

BRITAIN'S INFLUENCE ON  
THE WEST GERMAN CONSTITUTION

*by*

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### *Note on the Author*

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## *Introduction*

'British policy clearly favoured the SPD',<sup>1</sup> concludes Hans-Jürgen Grabbe in his seminal article of 1978 on the controversy between the Germans and the Allies during negotiations on the Basic Law.<sup>2</sup> He thus confirmed the accusation which had been made by the CDU/CSU, and Konrad Adenauer in particular, as early as the first Bundestag election campaign in the summer of 1949, namely, that the British Labour Government had one-sidedly supported the German Social Democrats. The future Federal Chancellor's attacks had come as a reaction to the SPD's election platform of 9 June 1949,<sup>3</sup> which stated: 'In the struggle to draw up the Bonn Basic Law (*Grundgesetz*), it is the Social Democrats who have once again taken the crucial step towards German self-determination. If it had been left to the Allies and their German assistants, with their ideas on how power should be distributed, no viable German state would have come into being.'<sup>4</sup> As evidence, the SPD had cited their unequivocal rejection of the three Western Allies' demands for a revision of the draft *Grundgesetz* which had temporarily plunged the Parliamentary Council into a deep crisis. Kurt Schumacher had effectively stage-managed the 'kleiner Parteitag' (small party conference) on 20 April 1949 in Hanover, at which the gauntlet had been thrown down to the occupying powers. Only two days later the Allies had yielded.

The readiness of the Allies to make concessions, however, went back to a resolution which had been taken at the Washington Foreign Ministers' Conference as early as 8 April 1949, but which had been kept secret. The members of the Parliamentary Council were not officially informed of this decision until 22 April. Adenauer, who had been ready to compromise with Allied demands during those weeks, felt that he had been made a fool of. Responding to further attacks by the SPD in his speech opening the Bundestag election campaign, Adenauer exposed the alleged rescue at Hanover as a put-up job whose objective was to make the SPD look like 'a national party *par excellence*'.<sup>5</sup> In fact, one week earlier the British Military Governor, Sir Brian Robertson, had informed leading Social Democrats (Walter Menzel and Carlo Schmid) of the contents of the Foreign Ministers' Second Note, which signalled the Western powers' readiness to compromise. According to this version, the Social Democrats had rejected the Military Governors' demands in the knowledge of the new situation, and their action was

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thus not particularly heroic. It has already been established that Adenauer was speaking the truth, and was not the liar ('Lügenauer') that Kurt Schumacher accused him of being in passionate official denials.<sup>6</sup>

Although the British Military Governor gave the SPD advance warning in this case, we must be wary of concluding that the SPD generally received preferential treatment from the British government. A comprehensive picture of Britain's intentions for Germany, the way it implemented its policy, and the part Britain played in the decision-making processes of the occupying powers cannot be drawn from individual 'exposures'. Nor is it enough to rely on official pronouncements and joint Allied interventions, which are, in any case, generally well-known. We can achieve a more differentiated understanding only by taking into account the work of the Military Government on the spot, and in particular, that of the Liaison Office, as well as that of the Foreign Office. The Liaison Office had been set up especially to observe and advise, and also to influence the Parliamentary Council. It operated independently of its American and French counterparts. What has survived of the papers of the British Liaison Office forms part of the files of the Control Commission for Germany (British Element). A comprehensive inventory has recently been published which makes it easier for scholars to use this material.<sup>7</sup>

Only on the basis of the newly available sources is it possible to trace the processes by which British policy was formed, and the initiatives to which it gave rise during the most important stages of the Parliamentary Council's work. The factors influencing British constitutional policy for Germany, British attitudes towards German political parties, and the issues on which the Allied partners agreed and differed will be discussed. The actual negotiations, which took place at a number of levels and in various committees, will be referred to only when they have some bearing on the reactions of the British Military Government. Unfortunately, we still have no general history of the Parliamentary Council. Only the first few volumes of the long-awaited documentation of its negotiations have so far appeared.<sup>8</sup> To find out more about the range and extent of Allied interventions we would also have to consult American, and especially the French archival material, which is practically unknown so far. The present study, which is based on English sources alone can, therefore, provide no more than a partial view. It is offered as a stimulus to further research.

## **I *Allied Guidelines and Britain's Position***

When the Parliamentary Council started work in Bonn on 1 September 1948, the Western occupying powers had issued few guidelines which constrained its work. Those that did exist were couched in extremely general terms. The three Allies, who held sharply divergent views, had agreed to dispense with detailed instructions. They also wished to avoid giving the impression that they had decided to impose a constitution on the Germans. Thus the final communiqué (7 June 1948) of the London Six-Power Conference mentioned only that the re-establishment of a centralized Reich was to be avoided. It recommended a federal form of government, which was to protect the rights of individual states. But the conference also envisaged the existence of an adequate central authority, and the rights and freedoms of the individual were to be guaranteed.<sup>9</sup>

In a Letter of Advice dated as early as 1 May 1948,<sup>10</sup> the governments of the three Western occupying powers had agreed to give the Military Governors additional advice on what sort of constitutional structure was desirable for Germany. The Germans drawing up a draft constitution were at first unaware of this document. Later, it played an important part in helping Military Governments assess various drafts of the constitution. Although it left open a number of ways of achieving a 'decentralised Federal Government', it strongly recommended a bicameral system, 'in which one of the houses must represent the individual states and must have sufficient power to safeguard the interests of the states'. Specific recommendations on a federal system of public finances were especially important in future conflicts with the Parliamentary Council. The Letter of Advice assumed that the centre would have limited legislative powers, and that the right to raise taxes would be strictly separated between the *Bund* and the *Länder*.<sup>11</sup> However, Military Governors were urged not to apply these guidelines too rigorously, and to remember when looking at the constitution 'that the purpose of such examination is to test the provisions of the Constitution as a whole to determine whether they guarantee a federal type of government'.<sup>12</sup>

None the less, these broad recommendations, which were quite specific on certain points, were to prove explosive in future debates. The Frankfurt Documents of 1 July 1948, in which the Military Governors instructed the West German Minister Presidents to convene a con-

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stituent assembly, contained no further advice. The German politicians, therefore, believed that they were free to make their own decisions. Confidently and stubbornly, the *Länder* leaders began to fight for German interests. As we know, in the protracted negotiations with the Military Governors which preceded the deliberations of the Parliamentary Council, they succeeded in gaining a number of concessions on terminology (*Grundgesetz* or Basic Law rather than *Verfassung* or Constitution; Parliamentary Council instead of Constituent Assembly), in emphasizing the provisional nature of the West German draft constitution, and in not cementing the division of Germany by their own actions.<sup>13</sup>

Members of the Parliamentary Council began consultations on 1 September 1948 in the knowledge that they could negotiate independently on drafts up to the stage when the *Grundgesetz* as a whole was presented to Military Government for approval. Although the Allies had declared that the Germans were to draw up their own constitution, they closely monitored the negotiations in Bonn, and did not hesitate to offer advice and criticism, even to intervene when it seemed necessary. For this purpose they set up Liaison Offices under each Military Governor. These worked independently of each other, but kept in constant contact.

The British Liaison Office in Bad Godesberg was led by R. A. A. Chaput de Saintonge, a French Canadian who came from the German Internal Affairs Department in the Foreign Office and was considered an expert on German constitutional and administrative issues.<sup>14</sup> His office's brief was to keep the Military Government informed, in detail, about the course taken by negotiations in the Parliamentary Council, and to provide background information about the attitudes of the various factions and actors involved.<sup>15</sup> Personal contacts, cultivated at dinners and cocktail parties as well as at official meetings with Minister Presidents, members of the Parliamentary Council, and leading politicians, were used to create a network of information sources. This network was also to provide a way of influencing people, of effectively representing British interests, and of ensuring the success of Allied constitutional policy for West Germany.

From the start, the British side tried to remove any irritations which could have slowed down the work of drawing up a constitution. It attempted to smooth out nascent differences of opinion between the Allied partners and, while exercising the necessary restraint, to coun-



teract any quarrels in the Parliamentary Council of which it was aware. Brian Robertson, the Military Governor, proved to be a knowledgeable and ingenious representative of his country, who also took German concerns into account. In the run-up to the Bonn negotiations on the *Grundgesetz*, British diplomacy had helped to fend off a French attempt to prevent delegates from Berlin from taking part in the constitutional negotiations.<sup>16</sup> In Paris it was feared that Berlin would be restored to its position 'as the legitimate and moral capital of Germany', which Paris wanted to prevent at all costs. The Foreign Office displayed understanding for French fears, but argued that the Berliners should be allowed to participate under the condition that they would not have the same rights as the West Germans.<sup>17</sup> At the same time, the Foreign Office calmed down the Mayor of Berlin, Ernst Reuter, in order to prevent the municipal authorities from making any demonstrative protests. Relations with the Soviet Union, which were stretched to breaking point anyway because of the Berlin blockade, were not to be aggravated any further.<sup>18</sup> 'If you think that representatives from Berlin must join the Parliamentary Council', the Foreign Office informed the Military Governor on 30 August 1949, 'they should do so as observers and not in an advisory capacity.'<sup>19</sup> One day later, when a delegation of Minister Presidents was meeting with Allied Liaison Officers in Wiesbaden, Chaput de Saintonge explained the occupying powers' official line. The Berliners were not to be full members of the Parliamentary Council. They could take part as observers, and contribute to the committee work. But they were not to participate in the public debates.<sup>20</sup> Thus a way was found of ensuring that the Berliners could take part in the Parliamentary Council in a way that was acceptable both to them, and – just – to the French.<sup>21</sup>

