die Einheit der Gesellschaft in Frage stellen. Einzelne dieser Großgruppen sind offenbar nichts anderes als das gesellschaftliche Gegenstück zur Machtkonzentration in der Wirtschaft. Aber auch die Daseinsbedingungen und Verhaltensweisen derjenigen Gruppen, die nicht um wirtschaftliche Interessen, sondern um einen anderen Kern zentriert sind — hier sind beispielsweise die Kirchen zu nennen, aber auch Wissenschaft, Kunst, Unterrichtswesen usw., die alle die Notwendigkeit empfunden haben, sich machtvoll zu organisieren — werden weitgehend durch die Vermachtung des wirtschaftlichen Raumes bestimmt oder jedenfalls mitbestimmt. Wenn heute auch diese Gruppen, soweit sie einer soziologischen Sicht zugänglich sind, in ungleich größerer Geschlossenheit erscheinen, vor allem aber dem Staate gegenüber in unvergleichlich größerer Selbständigkeit auftreten als ehedem, so steht das in unverkennbarem Zusammenhang damit, daß, nachdem die auf wirtschaftliche Interessen ausgerichteten oder jedenfalls durch ihre wirtschaftliche Lage gekennzeichneten Großgruppen die heutige Machtkonzentration erreicht haben, unsere Gesellschaft überhaupt nicht mehr monolithisch-etatistisch, sondern nur noch pluralistisch sein kann — bis zu dem Punkt, wo es fragwürdig wird, ob der Staat noch in der Lage ist, diese gegen- und auseinanderstrebenden Machtkörper zu einer funktionsfähigen Einheit zu integrieren, ob es unter diesen Umständen einen Staat mit den Attributen, wie die herkömmliche Staatslehre sie ihm zuschrieb, überhaupt noch geben kann.

Besonders bemerkenswert und für das gegenwärtige Stadium des Konzentrationsprozesses kennzeichnend ist der eigentümliche Übergangszustand, daß diese unsere Gesellschaft zugleich *noch* Zweiklassengesellschaft und *schon* pluralistische Gesellschaft ist. Dabei dürfte heute der Pluralismus bereits deutlich überwiegen, wogegen die Zweiklassenstruktur nur noch einen in ständigem Abbau begriffenen Restbestand darstellt. Ein derart aller Systematik spottender Zustand läßt sich nicht systematisch abhandeln, dies insbesondere deswegen, weil die bisher brennendste Problematik der dualistischen Gesellschaft neuestens zum Kernproblem der pluralistischen Gesellschaft geworden ist. Um es in einem Wort zu sagen: die „bilaterale" Problematik der Autonomie der Sozialpartner ist „multilateral" geworden.

Weil aus dem angegebenen Grunde eine systemgerechte Abhandlung nicht möglich ist, dürfte es sich empfehlen, mit einer selbstverständlich nur sehr unvollständigen Bestandsaufnahme zu beginnen, was alles sich an corps intermédiaires gebildet hat.

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II. Bestandsaufnahme (Verbandsbildung)

Die Konzentration im gesellschaftlichen Raum hat sich vor allem in den vielfältigen Formen der Verbandsbildung abgespielt. Eine Überschau über das bestehende Verbandswesen gibt daher ein gutes Bild davon, wieweit diese Konzentration bereits fortgeschritten ist. Nun verfolgt ein sehr großer Teil, wahrscheinlich die Mehrzahl der Verbände, wenn schon nicht ausschließlich, so doch überwiegend oder mindestens beiläufig auch wirtschaftliche Ziele. So stellt sich die Frage, ob sie dem gesellschaftlichen oder dem wirtschaftlichen Raum zuzurechnen seien. Bei den marktregelnden Verbänden überwiegt eindeutig die wirtschaftliche Zielsetzung. Sie und ihr Beitrag zur wirtschaftlichen Konzentration werden in einem eigenen Artikel[1] behandelt. So erscheint es gerechtfertigt, diese Verbände hier unberücksichtigt zu lassen, was den Vorteil bietet, die vielschichtige Kartellproblematik hier nicht noch einmal heraufzubeschwören. Das gesamte übrige im Dienst wirtschaftlicher Interessen stehende Verbandswesen einschließlich der öffentlich-rechtlichen Organisation der Wirtschaft muß jedoch hier einbezogen werden.