The British Military Government did not see itself solely as a mediator between the Allies. It also tried to reduce conflicts between the various factions within the Parliamentary Council, in order to ensure that the constitution of the future West German state would enjoy wide approval. It was therefore keen to see that the basic decisions on the constitution had the support of a broad majority. For the main political rivals, the SPD and CDU/CSU, each of which controlled 27 of the 65 votes, it was tempting, in difficult situations, to avoid the pressure for a broad consensus by enlisting one of the smaller parties in order to gain a simple majority. The FDP, which had 5 votes, was therefore of crucial significance. Information which the Military Government had

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received by the first half of September strengthened its suspicion that the Liberals might favour a seesaw policy. Suggestions from the ranks of the FDP that this was not the case were registered with relief. Thus in talks with the British Liaison Officer in Hamburg, the FDP member from Lower Saxony in the Parliamentary Council, Dr Hermann Schäfer, indicated that the FDP would not use its position to make snap decisions possible, 'but to hold balance where doubtful moves were made by CDU or SPD until a solution acceptable to vast majority was reached. This power would operate particularly against CDU inclination towards excessive decentralisation.'<sup>22</sup>

A good two months later, the Foreign Office assessed the situation. It concluded that because the two main parties had an equal number of representatives in the Parliamentary Council, they avoided majority votes which would give the smaller parties the casting vote. 'No Basic Law (Draft Constitution) could endure for long if some of its main provisions were opposed by one of the major parties. Both the Social Democrat and the Christian Democrat leaders have therefore accepted the fact that only compromises receiving the support of their parties should be embodied in the Basic Law.'<sup>23</sup> The British, believing that compromises were essential for a constitution to function properly, saw the pressure to achieve them as the main reason for the lack of progress in committee. So far, the Foreign Office established, neither the party groups in the Parliamentary Council, nor the parties as a whole, had reached any agreement. The main areas of dispute were the composition and functions of the second chamber, and the system of public finance. 'The main issue dividing the parties would appear to be the incompatibility of the degree of federalism desired by the Christian Democrats with the wide centralised control which the Social Democrats believe necessary to solve the difficult economic position of the country and implement their political programme.'<sup>24</sup> References to the continuing lack of an occupation statute were often used as an excuse to avoid the painful necessity to find a solution.

## II *Delays and Warnings*

The Military Government, Argus-eyed, watched over the constitution-makers to ensure that they kept strictly to their brief, and did not take a public stance on more general political questions. It was not long

before the first conflicts arose. On 25 September 1948 the Parliamentary Council passed a resolution condemning the conviction of demonstrators in the Soviet sector of Berlin. The Western powers took the occasion to raise an admonishing voice. At first General Koenig, the French Military Governor, insisted, against the advice of his colleagues, on demanding an assurance from the Parliamentary Council that it would not again overstep the bounds of its authority. A note passed to the President, Konrad Adenauer, pointed out in rather cool terms that the Parliamentary Council had no right to go beyond its brief. The Liaison Officers who delivered this note explained that it was intended as a warning. 'If the Parliamentary Council goes outside its authorised field in future, it must expect a strong reaction from the Military Governors.'<sup>25</sup>

The Military Governments saw with concern that the Parliamentary Council was falling far behind the original timetable of eight to ten weeks to complete the work allotted to it. They watched the various factions fail to reach agreement on their controversial viewpoints, and saw the federalists and centralists clashing. The main bones of contention were the composition and function of the chamber representing the *Länder*, the division of authority between the *Bund* and the *Länder*, fiscal legislation and the financial administration, parental rights, and relations between church and state. The CDU found it difficult to compromise with the SPD because it had to consider the extreme federalists (especially in the CSU) within its own ranks. As the key issues of the dispute were in areas touched upon by the Allied directives, the Bonn constitutional deliberations increasingly provoked criticism and interference by the occupying powers.

The Periodical Reports drawn up by the Bonn Liaison Office provided the foundation for British policy-making for the Parliamentary Council. They were a source of information for the Military Government in Berlin and the Foreign Office in London about the state of negotiations in various committees. This material was supplemented by summaries and assessments. The information provided by the Liaison Officer made the British agencies in Berlin uneasy after only a few weeks. They were especially critical of the recommendations made by the finance committee because in the British view these were incompatible with the demands of a federal constitution. The British did not reject a more centralized Germany from the start. In fact, they were highly sceptical about what they regarded as the rather exaggerated

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federal ideas put forward by the French and the Americans. However, they regarded themselves as bound by Allied resolutions, which formed the lowest common denominator for the divergent opinions of the occupying powers.

The Military Governors thought the time had come to convey their misgivings to the Parliamentary Council in the most considerate way possible. They instructed their Liaison Officers to seek a meeting with the President. As Adenauer was away, they handed his deputy, the Social Democrat Adolf Schönfelder, a statement detailing their position on 19 October 1948.<sup>26</sup> This statement emphasized that the Military Governors could only accept a Basic Law whose provisions tallied with the line laid down in the Frankfurt Documents, especially on the division of fiscal powers between the centre and the states, the key problem of any federation. The powers of the federal government to raise taxes and to spend them were to be limited. Although the federal government could set tax rates and issue general guidelines for taxes other than its own in order to maintain some sort of fiscal uniformity in the state as a whole, individual states had to be responsible for the collection and use of these taxes.

The semi-official soundings and directives issued by the Liaison Officers were hardly designed to ensure that future developments went in the desired direction. Reports from Bonn reflect this gloomy mood. 'The picture which Mr. Chaput de Saintonge presents is frankly discouraging', the Head of the Political Division wrote to the Military Governor on 9 November 1948.<sup>27</sup> Dr Adenauer's attitude was unsatisfactory, he went on. Adenauer was clearly neglecting his duties as Chair of the Parliamentary Council and concentrating instead on making sure that the CDU got a majority in the first West German government. He was using delaying tactics in the Parliamentary Council to postpone elections until the next spring, when the conflict between the CDU and CSU would have sorted itself out. This went against Britain's as well as Germany's true interests. In the writer's opinion, the Parliamentary Council as a whole, and Adenauer in particular, 'need something of a shaking and a pretty firm exhortation to get down to business again'.<sup>28</sup> If it came to insisting on changes in the draft *Grundgesetz* to bring it into line with the instructions issued by the Allies, the result would favour the CDU more than the SPD. The disadvantage to the SPD could be kept to a minimum 'if we could at the same time intervene successfully to speed up the work of the Parliamentary Council'.<sup>29</sup> These com-

ments point to a difficulty in the British position which was to become more pronounced as time passed. Allied demands that the structure of the *Grundgesetz* should be more strongly federal benefited the position of the CDU/CSU. They not only threatened to upset the balance between the factions, but would also handicap the SPD whose contribution Britain considered especially important in building up democracy in Germany.

The President of the Parliamentary Council objected to Military Government's semi-official intervention. On 10 November Adenauer invited the Liaison Officers to a meeting and informed them that he had only recently found out about the *démarche* of 19 October. He regretted that the statement had been handed not to him, but to his deputy, and suggested that future communications of an official nature should be addressed to him personally, or his secretary, if possible in the form of an *aide-mémoire*. He openly criticized the way in which Allied agencies passed on information to the Parliamentary Council. 'He deprecated the imparting of information to members of the Council at cocktail parties or other social functions, and argued that such members frequently misunderstood it, thus causing confusion.'<sup>30</sup> He also indicated that as far as he was concerned, the division of powers between the *Bund* and the *Länder* criticized by the Allies was more a political than a financial problem. He respected the view of the financial experts that a central administration was efficient and simple, and he realized that it was also cheaper, 'but on political grounds [he] considered administration should be devolved to the *Laender*'.<sup>31</sup>

For Adenauer, federalism was not a matter of principle, but a problem which needed pragmatic solutions. At a breakfast in Bad Homburg to which General Robertson invited him on 17 November 1948, he therefore repeated his urgent request for an official clarification of the Allies' position, so that misunderstandings could be avoided. He also asked for the *Grundgesetz* to be assessed only after it had been passed. Robertson agreed with Adenauer's position.<sup>32</sup> At the same time, Adenauer proposed a meeting at which Military Government's commissioners and members of the Parliamentary Council could talk through their differences.

Adenauer wanted to gain greater clarification about Military Government's position during the constitutional negotiations so that any objections they might have could be taken into account during consultations. At the same time the Chair of the main committee, the SPD

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deputy Carlo Schmid, appealed to the Allies not to interfere in ongoing negotiations by giving advice or warnings. It was their prerogative, he pointed out, to comment on the outcome later. The Liaison Office's view of this was as follows: 'It has become apparent that he and several other delegates wish to face the Military Governments with the alternative of accepting the German text or having no West German Government as they are confident that anything will be preferable to the political results of rejection.'<sup>33</sup>

The Military Governors wanted to be sure that the German draft constitution would remain within the guidelines laid down in the London agreements and in Allied directives. How to achieve this became the subject of intense discussions between them. General Koenig strongly favoured pointing out to the Parliamentary Council that it was on the wrong road, 'that is, attempting to concentrate excessive powers particularly in finance field, in central government'.<sup>34</sup> Clay reminded the Military Governors that the Germans had an excuse: 'apart from the scanty information given to the Germans on July 1<sup>35</sup> they had never been adequately informed regarding the substance of the London agreements relating to this question.'<sup>36</sup> The generals agreed to clarify the situation by sending the President of the Parliamentary Council an *aide-mémoire*. Robertson's proposal that the document should be handed over personally was not accepted. But an attempt was made to avoid giving the impression of an official intervention by moderating the text and calling the document a 'guide'.<sup>37</sup>

### III *The First Aide-Mémoire*

When the Allied *aide-mémoire* was delivered by the Liaison Officers on 22 November 1948, the draft *Grundgesetz* had already reached the main committee of the Parliamentary Council. The most important changes required by the Allies related to the bicameral system, 'in which one of the houses must represent the individual states and must have sufficient power to safeguard the interests of the states',<sup>38</sup> and, as expected, to the federal nature of the public finance system. The Germans drawing up the constitution were urged to ensure 'that the powers of the federal government in the field of public finances shall be limited to the disposal of monies including the raising of revenues for purposes for which it is responsible, that the federal government may set rates

and legislate on the general principle of assessment with regard to other taxes for which the uniformity is essential. The collection and utilization of such taxes being left to the individual states, and that it may appropriate funds only for the purpose for which it is responsible under the constitution.<sup>39</sup> Much of this was taken from the Letter of Advice, but the source was not revealed.

The parties in the Parliamentary Council underestimated the seriousness of the Allies' concern, and tried to play it down. None of them wanted to be seen to be a puppet of the occupying powers. The main committee classified the *aide-mémoire* as mere commentary. With only one dissenting vote (that of the Communist), the committee passed the following resolution: 'The members of the Parliamentary Council continue their deliberations as representatives of the German people, whose trust has sent them to Bonn as their delegates.'<sup>40</sup> The chair of the committee, Carlo Schmid (SPD) described the interference by the Military Governors as inadmissible. In his view, the Germans should complete the constitution before submitting it to the Military Governors for approval. It would then be up to them to accept the *Grundgesetz*, or instruct the Germans to change it.

Schmid's comment irritated the British Military Government. In a telegram to the Foreign Office, General Robertson wrote that Carlo Schmid 'is a doctrinaire and opinionated professor and he has been giving the lead to his Party on the lines that interference by the Military Governors in the course of the Parliamentary Council's deliberations on the constitution is inadmissible'.<sup>41</sup> The Foreign Office thought about how to counter the SPD's negative attitude, and how to encourage it to be more moderate. The Military Governor suggested arranging talks during a visit planned by the deputy leader of the SPD, Erich Ollenhauer, who was to attend a meeting of the Socialist International in London early in December 1948. Lord Henderson, he proposed, should meet him briefly, 'and impress on him the disservice which his Party will render to European recovery and progress by adopting a negative attitude at Bonn'.<sup>42</sup> Ollenhauer had spent several years in exile in London, and was considered to be a pleasant and accommodating man.<sup>43</sup>

The preparations for the meeting between Henderson and Ollenhauer contain interesting information about how the Foreign Office saw the SPD in general, and the role of Carlo Schmid in particular. Differences of opinion emerge between the London office and the Mili-

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tary Government in Germany. Grace Rolleston of the German Section thought that Robertson's description of Carlo Schmid was too harsh. In her view, the German politician's attitude was at least partly justified. It was essential that the constitution-makers were granted maximum independence, otherwise they could soon be accused not only of dividing Germany, but also of imposing a constitution which had been dictated by the Western occupying powers. In her opinion, it would be a great mistake to reprimand Carlo Schmid via Ollenhauer. 'The latter is a nice little man but of small calibre compared with Schmid.' If a dressing down was being considered, it should be administered directly. Finally, she thought, it was an exaggeration to speak of the negative attitude of the SPD in Bonn. 'They have always been the ones to push ahead in contrast to the intriguing and procrastinating CDU-CSU.'<sup>44</sup>

A memorandum prepared for Lord Henderson follows the line taken by Grace Rolleston, even using a number of her expressions, and reproduces her critical attitude towards the Christian Democratic parties. The memorandum concedes, however, that Schmid's criticism of the Allies had been tactless and could be seen as aggressive.<sup>45</sup> After Ollenhauer's visit, Grace Rolleston, to her satisfaction, was able to note in the minutes of the meeting: 'Lord Henderson impressed upon Ollenhauer the importance of pressing on with the establishment of a W. German government and warned him that too much consideration of problems which were not fundamental may lead to regrettable delays. Ollenhauer expressed agreement with this. Carlo Schmid was not mentioned by name.'<sup>46</sup>

At first, the British Military Government was annoyed that even after the presentation of the *aide-mémoire*, the Germans took little notice of Allied reservations in further discussions of the draft *Grundgesetz*. 'Most members of the Parliamentary Council are convinced that the establishment of a West German Government is so vital to the Western Occupying Powers that the Military Governors will accept the Basic Law whatever its contents', a concerned Liaison Officer noted.<sup>47</sup> It had even been suggested in the main committee that the second reading of the draft should be delayed until the occupying powers provided some detailed information about the occupation statute. But the real difficulty, he reported, was the lack of agreement within the CDU and CSU. Despite a number of intra-party meetings, the Christian Democrats had still not achieved consensus on a possible compromise with the SPD.



What was put forward by the main committee was based, in essence, on decisions made by a small majority consisting of the SPD and FDP. In the present situation, he went on, the CDU could not suggest co-operation without risking the loss of its CSU wing. But there were indications 'that the CDU are looking to the principles in the Aide-Mémoire to get them out of their difficulties as there is no doubt that these principles are more federal in character than the rather centralist solutions accepted by the SPD and FDP'.<sup>48</sup>

For the British Military Government, more so than for its French and American counterparts, the compatibility of the West German draft constitution with Allied guidelines was less a matter of principle than of political expediency. As far as the British were concerned, any of a number of federal models could have left space for a stronger central power. Such organizational questions, however, were less important to them than maintaining the basic consensus between the Allies, while at the same time ensuring that the Germans could draw up their own constitution with the support of a broad majority of the parties.

'It is not so much the letter which counts as the spirit, and the test of the spirit of the new constitution will be its application', wrote John W. Wheeler-Bennett on 9 December 1948, in an interim report on the state of the negotiations in Bonn.<sup>49</sup> He noted that the new constitution contained important improvements compared with the Weimar constitution, but pointed out immediately that fundamental rights guarantees and institutional safeguards, however perfect, on their own offered no protection against a renewed outbreak of the 'furor teutonicus'. Mistrust of the Germans and doubts about their capacity for democracy were still rife. According to Chaput de Saintonge, the average German politician was still 'the nationalistic animal of yesterday. He is ambitious, proud, overbearing, narrow minded, suspicious, wily, an incurable romantic, deluded by a limited pragmatic realism, unwilling to accept political responsibility yet easily led into irresponsible action.'<sup>50</sup> He believed that the crucial thing was not whether the *Grundgesetz* complied fully with Allied directives, but 'whether the Basic Law shall be applied in a society with sufficient cohesion, vitality and stability to overcome the totalitarian attractions inherent in the present society'.<sup>51</sup>

Increasingly, the British tended to assess the constitution as a whole instead of criticizing individual provisions. This attitude was also apparent in the memorandum which compared the draft *Grundgesetz* of 10 December with the Allied *aide-mémoire*.<sup>52</sup> It was only the question of

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an adequate central power that allowed any doubts to arise as to whether the draft could be brought into line with Allied guidelines, stated the memo. The main difference was on the provisions for the system of public finances. In the draft the centre had responsibility for fiscal legislation and the administration of taxation even in areas which were the responsibility of the individual states. However, the interests of the *Länder* were sufficiently safeguarded by the fact that the Bundesrat had to approve all fiscal legislation which affected the taxes collected directly by the *Länder*, or which were divided between the *Bund* and the *Länder*. It also applied to the legislation governing the financial adjustment of taxes between the *Bund* and the *Länder*, and between the *Länder* (*Finanzausgleich*). Although the solution found clearly did not comply with the *aide-mémoire*, which had recommended a complete separation of financial responsibilities between *Bund* and *Länder*, it could be argued that the provisions in the *Grundgesetz* served the same purpose, namely, to safeguard the independence of the *Länder*.

### IV *The Frankfurt Affair and Party Compromise*

Since the delivery of the *aide-mémoire*, Adenauer had put more effort into consultations with the Allies. His aim was to have discussions between members of the Parliamentary Council and the Military Governors in order to find out how to get the Allies to approve of the *Grundgesetz* quickly and without friction. At the same time, he saw this as a chance to improve the position of his own party *vis-à-vis* the SPD. He proposed discussing two issues in particular: the second chamber, and guarantees relating to religious freedom, education, and the family. It would be helpful, he said, if the Allies could make their position on these issues clear, and provide more information about the occupation statute.<sup>53</sup> Although the Allies were doubtful about the usefulness of such a meeting at that particular point in time, they complied with Adenauer's request. The British Liaison Officer assessed Adenauer's tactics as follows: 'My impression is that he hopes the Military Governors will extricate his party from the unsatisfactory position which lack of clear policy has placed it in during the last few weeks.'<sup>54</sup> He also pointed out that the Germans had right on their side if they insisted that they could not complete the draft *Grundgesetz* until they were informed about the content of the occupation statute.<sup>55</sup>

Adenauer's meeting with the Military Government, which took place on 16 and 17 December in the American headquarters in Frankfurt, resulted in no new insights for either side.<sup>56</sup> Various statements by Adenauer about the differences of opinion within the parties represented in the Parliamentary Council produced a vehement reaction from the SPD, which sharply criticized the President's behaviour and accused Adenauer of double-crossing them. The SPD claimed that he had deliberately provoked the Military Governors into intervening on public finance and the second chamber, issues on which the main committee had already made decisions which went against the CDU/CSU line. The upshot was a big row. The Frankfurt affair was reflected in fierce press campaigns, and precipitated a serious crisis in the Parliamentary Council which threatened to bring its work to a standstill. SPD head office in Hanover favoured a plan to bring Adenauer down over this affair by proposing a vote of no-confidence,<sup>57</sup> but it was soon abandoned. The more moderate line taken by the SPD in Bonn finally prevailed, and the conflict was resolved within a few weeks.