Sämtliche Wirtschaftszweige einschließlich ihrer Untergliederungen haben sich zur Vertretung ihrer Interessen zu Verbänden zusammengeschlossen, die wiederum zu machtvollen Spitzenverbänden zusammengefaßt sind. So stehen Industrie, Handwerk, Handel, Verkehrswesen, Hausbesitz, Landwirtschaft (zum Teil mit Querverbindungen mehr gesellschaftlicher als wirtschaftlicher Art wie Mittelstandsblock) als Machtkörper organisiert da, die ihre Macht sowohl nach außen als auch nach innen sehr wirksam ausüben. Viele Unternehmer haben einen großen Teil ihrer unternehmerischen Aufgaben und damit zugleich ihrer Selbständigkeit an diese Verbände bzw. deren Funktionäre abgegeben, teils aus Notwendigkeit, weil namentlich der kleinere und mittlere Unternehmer, der sich einen ganzen Stab hochqualifizierter Mitarbeiter nun einmal nicht leisten kann, schlechterdings überfordert und daher auf die Hilfe der Dienststellen seines Verbandes angewiesen ist. In diesen Verbänden — von den rein mittelständischen einmal abgesehen — sind unweigerlich die großen Unternehmen tonangebend; die Verbandsfunktionäre und die Verbandspublizistik wirken im Sinne der tonangebenden Großen. Die Maßstäbe, mittels deren wir die Konzentration der Wirtschaft üblicherweise messen, erfassen die auf *diesem* Wege zustande kommende Konzentration

[1] Vgl. *H. König*, Kartelle und Konzentration, in der 1. Auflage dieses Werkes, Berlin 1960, Bd. 1, S. 303 ff.; *H. O. Lenel*, Die Problematik der Kartelle und Syndikate, im ersten Band dieser Auflage. Ferner *K. Ballerstedt*, Vertragsfreiheit und Konzentration, Rechtsprobleme einer Begründung und Bindung von Marktmacht, im ersten Band dieses Werkes.

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nicht; sie dürfte überhaupt schwer zu messen sein, sollte aber in ihrer Bedeutung nicht unterschätzt werden.

Was die öffentlich-rechtlichen Organisationen der Wirtschaft in Kammern (Industrie- und Handelskammern, Handwerkskammern, Landwirtschaftskammern, in einzelnen Ländern Arbeitskammern) angeht, so sollen sie offenbar die Gruppen, für die sie zuständig sind, zur Lösung von Gemeinschaftsaufgaben oder doch zur Wahrung der allen Mitgliedern gemeinsamen Interessen zu einer Einheit zusammenfassen. Der Gedanke der Zusammenfassung von Macht dürfte bei den älteren unter ihnen anfänglich keine Rolle gespielt haben; ursprünglich handelte es sich wohl mehr um eine Zusammenfassung von Sachkunde und um Schaffung einer Plattform zum Gedanken- und Erfahrungsaustausch. In einer weitgehend vermachteten Wirtschaft spielt aber auch bei ihnen die Macht überhaupt und das Gewicht der Mächtigen unter ihren Mitgliedern eine nicht zu verkennende Rolle. Für die allgemein herrschende Tendenz zur Konzentration ist nun aber bezeichnend, daß ähnlich wie die öffentlich-rechtlichen Gebietskörperschaften (Städte, Landkreise, Landgemeinden) sich zu Spitzenverbänden meist privatrechtlicher Natur zusammengeschlossen haben, so auch diese als „Kammern" bezeichneten öffentlich-rechtlichen Gebilde es als geboten oder mindestens zweckmäßig erachtet haben, Zusammenschlüsse wie Deutscher Industrie- und Handelstag und andere zu bilden, die anfänglich vielleicht auch an erster Stelle als Forum der Aussprache und des Gedankenaustausches gedacht waren. Wie dem auch sei, auch sie sind inzwischen zu machtvollen Organisationen der Interessenvertretung geworden, in denen die kleineren Mitglieder nicht viel anderes tun können, als sich in die von den großen und angesehenen Kammern und bei diesen wieder von ihren größten und einflußreichsten Mitgliedsfirmen bestimmte Linie einzuordnen. Wenn heute um die Besetzung der Industrie- und Handelskammern ein heißer Streit entbrannt ist, indem die Gewerkschaften fordern, sie paritätisch aus Unternehmern und Arbeitnehmern zusammenzusetzen, während dem von Unternehmerseite der härteste Widerstand entgegengesetzt wird, so ist das der beste Beweis dafür, daß beide streitenden Teile in den Kammern und Kammerverbänden wirtschaftliche Machtpositionen erblicken und um die in ihnen konzentrierte Macht ringen.