On 20 January 1949 the reading of the second draft of the *Grundgesetz* in the main committee came to an end. Although the CDU and SPD had come closer on most issues, no agreement had been reached on the crucial question of how financial responsibilities should be divided between the *Bund* and the *Länder*. Both large parties now advocated wide-reaching powers for the centre on the question of general as well as fiscal legislation. They also agreed that the enforcement of federal law should be a matter for the *Länder*. To what extent the *Länder* should take orders from the centre, or act on their own responsibility, continued to be controversial within the CDU/CSU. The SPD and FDP, by contrast, favoured a uniform federal financial administration. A cross-party committee of five was set up to find a compromise between federalists and centralists by looking at the complicated and technical financial details. It was dominated by the expertise of the former Prussian finance minister, Hermann Höpker-Aschoff (FDP). The CSU was not represented on this committee, and was already threatening to oppose ratification of the *Grundgesetz*. None the less, within two weeks the committee of five had made a breakthrough, when the SPD finally accepted the Bundesrat as the *Länder* chamber. The ground had been prepared for this solution on 26 October 1948 by a compromise between the leader of the SPD in the Parliamentary Council, Walter Menzel, and the Minister President of Bavaria, Hans Ehard. The area

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in which the *Bund* had exclusive power of legislation was further reduced, and the field covered by concurrent legislation which required the consent of the Bundesrat was considerably extended, also taking the interests of the CSU into account. But in essence, the system of public finance was shaped by the wishes of the SPD and FDP: a central financial administration for federal taxes, extended powers to raise taxes for the *Bund*, and a role for the *Bund* in the financial adjustment of taxes between the *Bund* and the *Länder* (*Finanzausgleich*). The new draft provided the basis for the third reading in the main committee. It was accepted on 10 February 1949 with minor changes, and submitted to the Military Governors for approval on the same day.

### V *Allied Reactions*

In a protracted and agonized process, the political parties had at last come to a compromise which had the support not just of a bare majority, but of a large one. After the complications caused by their earlier interventions, the Military Governments had advisedly restrained themselves during the final phase of decision-making. The British side now feared that any changes requested at this stage could easily upset the compromise achieved with so much difficulty, and put the whole constitutional project at risk again.

In his initial reaction to the draft submitted by the committee of five, the British Liaison Officer therefore spoke of an acceptable solution. After the party conflict of the last few months, he wrote, a more pleasant development was in the offing.<sup>58</sup> It was true that at first glance the compromise constitution did not seem to fulfil all the conditions which had been laid down. But it was hardly possible to make revisions in the controversial area of public finances at this stage, especially as Carlo Schmid had made it quite clear that the existing text represented the maximum concession which the SPD was prepared to make. 'On all points which figured in their original programme, the SPD have given way except this one. They must therefore insist on a federal financial administration if they are not to appear before their voters as having been completely outmanœuvred.'<sup>59</sup> Chaput de Saintonge believed that it would be difficult to persuade the SPD to give in on this point. 'Schmid suggested that possibly the political adviser or I should discuss the details of the problem with Schumacher who is out

of touch with the concrete political realities.<sup>60</sup> The CDU was also satisfied with the compromise reached on the financial administration. In his view, the CSU was merely flirting with the more federalist proposals also emanating from the French side.

The British Military Government was fully aware that it would be extremely difficult to persuade the Parliamentary Council to bring the proposal on the table into line with the conditions laid down in the *aide-mémoire*. They therefore tried to intercede with their American and French partners, whose initial reactions clearly signalled rejection.<sup>61</sup> On 9 February the Foreign Office asked Military Government to take a position on the discrepancies. It was also necessary to check, it suggested, whether the Germans were right in stating that even if the proposed financial system did not comply with the letter of the London Agreement, it did conform with its spirit, especially as a true federal system was the objective. If this assessment proved to be correct, the Foreign Office said, then there remained only the earlier choice between two evils: 'We must either upset the delicate compromise the Germans have achieved or enforce its acceptance upon the French who will insist *at least* on the punctilious observance of the letter of advice.'<sup>62</sup>

The main committee's draft, which had so far been only informally submitted, led to hectic diplomatic activity among the British, as the numerous telegrams and memoranda which circulated between the Liaison Office, the Military Government, and the Foreign Office show. A commitment to the Allied guidelines made it difficult to defend the German draft as sufficiently federalist. In assessing the provisions governing the financial administration, the Financial Adviser to the Military Government, Sir Eric Coates, soberly pointed out that 'if the French challenge this position under the Letter of Advice<sup>63</sup> we shall not have a leg to stand on, for the deviations are too serious to be laughed off'. 'Even to British thinking – which favours centralized finance – the present German proposals give excessive authority to the Federation (however rigged) and are difficult to reconcile with one's acceptance of a Federated Germany.'<sup>64</sup>

But the report which the Bonn Liaison Office wrote on the draft *Grundgesetz* and sent to the Foreign Office on 13 February 1949 was more optimistic. It was not the task of the Military Governors, Chaput de Saintonge pointed out, to criticize individual provisions of the *Grundgesetz*. It was more important to assess the document as a whole. Careful comparison with the provisions of the *aide-mémoire* of 22 No-

vember 1948, he wrote, showed that the draft did justice to the essential points of the aims pursued there. There was no doubt that the draft document was a democratic constitution of the federal type, which protected the rights of the *Länder* involved, provided for an adequate central power, and guaranteed individual rights and freedoms. The experts had found deviations only on the issue of the division of power between the *Bund* and the *Länder*, in particular, on the financial responsibilities of the *Bund*. 'The requirements of the Aide-Mémoire were drafted in order to safeguard the rights of the Laender on the conception that he who pays the piper calls the tune.'<sup>65</sup> The most effective way to achieve this, he went on, was undoubtedly complete and independent control over taxation revenue and the financial administration. This solution, however, had been rejected by the Parliamentary Council's financial experts as inefficient, expensive, and difficult, and they had adopted an alternate system. Under this, the Bundesrat, which actually represented the interests of the *Länder*, had an absolute veto over the *Bund's* financial legislation where it affected the interests of the *Länder*. Thus they had tried to achieve the same aims as the occupying powers. 'Although it is clear to the members of the Parliamentary Council that *their financial provisions are contrary to the actual requirements of the Aide-Mémoire* they claim that they meet the reasons for these requirements in their alternate system.'<sup>66</sup> This deviation was sure to provoke opposition among the Allies. 'From a purist point of view it is the only clear-cut deviation from the London Letter of Advice.' On the other hand, he suggested, it would be 'the wisest course for the Military governors' to accept this deviation and to avoid giving any impression of interference,<sup>67</sup> otherwise there was a risk of upsetting the balance of the compromise between the parties.<sup>68</sup> The German Section at the Foreign Office agreed with the conclusions of the report. Grace Rolleston noted: 'This explains in a lucid and convincing manner that the Basic Law, with few exceptions, meets the requirements of the Aide-Mémoire.'<sup>69</sup>

The French and American Military Governments by no means shared this view. At the meeting of the three Military Governors on 16 February 1949, even Clay expressed his deep disappointment with the German draft. In his view, it was unsatisfactory and on many points deviated radically from the principles which had been conveyed to the Parliamentary Council.<sup>70</sup> With obvious satisfaction, General Koenig agreed with his American colleague, while Robertson was isolated. He

admitted that there were shortcomings, but emphasized the need to consider the *Grundgesetz* as a whole. At the same time he pointed out to his colleagues the heavy political responsibility of rejecting the draft. 'This would probably upset the whole programme for Western Germany since the Germans might well be unwilling or unable to produce a revised law embodying our requirements. On the other hand if we amended the law ourselves these amendments would have all the appearance of Allied dictation.'<sup>71</sup> If it came to a revision of the finance clauses as a result of Allied pressure, Robertson continued, the SPD could immediately refuse ratification in a number of *Länder*. In any case, he did not see himself in a position to interpret the deviations from the Allied guidelines as so serious as to justify recommending the rejection of the *Grundgesetz*. To the deep disappointment of the British Military Government, however, the meeting had made one thing clear. General Clay's uncompromising attitude ensured that there would be no quick agreement between the Allied partners about accepting the draft *Grundgesetz*.

Only one day later, when the political advisers attempted to work out a common position as a basis for further discussions of the draft *Grundgesetz*, the differences between the Franco-American and British attitudes emerged even more clearly. The British side insisted that the deviations were not sufficient reason for rejecting the constitution.<sup>72</sup> In further talks, they tried to convert the others to their way of thinking.<sup>73</sup> British reports testify to increasing concern about the American attitude. 'Although there is considerable consensus of opinion on facts there is a wide divergence as to the emphasis to be laid on them with the Germans.'<sup>74</sup> The American Military Government's financial adviser, Edward Litchfield, had even threatened openly to set the Germans an ultimatum if necessary. French intransigence had been encouraged by the American attitude, noted a disillusioned Chaput de Saintonge in his report.<sup>75</sup>

In the meantime, the Germans put increasing pressure on the Military Governors to clarify their position at last. In a radio interview on 25 February 1949 Adenauer had put the responsibility for any delay firmly on to the Allies' shoulders. The SPD demanded that the constitutional negotiations be continued immediately. US circles suspected that they were being supported in this position by the British Military Government, but the British side emphatically denied this.<sup>76</sup>

In a meeting of Military Governors on 1 March 1949, General Robert-

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son stuck to his position, although General Koenig again rejected the draft constitution as completely unacceptable, and spoke of a hypocritical attempt by the Germans to sell a centralist constitution as federalist. After intensive discussions with General Clay, the French Military Governor allowed himself to be persuaded that the negotiations should not be broken off. It was resolved to present the Parliamentary Council with a list of supplements and detailed corrections which had to be incorporated before the *Grundgesetz* could be accepted.<sup>77</sup> A number of restrictions were to be placed on article 36 of the draft, which laid down the federal government's legislative responsibilities. Like the adjustment of financial responsibilities between the centre and the states, they were intended to strengthen the position of the *Länder*. At first General Koenig insisted that the federal government should administer only federal taxes. Finally, Clay's suggestion of permitting another important exception in this area was accepted (excise, income tax, death duties, and gift tax). It was also suggested that articles 122a and b, as well as article 123 of the draft should be amended so that they approached more closely the principles of financial organization that the Allies regarded as especially important in a federal system.<sup>78</sup>

On the afternoon of 2 March 1949 the Military Governors delivered their 'suggestions' to the representatives of the Parliamentary Council, and asked them to complete their work accordingly. The notes were not intended to be 'rigid text', but were, none the less, 'principles of great importance and the Military Governors expect that great effort will be made to comply with them'.<sup>79</sup> The German delegation was reassured that the occupation statute, which was still outstanding, would not contain anything that required constitutional change.<sup>80</sup> When Adenauer asked whether the *Grundgesetz* would be ratified by referendum or a vote in the Landtage, it was intimated that a referendum in the *Länder* was preferred. But any recommendations on this issue by the Parliamentary Council would be welcome.