Eine Sonderstellung unter den Verbänden mit wirtschaftlicher bzw. wirtschaftspolitischer Zielsetzung nehmen die *Genossenschafts*verbände ein, nicht allein deshalb, weil die Genossenschaften in der BRD kraft Gesetzes gehalten sind, einem Revisionsverband anzugehören, sondern — was hier ins Gewicht fällt — weil die Genossenschaftsverbände vielfach als Zentralgenossenschaften selbst Großunternehmen sind oder sich Großunternehmen als genossenschaftliche Zentralinstitute angegliedert

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haben. Auf die Konzentration bei den Genossenschaften selbst durch Entwicklung zu Groß- und Riesengenossenschaften ist hier nicht einzugehen; diese gehört eindeutig zur wirtschaftlichen Konzentration und wird einschließlich der immerhin dem außerwirtschaftlich-gesellschaftlichen Bereich zuzurechnenden Wirkung auf die Denk- und Verhaltensweise der Genossen in dem Beitrag „Genossenschaften und Konzentration"[2] behandelt. Was die Genossenschaftsverbände angeht, so sind nicht wenige von ihnen zufolge der engen Verbundenheit mit den Genossenschaftszentralen (Banken, Versicherungen, Großhandels- und selbst Produktionsunternehmen) höchst beachtliche wirtschaftliche Machtkörper. Ihre Bedeutung erschöpft sich jedoch keineswegs in der wirtschaftlichen Macht ihrer Zentralen, sondern geht weit darüber hinaus. Mag sein, daß ihr erzieherischer Einfluß auf die eigenen Mitglieder und ihr erzieherischer Einfluß auf die Öffentlichkeit gelegentlich überschätzt wird. Auf jeden Fall aber betätigen namentlich die landwirtschaftlichen und gewerblichen Genossenschaftsverbände sich sehr wirksam als pressure-groups. Dagegen scheinen die Verbände der sogenannten Haushaltsgenossenschaften, d. i. der Wohnungsbaugenossenschaften und namentlich der an Mitgliedern so außerordentlich zahlreichen Verbrauchergenossenschaften, es sehr viel weniger zu verstehen oder doch sich viel weniger angelegen sein zu lassen, das politische Gewicht der Stimmenzahl ihrer Genossen in die Waagschale zu werfen und als Druckmittel zu benutzen.

Die Interessen des Hausbesitzes einerseits, der Mieterschaft anderseits werden von Hausbesitzer- bzw. Mieterverbänden vertreten. Während bei den ersteren auch eigentlich wirtschaftliche Aufgaben (Beratung und praktische Hilfe bei Instandhaltungs- bzw. Instandsetzungsarbeiten, bei Umbau und Anpassung der Wohngebäude an die sich wandelnde Nachfrage) eine Rolle spielen, sind die letzteren nahezu rein politische Interessenvertretungen mit dem Ziel, vor allem die gesetzliche Regelung des Mieterschutzes zu beeinflussen und die Mietpreisbindung aufrecht zu erhalten.

Der Interessenvertretung der Verbraucher widmen sich eine Reihe von Verbraucherverbänden, die sich zu einer Arbeitsgemeinschaft zusammengeschlossen haben. Wie die Dinge bei uns liegen, bilden die Verbrauchergenossenschaften und deren Verbände, die ohnehin schon den Verbraucherinteressen dienen, das Rückgrat auch dieser Arbeitsgemeinschaft und der gesamten organisierten Verbraucherbewegung. In anderen Ländern jedoch, so insbesondere in USA, bilden die Verbraucher unmittelbar, d. i. ohne Zwischenschaltung eigener Wirtschaftsgebilde genossenschaftlicher oder anderer Art, eine sehr aktive und

[2] Vgl. *G. Weisser*, Genossenschaften und Konzentration, in der ersten Auflage dieses Werkes, a. a. O., Bd. 1, S. 459 ff. sowie den gleichnamigen Beitrag von *S. L. Gabriel* in diesem Band.

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wohl auch nicht unwirksame Druckgruppe gegenüber der vermachteten Produktionswirtschaft.

Eine verhältnismäßig junge, in gewissem Sinne den Verbraucherorganisationen verwandte Erscheinung sind die Aktionärvereine und vor allem die Schutzvereinigungen für Wertpapierbesitz. Beide entspringen der Erfahrung, daß der Kleinaktionär, auf sich allein gestellt, jedes Einflusses entbehrt und namentlich in den Groß- und Riesenunternehmen der konzentrierten Macht des sich auf die von den Banken in Vollmacht (und formell nach Weisung) ihrer Depotkundschaft ausgeübte Stimmenmacht stützenden Managements, gelegentlich auch der Übermacht einzelner Großaktionäre, wehrlos ausgeliefert ist. Die Vorstellung, die sogenannten Kommandohöhen der Wirtschaft befänden sich mehr oder minder alle in den Händen einer sich selbst ernennenden und selbst kontrollierenden Managerschicht, mag weit übertrieben sein. Immerhin steht fest, daß mit der Konzentration zu Groß-Unternehmen und -Unternehmenskomplexen eine immer weitergehende Verselbständigung des Managements gegenüber den Eigentümerrechten Hand in Hand geht und daß gerade in den ausgesprochenen Publikumsgesellschaften, d. h. Gesellschaften mit breit gestreuter Aktienbeteiligung ohne Großaktionäre, die Unabhängigkeit und Selbstherrlichkeit des Managements am größten ist. Als Gegengewicht dagegen haben sich — sozusagen als „Gewerkschaft" der als einzelne völlig machtlosen Aktionäre — die Schutzvereinigungen gebildet und haben immerhin schon gewisse, wenn auch bescheidene Erfolge aufzuweisen. Wie bei den Verbrauchervereinigungen sind es auch hier die Einkommensbezieher, die sich organisieren, um ihre Interessen mit dem erforderlichen Nachdruck vertreten zu können, in den Verbraucherverbänden ihr Interesse an günstiger Verwendung des bereits bezogenen Einkommens in rationaler Ausnutzung seiner realen Kaufkraft, in den Aktionärvereinen und Schutzvereinigungen ihr Interesse an dem in Gestalt von Ausschüttungen zu beziehenden Einkommen, in zweiter Linie auch an guter Verwaltung ihres im Unternehmen angelegten Vermögens als Quelle dieses Einkommens.