However, in his report on the meeting to the Foreign Office, Robertson revealed himself as a decided opponent of a referendum. In his view, this would be a 'disastrous course'.<sup>81</sup> He could point to the earlier opinion of the Minister Presidents of the *Länder*, who, in stating their position on the Frankfurt Documents, had rejected a referendum in order to underline the provisional character of the planned constitution. The British Military Government was also in favour of ratification by the Landtage because, as Robertson explained, this was the



quickest procedure. More important, to him, was the fact that in a referendum there would be a considerable proportion of 'no' votes or abstentions. This would nourish doubts about whether the constitution did, in fact, have a broad popular base. It was opposed not only by the Communists and right-wing extremists, but also by the Catholic bishops, who rejected the compromise which the CDU had come to with the SPD on schools. 'In all the circumstances, I feel that these people's influence might work up an opposition which, if it abstained, might reduce the affirmative votes to perhaps not more than 60 per cent of those entitled. By modern mass standards, this is not nearly enough to make a convincing show, and I am sure Russian propaganda would make a great deal out of it.'

## VI *British Initiative on the Churches*

For a number of weeks, the Foreign Office had been observing with concern how the Vatican and the Catholic Church in Germany were reacting to the *Grundgesetz*. On 12 January 1949 the British mission to the Curia noted that the *Osservatore Romano* had reprinted an article by Professor Schreiber from the *Rheinischer Merkur* which dealt with the continuing validity of the Reichskonkordat of 1933, and advocated its inclusion in the *Grundgesetz*.<sup>82</sup> A little later, it was reported from Rome<sup>83</sup> that the Vatican press and radio had launched a campaign against the claim made by German newspapers that through the Concordat, the Pope had made himself Hitler's accomplice. The Foreign Office requested further detailed reports, referring to the difficulties in the negotiations on the *Grundgesetz*, 'since as you know the interest of the Church in the religious and educational articles of the German constitution has recently become an important issue in the final discussions on the constitution in the German Parliamentary Council'.<sup>84</sup> In the meantime, the Religious Branch of the Control Commission had produced a memorandum on 'The Churches and the Basic Law'.<sup>85</sup>

The Foreign Office believed that the moment had come for it to intervene via diplomatic channels. On 3 March 1949 the apostolic delegate to Great Britain, Archbishop William Godfrey, was invited to Whitehall. He was informed that the attitude of the Catholic Church in Germany, and especially that of Cardinal Frings of Cologne, were endangering the passing of the *Grundgesetz* in its final phase.<sup>86</sup> 'Arch-

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bishop Godfrey was told that the creation of a government in Western Germany and the association of that government with the Western Union were essential parts of our policy. If we were to succeed, the existing co-operation between the Social Democratic Party and the Christian Democratic Union which had made possible the drafting of the Basic Law must be continued.<sup>87</sup> The Archbishop promised to ask the Vatican to exert a moderating influence on Cardinal Frings and the Catholic Church in Germany. On 7 March he was able to pass Rome's reply to the Foreign Office.<sup>88</sup>

The Vatican, it said, was as yet unfamiliar with the text of the *Grundgesetz*, but the confessional schools and the Concordat were issues of fundamental significance to Catholics. If, therefore, a break between Socialists and Christian Democrats was to be avoided, the Socialists would have to give up their inflexible attitude. 'If the Socialists could agree to a settlement which was acceptable to both parties, the Vatican would be willing to give moderating advice.'<sup>89</sup> As further approaches to the Vatican on this matter were unlikely to have any effect unless new facts and convincing arguments were found, the Foreign Office advised the Military Governor in Germany that it was preferable 'to face the prospect of Church campaigns in Germany against the Basic Law, rather than to act as mediator between the Vatican and Parliamentary Council'.<sup>90</sup> It was, however, important to find out whether the Vatican wanted to gain more for Catholics than they had had under the Weimar Constitution, or whether it was only trying 'to prevent an encroachment on the rights previously enjoyed under that Constitution'.<sup>91</sup>

In its response to the Foreign Office the Religious Branch of the Military Government pointed out that the aims of the Catholic bishops were completely appropriate and justified.<sup>92</sup> The Weimar Constitution had explicitly allowed for confessional schools (*Bekenntnisschulen*) where local needs justified them. This was not true in the same way of the *Grundgesetz*. It permitted religious instruction only where the need for it was demonstrable. 'The Catholics who lost their *Bekenntnisschulen* under Hitler fear that it will be difficult for them under the Basic Law to establish or re-establish them in areas where they do not at present exist.' Although the Adviser saw little chance of the SPD making further concessions, he did not think that it would be a wise decision on the part of the churches to deny the constitution their support if they could not fully achieve their aims at the present time. 'I feel that the

action which you have already taken may have done some good and can understand that you may feel unable to press the matter further with the Vatican.'<sup>93</sup>

A correspondence between the Foreign Office and the British representative to the Curia dating from about the same time reveals that London did not intend to pursue the matter further. The Germans themselves were to be left to solve the constitutional issues raised by religion and the Churches.<sup>94</sup> The danger of falling between all stools and doing the cause itself a disservice seemed too great. In its attempt to reconcile the internal groupings within Germany with each other in order to create as broad a basis of support for the constitution as possible, British policy had come up against certain limits which it accepted pragmatically.<sup>95</sup> On 4 May 1949, when the disagreement with the Catholic Church in the final stages of the constitutional negotiations was nearing its climax,<sup>96</sup> General Robertson stated: 'I think our only course is to keep out of this delicate business. I am confident that with so much else at stake reason will prevail.'<sup>97</sup> On this point, he was to be proved right.

## VII *The Committee of Seven*

In a memorandum of 2 March, the Allied Military Governors insisted on a dual system of public finances. The adjustment of taxes between richer and poorer *Länder* (*Finanzausgleich*) was rejected. The *Länder* were to be more independent and have a stronger position. The reason for this was not purely constitutional. The French and Americans thought that the new state should have a highly developed federal structure in order to prevent it from becoming too powerful and posing a threat in future. But a majority of the Parliamentary Council wanted a stronger central authority. It was convinced that the Federal Republic would be capable of guaranteeing a uniform standard of living for its citizens in the various different regions only if it were viable and capable of taking action. The British Military Government was sympathetic towards this attitude. But the American Military Governor, in particular, was highly suspicious of the SPD's desire for a strongly centralized state which would enable it to implement a comprehensive economic and social programme through federal legislation at a later date. General Clay regarded himself as called upon to oppose plans for socialization in any form.

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A cross-party Committee of Seven drawn from the Parliamentary Council was set up to look at the suggestions contained in the Allied memorandum. All parties except the Communist Party were represented on it. The British Military Government noted with concern how the official French position was helping to stiffen the fronts. While the British and Americans restrained themselves to avoid giving the impression that they had issued a diktat, the French Military Government in Baden-Baden emphasized that the Allied demands were to be seen as final.<sup>98</sup> The German side, however, claimed that the changes requested to article 36 would destroy the Federal Republic's jurisdiction over its own affairs. 'The SPD have even maintained that our draft will make it impossible to achieve the socialisation of industry.'<sup>99</sup>

At the very first meeting between the Allied Liaison Officers and the Committee of Seven, held on 10 March 1949, the German side refused to accept the Allied revisions of the draft *Grundgesetz*.<sup>100</sup> According to the British Military Governor, this marked a critical point in relations with the Germans.<sup>101</sup> The Allied initiative had modified the CDU-SPD compromise, putting the SPD at a disadvantage, which had hardened their attitude. None the less, the parties were still 'very fairly united in support of their compromise'. The Germans were trying to comply with Allied demands, 'but they are convinced of the impracticability of our requirements'. Under these circumstances, he could not recommend 'that we should be a party to any further pressure or cajolery directed towards overpersuading the Parliamentary Council'. He had instructed Chaput de Saintonge to avoid any open conflict with his French and American colleagues. But he should let them know that from now on it was up to the Germans to pass the *Grundgesetz* and then to present it to the Military Governor. He himself would explain to his Allied colleagues 'that I have never consented to the issue of an ultimatum to the Germans and that while I have associated myself with our joint comments on the Law, I have in no way committed HMG to its acceptance or rejection in any particular form'.<sup>102</sup>

General Robertson could count on the full support of the Foreign Office.<sup>103</sup> The Cabinet meeting of 10 March 1949, dealing with the Committee of Seven's draft and the action to be taken on electoral law, provides an insight into decision-making processes within the British government.<sup>104</sup> Foreign Minister Ernest Bevin recommended that Cabinet approve the text submitted 'provided that the amendments already proposed by the three Military Governors ... were accepted by the

Council'.<sup>105</sup> But Cabinet expressed doubts about whether the Military Governors had not put too much pressure on a redistribution of power between the central government and the *Länder* governments. 'There was a risk that any attempt to impose an excessive measure of decentralisation on Western Germany might provoke an irredentist reaction which might ultimately endanger the whole constitution.'<sup>106</sup> While the majority did not fully endorse this position, Cabinet as a whole accepted the Foreign Office bill which rejected demands put in the form of an ultimatum.