An erster Stelle dem Schutz des in Geldform angelegten Vermögens widmen sich die Organisationen des Sparerschutzes. Auch hier handelt es sich nicht um Produzenten-, sondern in diesem Sinne um Verbraucherinteressen, die vom einzelnen nicht wirksam wahrgenommen werden können. Allerdings besteht eine so enge Verflechtung mit den Interessen der Institute, die vorzugsweise das Sparen in Geldform pflegen, d. i. der Sparkassen- und Versicherungsunternehmen, daß manchmal schwer zu erkennen ist, ob es wirklich die Sparer sind, die in Verfolg ihrer berechtigten Interessen sich zum Kampf gegen inflatorische Tendenzen zusammentun, oder ob es sich um einen wirt-

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schafts- und gesellschaftspolitischen Richtungskampf handelt: hier Steigerung der Löhne auch auf die Gefahr einer Ingangsetzung der Lohn-Preis-Spirale sowie Ausbau der Maßnahmen der sogenannten sozialen Sicherheit, dort unbedingte Erhaltung der realen Kaufkraft aller Nominaleinkommen und Sicherung der eigenen Zukunft durch individuelles Konten- und Versicherungssparen. Es leuchtet ein, daß die diese Sparten betreibenden Institute selbstverständlich für letzteres eintreten, wobei sie sich in der vorteilhaften Lage befinden, dies in uneigennütziger Form tun zu können, indem sie als die berufenen Anwälte der spezifischen Interessen ihrer Kundschaft auftreten.

Dieses gleichgerichtete Interesse an Erhaltung des Geldwertes besteht im Bereich der Versicherungswirtschaft vor allem in bezug auf das Versicherungssparen, nur in geringerem Maß in dem weiten Bereich der Schadensdeckung. In diesem Bereich führt das Bedürfnis der als einzelnen dem Versicherungsunternehmen gegenüber schwachen Versicherten zur Bildung eigener Verbände, die sich zur Aufgabe setzen, einerseits die Versicherungsbedingungen zu beeinflussen, anderseits auf kulante Schadensregulierung zu dringen.

Eine gewisse Ähnlichkeit damit weist eine Organisation wie der Bund der Steuerzahler auf. Weitaus die meisten Steuerzahler sind zugleich Staatsbürger und haben als solche kraft ihrer staatsbürgerlichen Rechte als Wähler Einfluß auf Art und Maß sowohl der öffentlichen Ausgaben als auch der Aufbringung der dafür erforderlichen Deckungsmittel, wie sie anderseits ihre Steuern in Erfüllung einer staatsbürgerlichen Verpflichtung entrichten. Man sollte also annehmen, sie würden ihr Interesse an diesen Dingen eben auch als Staatsbürger auf dem politischen Wege wahrnehmen. Daß sie oder vielmehr ein besonders regsamer Teil von ihnen eine eigene Organisation bildet und daß diese Organisation gelegentlich das Zusammenspiel mit Organisationen der im Besteuerungswesen tätigen Beamtenschaft sucht und findet, ist vielleicht ein besonders auffälliges Beispiel für den Drang, für jede spezielle Aufgabe im Wege des organisatorischen Zusammenschlusses einen eigenen Machtapparat zu schaffen und zur Ausübung dieser Macht sich eines spezialistisch geschulten Funktionärskörpers zu bedienen.

Bei dieser Sachlage versteht es sich fast von selbst, daß jede Gruppe, die Forderungen an den Staat zu stellen hat oder zu haben glaubt, sich organisatorisch zusammenschließt (Kriegsopferverbände, Verbände der Heimatvertriebenen, der Flüchtlinge, der Besatzungsgeschädigten usw. usw.).

Immerhin erwähnenswert ist, daß auch die *freien Berufe* sich durchgehend organisiert haben, offenbar in der Erkenntnis, in der heutigen

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Gesellschaft ihre standes- und berufspolitischen Interessen nur auf diesem Wege geltend machen zu können. Ein besonders bemerkenswerter Fall ist das Verbandswesen der Ärzte, insbesondere die öffentlich-rechtlichen „Kassenärztlichen Vereinigungen".

Daß zeitweilig die sogenannten *paramilitärischen Verbände* (Stahlhelm, „Brigade Erhard", SA, SS, Reichsbanner u. a. m.) einen entscheidenden politischen Machtfaktor bilden konnten, war zweifellos durch die damalige wirtschaftliche Lage (langdauernde Massenarbeitslosigkeit) bedingt oder mindestens begünstigt, läßt sich aber doch überhaupt nur verstehen in einer Gesellschaft, in der nicht nur die Entfaltung und Geltendmachung von Verbandsmacht bereits als etwas Selbstverständliches angesehen und hingenommen wird, sondern der Staat sich bereits damit abgefunden hat, daß die Verbände seine Oberhoheit nur noch bedingt oder überhaupt nicht mehr anerkennen und selbst nach echten Hoheitsrechten greifen.

Das Bild der Konzentration und Vermachtung im gesellschaftlichen Raum würde eines wesentlichen Zuges ermangeln ohne Erwähnung der sogenannten *Alt-Herren-Verbände,* deren Patronage und Protektionswesen sich auf alle Bereiche des gesellschaftlichen, wirtschaftlichen und politischen Lebens erstreckt und einen im einzelnen oft schwer nachzuweisenden, insgesamt aber unverkennbar außerordentlich großen Einfluß, insbesondere auf die Besetzung von Schlüsselstellungen, ausübt.

Mit Absicht folgen erst jetzt die organisierten *Arbeitsmarktparteien,* die Verbände der Arbeitnehmer (Gewerkschaften) und der Arbeitgeber. Solange im Schoß der pluralistischen Gesellschaft die Zwei-Klassen-Gesellschaft noch fortlebt und in gewissem Sinn sogar eine bevorzugte Sonderstellung einnimmt, sind die Gewerkschaften und ihre Gegenspieler sozusagen der einfache Modellfall für ein in der voll entwickelten pluralistischen Gesellschaft ungleich komplexeres Problem: das grundsätzliche Verhältnis von Verbandsmacht zur Staatsautorität. Im Rahmen der Zwei-Klassen-Gesellschaft läuft es unter dem Stichwort „Autonomie der Sozialpartner" und bietet ausgiebig Gelegenheit, nicht nur sich Gedanken darüber zu machen, sondern namentlich in Gestalt der sog. „Konzertierten Aktion" die ganze Schwierigkeit des Problems praktisch auszukosten. Vielleicht kann uns das zustatten kommen, wenn dieses Problem uns in der vollends pluralistisch gewordenen Gesellschaft in unvergleichlich verwickelterer Erscheinungsform von neuem entgegentritt.

Unstreitig war es die in der physischen Person des Unternehmers oder in dem unpersönlichen Unternehmen konzentrierte Überlegenheit an Macht gegenüber dem einzelnen Arbeitnehmer, dem die Arbeit-

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nehmerschaft in ihrem gewerkschaftlichen Zusammenschluß eine gleichgewichtige Macht entgegensetzen wollte. Ebenso bekannt ist, daß der gewerkschaftliche Zusammenschluß[3] der Arbeitnehmer wiederum den Anstoß gegeben hat zum Zusammenschluß der Arbeitgeber in Arbeitgeberverbänden. Daß mit zunehmender absoluter und relativer Konzentration der Wirtschaft sowohl die Gewerkschaften als die Arbeitgeberverbände genötigt waren, sich anzupassen, gleichfalls Verschmelzungen und Zusammenschlüsse durchzuführen, Organisationen auf Landesebene mit straffer zentraler Leitung und allem anderen, was zu einem großen Machtapparat gehört, zu schaffen, dies erst recht, wenn die verschiedenen Wirtschaftszweige — meist unter Führung der in ihnen tonangebenden Großunternehmen — sich bereits zu Wirtschaftsverbänden zusammengeschlossen hatten, liegt auf der Hand. Namentlich, wenn wir von unseren deutschen Vorstellungen ausgehen, erscheint es uns als selbstverständlich, daß einem straff gegliederten und einheitlich geführten Verbandswesen der Wirtschaft oder jedenfalls ihrer hauptsächlichen Sektoren ein ähnlich gegliedertes sozialpolitisches oder richtiger arbeitsmarktpolitisches Verbandswesen gegenübersteht. Aber auch in Ländern, die keinen ebenso hoch entwickelten ‚organisationspolitischen Ordnungssinn' besitzen und Arbeitgeberverbände in unserem spezifischen Sinn nicht kennen, besteht eine deutliche Wechselwirkung: Wie die Konzentration in der Wirtschaft die gewerkschaftliche Konzentration herausforderte, so steigerte die Konzentration der Gewerkschaften unmittelbar das arbeitsmarktpolitische und dadurch mittelbar das ökonomische Gewicht der Großunternehmen, die einmal durch ihre größere Macht sich den Gewerkschaften gegenüber in der günstigeren Verhandlungsposition befinden, zum andernmal auch den Gewerkschaften Leistungen mannigfacher Art zusagen können, die von mittleren und erst recht kleineren Unternehmen nicht erbracht werden können. Gewiß werden die großen Gewerkschaften ihre konzentrierte Macht gerade im Kampf mit den Großen und Mächtigen auf der Gegenseite einsetzen, wodurch die mittleren und kleineren weitgehend vom Beschuß freibleiben. Aber das, was sie bei den Großen durchsetzen, wird nichtsdestoweniger in Kürze weitgehend maßgeblich auch für die Löhne und anderen Arbeitsbedingungen der mittleren und kleinen Unternehmen. Das kann so weit gehen, daß manche der letzteren nicht mehr mitkommen und entweder ausscheiden oder in größeren Unternehmen aufgehen; in beiden Fällen nimmt die wirtschaftliche Konzentration zu. Das gilt uneingeschränkt dort, wo üblicherweise — wie in USA — Firmentarife abgeschlossen werden; bei uns, wo Branchentarife üblich sind, begrenzt die geringere