The ensuing Cabinet discussion on the electoral law also provides interesting insights. In the memorandum which he drew up for the meeting, the Foreign Secretary had emphasized that the electoral law went beyond the competence of the Parliamentary Council. In fact, it was 'ultra vires'.<sup>107</sup> The three Military Governors had therefore asked the Minister Presidents of the Western zones to take appropriate steps to have the Landtage prepare the necessary legislation. The Landtage were free to use the Parliamentary Council's draft as a model. Bevin pointed out that since the summer of 1948 he had regarded a unified electoral system for the whole of Germany as neither possible nor desirable.<sup>108</sup> But the French did not share his rejection of proportional representation while the Americans believed that the choice should be left entirely to the Germans. In Germany itself, the Social Democrats were against the majority voting system. They feared that it would lead to a CDU/CSU victory at the coming elections, while the Christian Democrats advocated it for the same reason. In principle, Bevin supported majority voting because it was compatible with British traditions and seemed most likely to guarantee a stable parliamentary system.<sup>109</sup> But the prospect of a Christian Democrat victory scared him because it would leave them a free hand in such important areas as the appointment of the first civil servants. He therefore advocated a grand coalition for the first government, 'and the best chance of ensuring this is that the Social Democratic Party are well represented, as they will be under a system where proportional representation plays a large part'.<sup>110</sup>

### VIII *Allied Controversies*

Even before the Committee of Seven had expressed its position on the Allied memorandum, it was clear that the British, unlike the Ameri-

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cans and the French, were following a moderate and conciliatory course with the aim of preventing the project of drawing up a West German constitution from failing. In order to achieve this, the British used their connections in Germany and also began to exert more influence on Allied governments via diplomatic channels. Made uneasy about the blunt statements of the French Military Government, the Foreign Office instructed the British ambassador in Paris to take every possible opportunity, below the level of an official representation, 'to impress upon the French the importance of not threatening or bringing undue pressure to bear upon the Germans in Bonn at present'.<sup>111</sup>

As expected, the proposal made by the committee of seven contained almost no amendments on the issues that were controversial in the draft. Another conversation with the Liaison Officers, on 18 March 1949, showed how the negotiations had reached deadlock. Chaput de Saintonge reported to General Robertson that it was quite clear that the SPD was delaying a decision about the memorandum in order to give its parliamentary party in Bonn a chance to reach some sort of compromise with the Military Governors and the CDU. 'The SPD had largely given way on all issues except on Federal powers of legislation and on Federal finance. The Vorstand were not prepared to sanction further concessions in these fields without obtaining something in return from the CDU. They see no reason why all the concessions to meet the views of the Military Governors should be made at their expense.'<sup>112</sup> Nor was the CDU prepared to re-negotiate the positions achieved. That is why they voted to accept the current proposals. Although the CSU proposed changes in the financial system, and Hoepker-Aschoff (FDP) was willing, the CDU hesitated to join them as they did not want to expose themselves to the charge of gaining advantage from the Allied memorandum by taking back 'some of the concessions which they had already made to the SPD'. His French and American colleagues were well aware of the views of Hoepker-Aschoff and the CSU, who would do anything to push the Committee of Seven in the desired direction. He had already informed his colleagues, therefore, that he would not take part. 'We are rapidly approaching the rubicon. Too much pressure on the SPD might well drive them across.'<sup>113</sup>

General Robertson was alarmed. On the same day on which he received the report from Bonn, he wrote a personal letter to Clay in order to make his attitude to what was happening absolutely clear. He did not know what Clay and Koenig thought about the texts which the

Germans had submitted. But he had the feeling that a great deal of pressure had been put on the Germans. 'In order to go along with you two I have been content that my Liaison Officer should participate and show a common front.'<sup>114</sup> Now he felt that a point had been reached at which the SPD representatives could make no further concessions without being left in the lurch by their own party. 'Therefore I do not want to join in further pressure on the Germans.' He would be extremely pleased if Clay and Koenig were prepared to inform him, through their Liaison Officers, that the Committee of Seven's proposals were acceptable in their present form. 'If you do not feel so disposed, then I consider that the Germans should be told now to put their law in the form in which it can be considered finally by the Military Governors.'<sup>115</sup>

Robertson informed the Foreign Office that he hoped to be able to introduce the question of the *Grundgesetz* into the Foreign Ministers' negotiations which were to take place in Washington early in April 1949 at the signing of the Atlantic Treaty.<sup>116</sup> He added, optimistically, that he hoped the draft *Grundgesetz*, even in its present form, would not be rejected there by the French and Americans. A telegram from the Foreign Office to the Military Government in Berlin, dated 19 March 1949, confirmed that 'Lord Henderson is in complete harmony with your views and general attitude ... as regards exerting excessive pressure upon the SPD to make further concessions'.<sup>117</sup> Whitehall offered to make any formal or informal advances in Paris or Washington that might be considered helpful.

Robertson's letter to Clay helped to exacerbate the nascent ill-feeling between the Military Governors. Clay's reply of 21 March 1949 sounded offended. The American General wrote that he had been under the impression that after hours of talks the Military Governors had agreed a compromise solution which was to be put to the Germans as a common position. This did not, now, seem to be the case. 'Obviously, I shall not proceed with Koenig to act separately so I assume that we can do nothing but let events take their course. I regret that you feel you can no longer support the common position.'<sup>118</sup> Thereafter, in a conversation which Robertson reported to the Foreign Office on 22 March, Clay freely expressed his irritation.<sup>119</sup> Allied policy in Germany was bankrupt, and the Germans were aware of it. The proposals made by the Committee of Seven were worse than the original texts. 'These provisions combined would produce a state more centralised than that under Hitler.' Neither he nor the French were prepared to accept a con-

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stitution on this basis. Robertson remonstrated. He did not want to take the part of the Germans here, he said. But he feared that a rupture between the representatives of the Parliamentary Council and the Liaison Officers was imminent. Finally, Clay also decided that the decision should be left to the Military Governors and that the Liaison Officers should be instructed accordingly.

General Koenig rejected this suggestion outright.<sup>120</sup> As early as 23 March he informed Robertson that the Germans had to be told no agreement was possible if they presented their proposals to the Military Governors in their present form.<sup>121</sup> Appropriately instructed, the French Liaison Officer went to the talks with the Committee of Seven scheduled for 25 March 1949. His British colleague, by contrast, had strict orders not to accept a declaration which said any more than that the German proposals did not meet the Military Governors' requirements.<sup>122</sup> If necessary, he was to inform the Germans that he was not authorized to accept or reject the draft. Under no circumstances was he to agree to a further meeting at the level of Liaison Officers. If need be, he was to tell Carlo Schmid and Adenauer to submit the law as quickly as possible in its final form directly to the Military Governors.

In the meantime, the British ambassador to Washington had sent word that General Clay's rigid attitude had not been adopted in response to instructions from the American government. This, by contrast, was seriously worried, and was trying to gain a more precise picture of what was happening.<sup>123</sup> On 23 March 1949, shortly before Bevin left for the Washington Foreign Ministers' conference, the American ambassador in London was handed an *aide-mémoire* which once again clearly stated Britain's position in the controversy: 'British view is that no further pressure should be brought to bear upon SPD ... since such pressure would probably lead to a break up of SPD CDU compromise upon which whole basic law is founded.' In order to bring the debate on the *Grundgesetz* to a close, it was necessary to inform both German parties 'that we shall be satisfied with amendments [they] have already made to meet our views'.<sup>124</sup> The ambassador promised to pass the document on to the State Department.<sup>125</sup> But he also indicated that he regarded the German proposal on the finance question as more centralized than the Allied requirements had laid down. Thereupon the Foreign Office pointed out again that the *Grundgesetz* had to be treated as a whole, and that it was not sensible to single out individual regulations.



## IX *British Mediation*

The talks between the Liaison Officers and the Committee of Seven on 25 March 1949 degenerated into a fiasco. In the preparatory talks which the Allied representatives held in the morning, the differences between them were again openly revealed. In accordance with his instructions, Chaput de Saintonge warned his colleagues that he was not authorized 'to discuss the German proposal in detail and that if they particularised any specific objection [he] would be obliged to dissociate [him]self from them and to leave the meeting'.<sup>126</sup> In the subsequent discussions with the Germans the grave differences of opinion between the Allies could not remain hidden. When the French representative abruptly declared the meeting over before it had even begun, the American Liaison Officer informally tried to smooth over the bad impression that this made. His British colleague was in no doubt that the Germans were now convinced that they could make quick progress without any further meetings with the Liaison Officers.

It was clear that the members of the Parliamentary Council were counting on their proposals being rejected. Chaput de Saintonge interpreted comments by the CDU representative, Theophil Kaufmann, as indicating that his party was discussing the possibility of using the difficulties within the SPD to draw up a new draft of the *Grundgesetz* and to get it ratified with the help of the FDP.<sup>127</sup> But as the Liaison Officer reported, Hoepker-Aschoff had promised him that his party would not let the SPD down. He had also spoken to the SPD delegate, Rudolf Katz, confirming that the speed of the decision was important and pointing out 'that although the Germans should do their best to meet the views of the memorandum they should pass the basic law quickly'.<sup>128</sup>

On 25 March, that is, on the day of the talks, the British representative in Hanover sent a telegram to the Military Government in Berlin outlining the attitude of the SPD executive to the *Grundgesetz*. The party would support the second reading of the revised draft *Grundgesetz*, and expected that it would then be submitted to the Military Governors.<sup>129</sup> When they had accepted it, the text of the Occupation Statute was expected in return, and then the third reading would take place on schedule. The party executive assumed that following this procedure a small majority of the SPD would be in favour of the *Grundgesetz*. 'If on the other hand the Military Governors refuse their assent to the

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draft, the SPD favour no further action to be taken at Bonn. They say they will make no further concessions and they do not think it probable that the CDU will proceed without them, though they have taken this probability into account.<sup>130</sup>

As far as General Robertson was concerned this meant that the compromise reached by the parties should be accepted despite the amendments asked for by the Allies. On 26 March he telegraphed the Foreign Office that the Germans were in favour of a quick decision. He was not sure, however, in what form this was to be achieved. Either the two large parties would support the present draft, or the CDU would opt out of the compromise with the SPD and get a new draft accepted with the help of the FDP on the basis of a small majority. Already at this stage, General Robertson signalled his firm resistance to any such attempt. 'If the Germans adopt the latter course, namely to push through a new draft with a right wing majority, I intend that when it is presented to the Military Governors I shall refuse to accept it without reference to you.'<sup>131</sup> While a new draft would certainly fulfil Allied requirements, it would not be ratified by the *Länder*, because they had an SPD majority. 'I should recommend its rejection as being politically nonsensical.' Robertson thus clearly restated his attitude. Repeated Allied interventions and demands for revision had ignored the actual balance of political power in Western Germany and jeopardized what had been achieved with such difficulty.