[3] Hierzu vgl. *L. Wolkersdorf*, Gewerkschaften und Konzentration, in der 1. Auflage dieses Werkes, Berlin 1960, Bd. 1, S. 489 ff., und *H. Markmann*, Gewerkschaften und Konzentration, in diesem Bande.

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Leistungsfähigkeit der marginalen, meist kleinen Unternehmen den Verhandlungsspielraum. In ihrem eigenen Interesse machen die großen und leistungsfähigen Unternehmen der Branche sich das gern zunutze; als nicht bezweckte Folge dieser Verhaltensweise bleiben Unternehmen, die andernfalls bereits submarginal geworden wären, vor diesem Schicksal noch eine Zeitlang bewahrt: die Konzentration auf die großen und leistungsfähigsten Unternehmen hin wird insoweit verzögert. (Darüber, welche von beiden Praxen — Firmentarif oder Branchentarif — bei Berücksichtigung *aller* Umstände den stärkeren Konzentrationseffekt hat, soll damit nichts ausgesagt sein und läßt sich vermutlich allgemeingültig nichts aussagen.)

Die Konzentration auf seiten beider Tarifpartner, die am deutlichsten zutage tritt, wo eine einheitliche Arbeitgeberorganisation und eine Einheitsgewerkschaft (einheitsgewerkschaftliche Spitzenorganisation) einander gegenüberstehen, hat dazu geführt, dem individuellen Arbeitsrecht ein *kollektives Arbeitsrecht* zu überlagern, eine der bedeutsamsten Erscheinungen der Konzentration im gesellschaftlichen Raum. Daß die Großwirtschaft nach einem kollektiven Arbeitsrecht ruft, wirtschaftliche Konzentration und diese Erscheinungsform gesellschaftlicher Konzentration zueinander gehören wie die beiden Hälften einer Kugel, bedarf keiner langen Begründung: Großwirtschaft ohne kollektives Arbeitsrecht bedeutet Rechtlosigkeit des Arbeitnehmers und damit die Verneinung einer freien Gesellschaft; die Bindungen des kollektiven Arbeitsrechts sind der Preis, um den der Arbeitnehmer in einer vermachteten Wirtschaft und Gesellschaft seine Freiheit erkauft.

Im Hinblick auf die Erhaltung der Einheit unserer Gesellschaft stellt nun aber die mit dem kollektiven Arbeitsrecht aufs engste zusammenhängende *Autonomie der Sozialpartner* die dornigsten Probleme. Die Unentbehrlichkeit organisierter Arbeitsmarktparteien in Verbindung mit der Konzentration von Macht, die sich in ihnen vollzogen hat, verleiht ihnen ein solches gesellschaftliches Gewicht, daß der Staat nicht umhin kann, sie als souveräne oder doch quasi-souveräne Mächte anzuerkennen. Auch wenn die geschriebene Verfassung es nicht ausspricht, haben sie Verfassungsrang, sind Organe, durch die das staatlich geeinte Volk sein verfassungsmäßiges Leben gestaltet. Obwohl sie formal an der Bildung des Staatswillens nicht beteiligt sind, ist dennoch staatliche Willensbildung ohne oder gar gegen sie praktisch und — soweit sie nicht verfassungswidrige Obstruktion treiben — auch rechtlich nicht möglich.

Die dem Verbandswesen eigentümliche Konzentration abgeleiteter Macht[4] erscheint bei den Gewerkschaften nicht allein in ihrer Befugnis,

[4] Vgl. *H. Arndt* und *G. Ollenburg*, Begriff und Arten der Konzentration, im

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Beisitzer für die Arbeits- und Sozialgerichtsbarkeit zu präsentieren und auf die Besetzung nicht nur der Selbstverwaltungsorgane der Sozialversicherungsträger, sondern selbst internationaler Organisationen bestimmenden Einfluß zu nehmen, sondern in besonders bemerkenswerter Weise in ihrer Beteiligung an der Bestellung von Trägern der *Mitbestimmung* in Betrieb und Unternehmen. Daß die Gewerkschaften über Aufsichtsratsmitglieder und Arbeitsdirektoren eine zentrale Fernsteuerung der Unternehmen ausüben, ausüben wollen oder doch auszuüben in der Lage seien, wird von ihnen selbst bestritten und ist — mindestens bisher — nicht bewiesen; soweit es zuträfe, läge darin eine bisher noch wenig untersuchte und noch weniger statistisch erfaßte Konzentration von Macht im wirtschaftlichen Raum, mehr oder weniger vergleichbar der Vertretung der Großbanken in einer Vielzahl von Aufsichtsräten, die ohne Zweifel einen koordinierenden und vermutlich auch einen die eigentliche Unternehmenskonzentration in Gestalt von Fusion oder Konzernbildung fördernden Einfluß ausübt. Wollte man diese Parallele weiter verfolgen, so wären allerdings neben den unverkennbaren Ähnlichkeiten auch die sehr wesentlichen Verschiedenheiten zu beachten.

III. Schlußbemerkungen

Auf den Staat bezogen bezeichnen wir die in der pluralistischen Gesellschaft bestehenden Machtgebilde und Machtblöcke als *pressure-groups*. Insoweit stehen Großunternehmen bzw. -konzerne und die wirtschaftlichen Verbände aller Art miteinander gleich; bisher sind es einzig und allein die organisierten Arbeitsmarktparteien, die dank ihrer Autonomie eine Sonderstellung einnehmen. Der ihrigen in dieser Hinsicht *ähnlich* ist die Stellung bedeutsamer außerwirtschaftlicher Großgebilde (Kirchen und andere Weltanschauungsgemeinschaften, Wissenschaft, Kunst, grundsätzlich ebenso Erziehungs- und Unterrichtswesen). Während aber diesen in unserer pluralistischen Gesellschaft *vor*staatlicher Charakter zuerkannt wird und der Staat daher mit ihnen — am deutlichsten hervortretend in den Kirchenverträgen, die er nicht allein mit der katholischen Weltkirche, sondern gleicherweise mit auf das Staatsgebiet begrenzten Landeskirchen abschließt — mehr oder weniger als mit seinesgleichen verkehrt, sind die Gewerkschaften in doppeltem Sinn *inner*staatliche Gebilde: nicht nur, daß ihre Organisation sich in den Grenzen des Staatsgebietes hält oder doch nur ausnahmsweise über die Staatsgrenzen hinausgreift, wobei allerdings ihr Rückhalt an internationalen gewerkschaftlichen Verbänden nicht übersehen

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ersten Band dieses Werks.

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werden darf, sondern auch ihre Aufgaben liegen in der Hauptsache im Rahmen dessen, was zum staatseigenen Aufgabenkreis zählt. Viele der mit diesen Konzentrationserscheinungen des gesellschaftlichen Raumes zusammenhängenden und durch sie ausgelösten Probleme, insbesondere die an das Selbstverständnis des modernen Staates rührende Frage, ob oder inwieweit er gegenüber den autonom gewordenen oder als autonom anerkannten Großgruppen und Machtblöcken verschiedenster Art, aus denen unsere pluralistische Gesellschaft sich zusammensetzt, noch die Kompetenz-Kompetenz in Anspruch zu nehmen befugt und in der Lage ist, führen ins staatsrechtliche Gebiet, das hier nicht betreten werden soll. Sie alle aber stehen in unlöslichem Zusammenhang mit der Konzentration in der Wirtschaft, die daher auch ihrerseits, ohne diese Zusammenhänge einzubeziehen, nicht adäquat gewürdigt werden kann.

Versuchen wir die Umwandlung von Gesellschaft und Staat durch Verbandswesen und Verbandsmacht insgesamt zu würdigen, so wird der Feststellung von *Goetz Briefs* beizupflichten sein, daß der Liberalismus der ersten Phase, in dessen Namen die alten corps intermédiaires zerschlagen wurden, durch sie beendet und in den Liberalismus der zweiten Phase überführt worden ist: der Individualismus der Individuen ist abgelöst durch den Individualismus der Verbände, einen regelrechten — so befremdlich das Wort klingen mag — Kollektiv-Individualismus. In der heutigen unorganisch-pluralistischen Gesellschaft wetteifern alle diese Kollektivgebilde, als Interessentenorganisationen („organisierte Interessentenhaufen") Ansprüche und Forderungen gegen die durch den Staat repräsentierte „Allgemeinheit" geltend zu machen. Von aller staatsrechtlichen oder staatsphilosophischen Vertiefung abgesehen muß man sich fragen, ob damit nicht die Einheit des zum Objekt erniedrigten Staates gesprengt wird. Diese Gefahr ist um so ernster zu nehmen angesichts der allem Organisationswesen innewohnenden Tendenz, die spezifischen Verbandsinteressen und die Organisationspolitik als solche zum Selbstzweck zu erheben. Diese unbedenklich als soziotechnisches Gesetz anzusprechende Tendenz führt nicht nur zur Entrechtung und Entmachtung der Mitglieder, sondern erschwert, um nicht zu sagen: verunmöglicht, die Integration der verschiedenen gesellschaftlichen Gruppen. Alsdann bleibt die bis aufs äußerste durchorganisierte Gesellschaft im letzten *des*organisiert[5].