In a telegram to the Foreign Office Robertson once again clarified the British Military Government's attitude to the German draft currently on the table and to the differences between the Allied partners.<sup>132</sup> In his opinion, these differences were concentrated in two main areas, namely, the division of legislative powers and of financial responsibility between the *Bund* and the *Länder*. 'In each case the basis of the French and the United States criticism of the German proposals is that the powers accorded to the Federal Government are such as to place it in too dominating a position vis-a-vis the Land Governments and thus to destroy the essential federal character of the Constitution.'<sup>133</sup> Robertson pointed out that in principle, the Allies now accepted the concurrent legislative competence of the *Bund* which they had earlier rejected. In this area he felt that the revision submitted by the committee of seven was clearer and better than the proposal in the Military Governors' memorandum.<sup>134</sup> The German draft provided for the *Bund* to legislate if the subject could not be dealt with adequately by individual *Länder*,

if a law enacted by the *Länder* would prejudice the interests of other *Länder* or of the *Länder* as a whole, or if legislation enacted by the *Bund* was required to guarantee economic unity or standardization of legislation.<sup>135</sup> This draft seemed to have been accepted at the level of the Liaison Officers.<sup>136</sup> 'From the British point of view it is important that the clause should not be further whittled away or it may endanger the right of the Federation to legislate in the matter of the socialisation of heavy industry.'<sup>137</sup>

On the issue of the distribution of financial responsibilities between *Bund* and *Länder*, Robertson regarded the German draft as deviating seriously from the Allied guidelines. In their discussions with the Committee of Seven,<sup>138</sup> the Allied Financial Advisers had conceded the *Bund* the right to raise concurrent taxes when this was necessary to ensure uniformity. And although the Military Governors' memorandum had clearly rejected a financial adjustment of taxes between the *Bund* and the *Länder* they had sanctioned a limited version of this in order to help the poorer *Länder*, provided that objective criteria existed. However, General Clay had distanced himself from his Financial Advisers on this point. The French and Americans continued to regard the German proposals concerning the distribution of revenues as unsatisfactory 'because they fail to specify an adequate field of purely Land taxes'. The Germans, by contrast, believed that the federal character was guaranteed by the fact that the federal taxes and concurrent taxes were administered by the *Länder*, and that all federal taxes in this area had to be approved by the Bundesrat. Robertson also saw the Bundesrat as an important guarantor of federalism. 'If this Chamber does truly represent the Land Governments not only now but in the future it affords a real protection against any imperfections in the present German drafts.'<sup>139</sup> The French and Americans, by contrast, insisted that the Bundesrat offered no real protection, as its members would vote along party lines. Robertson rejected this argument 'because the members from each State vote as a bloc on the instructions of the Land Governments'.<sup>140</sup> In Robertson's view, the German formula for Article 36<sup>141</sup> was the best that could be achieved, even though it did not conform with the Letter of Advice<sup>142</sup> which had been given to the Military Governors in May 1948 when they were instructed to initiate a project to draw up a West German constitution. 'At the London Conference we thought that we had produced a good and clear answer on finance by limiting the powers of the federation to the collection and administra-

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tion of taxes necessary for meeting its responsibilities under the Constitution. The Germans have shown to my satisfaction that this straightforward answer does not work out in practice.<sup>143</sup> Finally, Robertson pointed to the wider political framework which affected the foundation of the West German state. If the Western Allies forced the Germans to accept a constitution in which they had no confidence, or a system of government which was inefficient, then the Allies would bear political and financial responsibility of the first order. 'We shall tie a millstone around the necks of the true democratic political elements in the country, and we shall encourage the Germans to evade and undermine their own constitution.'<sup>144</sup>

### X *The Washington Conference on Germany*

On 30 March 1949 a highly informative conversation took place between the Political Advisers to the British and US Military Governments, Christopher E. Steel and James W. Riddleburger, about the US attitude to the negotiations on the *Grundgesetz*.<sup>145</sup> It emerged that there were considerable differences of opinion within the American Administration. Riddleburger, who was considered pro-British, indicated that General Clay was, in fact, following instructions in pursuing his rigid course. No positive steps could be expected from him. The only solution which he could see was for the British government to seize the initiative in Washington. Britain could count on Foreign Secretary Dean Acheson to be receptive to new ideas, although he had not yet had the opportunity to find out more about what was happening in Germany. Riddleburger warned his British counterpart that the French lobby in Washington was highly influential and had caused a great deal of damage. 'Clearly we shall have trouble with the French, and therefore it is all the more important to shift the Americans without delay from their present position of doctrinaire obstinacy so that they shall join us in persuading the French instead of encouraging the French to hang out and so bust all our plans.'<sup>146</sup> The problem was that Robert Murphy who, as George Kennan's successor, headed the steering committee of the German sub-committee at the National Security Council (NSC) did not want to put pressure on Clay. Kennan, however, had returned to the USA after his most recent trip through the British zone with clear ideas about the importance of the SPD, 'which ought to help'.

The impressions and recommendations which Kennan presented to the State Department on 29 March were, in fact, clearly opposed to the stance taken by Clay.<sup>147</sup> Down to the expressions that he used, Kennan's views accorded with the British position. Kennan recommended accepting the proposals made by the Committee of Seven, otherwise 'we would risk upsetting the balance between the German parties, with the probability that the SPD would refuse co-operation'.<sup>148</sup> The French should be encouraged to accept the constitution with the new German amendments.

The Position Paper which was prepared for the Washington Foreign Ministers' conference on Germany, starting on 31 March 1949, reflected these views. Those areas which the occupying powers had disputed for months were selected as topics for discussion at the conference: the Occupation Statute, the merger of the Trizone, limitations and prohibitions on production, and reparations. The leader of the steering group, Robert Murphy, saw the increased constitutional squabbles as a reason to add the negotiations for the *Grundgesetz* to the agenda as a further important point,<sup>149</sup> as the British had wanted. When General Clay found out that the State Department held the view that the position of Military Governor should be abolished and that the German constitution with the most recent modifications proposed by the Committee of Seven should be accepted, he saw this as the victory of the open resistance which Kurt Schumacher, leader of the SPD, had shown to the Allied prescriptions. 'It makes him the greatest figure in Germany and repudiates CDU/CSU which has loyally stood by and which represents great majority in our zone. ... British back door promise to SPD assures socialist Germany.'<sup>150</sup> While Clay stuck to his position, the Foreign Ministers' negotiations moved in the direction which Britain wanted.

After preliminary bilateral discussions, the three Foreign Ministers began on 5 April 1949 by looking at the constitutional conflict between the Germans and the Allies.<sup>151</sup> Finally, after intense discussion, they succeeded in settling the differences of opinion which had caused a great deal of irritation between them. This was possible because the French government had changed course. As far as Paris was concerned membership of the Atlantic Treaty was now more important than weakening Germany as a guarantee of future security. And Franco-German *rapprochement* was a central plank of Foreign Minister Robert Schuman's policy for Europe.<sup>152</sup>

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None the less, the position taken by the Foreign Ministers on the constitutional conflict temporarily caused confusion, and created a number of misunderstandings. On 5 April they sent the Parliamentary Council a message which was interpreted as an expression of the fact that they were maintaining their previous course. In it, they expressed the expectation 'that the Parliamentary Council and the responsible German party leaders will give due consideration to the recommendations of the Military Governors, which conform with the provisions of the London Agreement authorizing the establishment of a German Democratic Federal Government'.<sup>153</sup>

This news hit Germany like a bomb. The SPD which, unlike the CDU, had stubbornly adhered to the proposals made by the Committee of Seven, was shattered by the renewed reference to the Military Governors' recommendations. In response to the news from Washington even the FDP, which had held the balance of power in the Parliamentary Council, seemed to be preparing to change course. Thus the Social Democratic motion, put to the main committee with the aim of passing the revised draft constitution as quickly as possible, was condemned to failure.<sup>154</sup> It was passed to the finance committee for reconsideration. For a while it seemed that a revised draft complying with the Military Governors' memorandum on the crucial issue of finances might be passed with the votes of the CDU/CSU and the FDP.