Auf die zwischen „nivellierter" sog. Konsumentengesellschaft und wirtschaftlicher Konzentration bestehenden Zusammenhänge einzugehen, dürfte sich erübrigen, nachdem die empirische Soziologie sich hier ein umfassendes Forschungsgebiet erschlossen hat. Ebenso mag es

[5] Siehe oben S. 692 f.

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genügen, an den Zusammenhang zwischen der als weitgehend uniformierte Großmacht auftretenden öffentlichen Meinung und der Tatsache, daß die Verfügung über die Medien der Meinungsbildung (Presse, Funk, Film) in ganz wenigen finanzstarken privaten Händen und/oder bei der öffentlichen Hand konzentriert ist, beiläufig erinnert zu haben[6].

Verhältnismäßig wenig scheint bisher folgender Zusammenhang beachtet worden zu sein: die wirtschaftliche Konzentration zu Groß- und Riesen-Unternehmen und Unternehmenskomplexen, nicht in gleichem Grade, aber doch auch das Verbandswesen, hat bereits dahin geführt und führt in steigendem Maße dazu, den Eigentümer-Unternehmer aus den entscheidenden Stellen der Wirtschaft zu verdrängen und ihn durch den nur noch formal vom Eigentum her legitimierten Manager zu ersetzen. Von hier aus hat — verhältnismäßig unbemerkt — ein tiefgreifender Wandel der gesellschaftlichen Bedeutung des *Eigentums* begonnen — nicht notwendig ein Funktionsschwund, auf jeden Fall aber ein Funktionswandel.

Eine letzte, aber lebenswichtige Frage: vermag in der industrialisierten und kommerzialisierten Massengesellschaft von heute, die aber zugleich eine weitgehend nivellierte Gesellschaft ist, der einzelne überhaupt noch anders denn als Glied einer Gruppe oder gar Großgruppe zur Geltung oder zum Zuge zu kommen? Oder ist umgekehrt durch die Verorganisierung und Überorganisierung dem einzelnen vollends die Möglichkeit zu selbständiger und selbstverantwortlicher Entfaltung seiner Kräfte genommen? Offenbar trifft beides in gewissem Grade zu. Ist dem so, dann erlangt die Frage der Gruppenbildung *inner*halb der großen Organisationen besonderes Gewicht. Als Angehöriger einer Großorganisation, namentlich wenn diese über einen gut ausgebauten Apparat verfügt, der seinerseits wieder fest in der Hand der „Apparatschiks" sich befindet, d. i. der Techniker, die allein diesen Apparat zu handhaben verstehen und denen allein die Schalthebel zugänglich sind, ist der einzelne zweifellos ungeachtet noch so schöner formaldemokratischer statutarischer Garantien ein so gut wie macht- und wehrloses Objekt des Apparats. Alle Macht ist bei den Beherrschern des Apparats konzentriert. Solange noch eine freie Gruppenbildung innerhalb der Organisation möglich ist, d. h. ehrlich zugelassen, nicht durch irgendwelche Maßnahmen oder Machenschaften unterbunden wird, ebensolange ist noch ein innerorganisatorisches Leben, d. h. ein Kräftespiel zwischen Mitgliedschaft und Führung, möglich; wird dagegen freie Gruppenbildung unmöglich gemacht, so gibt es nur noch den Kampf der Apparatschiks untereinander um die Machtpositionen an der Spitze. Damit wird die Möglichkeit freier Gruppenbildung in den Großorganisationen zur Lebensfrage einer freien Gesellschaft.

[6] Siehe *W. J. Schütz,* Pressekonzentration, in diesem Band.

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Summary

Problems of Concentration in Society

In order to present economic concentration universally it is indispensable to include its presuppositions, accompanying phenomena, and its effects on the whole sphere of society.

For this reason this article first of all examines to what extent groups and power-blocks originate in contemporary society or to what extent they already have an impact on society.

In the second part the most important types of such organizations are enumerated and briefly presented; the third part deals with the consequences which follow for political and social structures.

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