The British Military Government observed this development with great concern. It feared that the Allies' inflexible attitude and the CDU/CSU ploy to improve their position by pointing to Allied wishes would result in the compromise between the two main parties being given up, to the disadvantage of the SPD. They were therefore not forthcoming when Adenauer tried to sound them out on whether the British side would accept a decision reached without the votes of the SPD.<sup>155</sup> It was clear to Chaput de Saintonge that the Allied memorandum had reopened the conflict between the German parties. In his view Adenauer had never really accepted the compromise with the SPD, as it made a breach between the CDU and CSU almost inevitable. He had accepted the advantages which it brought while hoping that intervention by the Military Governors would prevent him from having to pay the price. 'The memorandum of 3rd March was the intervention for which he had hoped and worked. In the negotiations with the Liaison Officers the CDU made a common front with the SPD in trying to find acceptable compromise proposals although they were willing to accept the

memorandum in its entirety.<sup>156</sup> Thus they had been able to give the impression that they supported the party compromise. In reality, they blamed the Military Governors for the pressure exerted on the SPD. In the meantime, the CDU had produced a new text which came closer to fulfilling the demands of the Allied memorandum. The SPD had firmly rejected these modifications. From now on the CDU would do its utmost to make renewed Allied intervention inevitable.<sup>157</sup> 'The CDU is seeking further interference by the Military Governors in order to put pressure on the SPD to get further concessions on financial powers.'<sup>158</sup>

Some information which his American colleagues passed to the British Liaison Officer contradicted this, however. In this view, Adenauer was extremely worried about the complicated situation in which the CDU found itself. If the Christian Democrats were to vote against the suggestions put by the SPD, and if the SPD were to gain the approval of the Allied governments, 'they will have laid themselves open to accusations of treachery and collaboration and given the SPD opportunity of claiming to be the sole defenders of German interests'.<sup>159</sup> On the other hand, the CDU did not want to vote for a principle that did not take account of their interests, and which might then be rejected by the Military Governors anyway. Adenauer was prepared to accept the SPD's suggestions if the Allies guaranteed their acceptance.<sup>160</sup>

The first news from the Washington foreign ministers' meeting on 5 April therefore seemed to confirm that the Western Allies were continuing their earlier hard line. None the less Bevin was able to present his colleagues with another draft which incorporated British ideas, and which was finally accepted by the meeting with only minor changes.<sup>161</sup> The text was adopted on 8 April, but not brought to the attention of the Parliamentary Council immediately. In it, the Foreign Ministers signalled that they were now prepared to accept a constitution which did not strictly adhere to the requirements laid down in the memorandum. The crucial passage in their Message to the Military Governors read: 'In the financial field any provisions put forward by the Parliamentary Council in the direction of securing financial independence and adequate strength for both the Laender and Federal Government in operating in their respective fields will receive sympathetic consideration'.<sup>162</sup>

The decision about when exactly to publish this text was expressly left to the Military Governors. But the Foreign Ministers wanted the German side to know that they were being met halfway, 'before opinion in the Parliamentary Council has crystallized, in order that the views given below may be reflected in the Basic Law'.<sup>163</sup>

XI *The Foreign Ministers' Second Message and the SPD's 'kleiner Parteitag'*

General Clay, who had not been able to prevent this decision, now did his utmost to lessen its impact by delaying matters.<sup>164</sup> The American foreign ministry had finally come around to supporting the view, which Britain had long advocated and which it had tried to push, that 'popular acceptance of government institutions, and making them workable, took priority',<sup>165</sup> and that supporting the SPD was more important for the Western state than individual clauses in the constitution. Clay, by contrast, still maintained that the German political parties should first settle the constitutional conflict among themselves. Otherwise, he argued, the SPD's unwillingness to make concessions would be confirmed and it would see its success as a victory right down the line. Thus the American Military Governor was increasingly unwilling to pass on the Foreign Ministers' second message to the members of the Parliamentary Council, as he wanted to wait for the SPD to change tack. His British colleague, by contrast, pressed more and more urgently for this to be done, so that the negotiations could be concluded without further delay. Both justified their course by reference to the message. While Clay emphasized the passage in the letter that left the timing of its publication up to the Military Governors, Robertson cited the sentence that said the message was to be passed on 'before opinion in the Parliamentary Council has crystallized'.

As late as 14 April, immediately before the first meeting between the Military Governors and the German delegation since the Allied memorandum of 3 March, Robertson was still unable to persuade his American colleague to hand over the Foreign Ministers' letter. Clay still maintained that they should not intervene in the quarrel between the parties in favour of the SPD. Koenig also regretfully declined, referring to his instructions from Paris.<sup>166</sup> In the meeting with representatives from the Parliamentary Council which then took place, the Allied draft of the occupation statute was at first discussed remarkably amicably. But it soon became clear that it was still impossible to find a way out of the stalemate which the constitutional conflict had produced.<sup>167</sup> However, another meeting between the three Military Governors and representatives from the main committee was arranged for 25 April. A final decision was to be reached at this meeting.

Immediately after these negotiations, General Robertson again



urged his colleagues to release the Foreign Ministers' message to the Germans immediately. In a private conversation with Robertson, Clay promised to deliver the second letter on 25 April 'provided that they [the Germans] produce some kind of proposals'. On the same day, Robertson reported to the Foreign Office that Clay had no objections to Robertson sending a signal to the SPD that there was room for manoeuvre on the finance clauses, 'and with his agreement I subsequently saw Schmid and Menzel of the SPD'.<sup>168</sup> Some doubt exists as to whether this is what Clay actually meant.<sup>169</sup> But this 'support' was enough to encourage Robertson to make sure that the two Social Democrats were quite well informed. 'I gave them pretty clear hints as to the contents of the message from the Foreign Secretaries and urged them to work on them as their own proposals and not as coming from me'. Carlo Schmid and Walter Menzel thanked Robertson sincerely, and indicated that this hint was extremely helpful. They were not given a copy of the letter itself.<sup>170</sup>

Robertson certainly went far beyond what Clay had conceded, counting on the moderate wing of the SPD, which he hoped his action had strengthened. 'I am sure they will try for a compromise but will probably require a concession from the CDU in the direction of weakening the powers of the Bundesrat'.<sup>171</sup> He was a little uneasy because he was only too well aware of the conflicts within the SPD: 'Schumacher controls the party and is adopting a rigid and even fanatical view.' Robertson feared that the SPD's 'kleiner Parteitag' in Hanover, where the party line on the constitution was to be decided, could be carried away by emotion, making it impossible to achieve satisfactory solutions. He thought that the wind would be taken out of Schumacher's sails if the Military Governors could finally agree to release the foreign ministers' letter.<sup>172</sup>

The Foreign Office shared this view. Moreover, the British Foreign Secretary had his American colleague's word, because in Washington Acheson had promised Bevin that the second letter would be handed over within three to four days.<sup>173</sup> This deadline had long since expired, but Clay still refused to act. When the British side pressed more and more urgently for the promise to be kept, he pointed out that the time of publication had been left up to the Military Governors. If this was no longer the case, then the instructions should be changed. Annoyed, he stated: 'I am getting damn tired of British backdooring of this whole issue.'<sup>174</sup>

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Clay was fighting a losing battle, as was to become clear. The British did not let up. In an *aide-mémoire* to the State Department, handed over on 20 April, Foreign Secretary Bevin complained about the delay. He feared, he wrote, 'that the nondelivery of the message and the failure of the German political parties to reconcile their differences may seriously prejudice the whole future of a German Government in Western Germany'. The entire plans for Western Europe were at stake.<sup>175</sup> Bevin regarded it as essential that, regardless of the result of the SPD's impending 'kleiner Parteitag', the Germans were informed of the Allies' readiness to compromise on the constitutional question by 22 April at the latest, 'in order that it should have time to take effect before the meeting of the Military Governors with the Parliamentary Council on April 25th'.<sup>176</sup> The State Department was asked to instruct General Clay accordingly, which it did immediately.<sup>177</sup> Although Clay had threatened to resign,<sup>178</sup> Liaison Officers delivered the Foreign Ministers' second letter to Bonn on 22 April. Clay was extremely annoyed, and, until he thought better of it, considered not attending the meeting with representatives of the Parliamentary Council. As he saw it, the SPD had won a victory with British help.<sup>179</sup>

What happened at the 'kleiner Parteitag' on 20 April in Hanover seemed to vindicate Clay. The knowledge that the Western Allies were prepared to compromise on the constitutional issue by no means encouraged the SPD executive to be more moderate, as Robertson had hoped. After months of illness Schumacher was full of energy and wanted to teach both the Western powers and his own parliamentary party, which was prepared to compromise, a lesson.<sup>180</sup> During the preceding weeks, Adenauer had tried to avoid a show-down with the Allies, and had advocated grasping the hand that they were holding out. He had repeatedly indicated his willingness to make concessions in order not to endanger the constitutional project and to set the Federal Republic on the road to political independence. He certainly also hoped to gain advantages for his own party. But unlike the leader of the SPD, he had not been informed about the contents of the second Foreign Ministers' letter. From Adenauer's viewpoint, it initially looked as if his Social Democratic enemies were taking a gamble. In fact, however, they were not risking much in playing this game. The expanded SPD executive resoundingly rejected the demands in the Allied memorandum. This was not a 'national achievement' to be set against the CDU/CSU's policy of appeasement, as Schumacher at once proclaimed.<sup>181</sup>

But the publication, only two days later, of the second Foreign Ministers' letter, looked like a vindication of the course taken by the SPD, and must have felt like a slap in the face for the Christian Democrats.

## XII *Agreement between the Germans and the Allies*

Nevertheless, negotiations between the two parties did not cease. On closer inspection, it became apparent that despite Schumacher's harsh words, the SPD resolution contained positions that could allow a compromise.<sup>182</sup> Obviously it was not in the interests of the majorities of either of the large parties represented in the Parliamentary Council for the negotiations on the *Grundgesetz* to fail. Konrad Adenauer's and Carlo Schmid's pragmatism contributed to calming things down. Over the next few days, cross-party talks led to a 'party-political truce'.<sup>183</sup> In order to prevent a new 'stab-in-the-back' myth and to protect themselves against the accusation of 'appeasement', all the parties (with the exception of the Communists) mutually acknowledged that each had made decisions based 'solely on German considerations, free of foreign influences'.<sup>184</sup> For the time being, Schumacher's battle cry to the nation had been swept from the table.

Thus unified, the German delegation went to Frankfurt to negotiate with the Military Governors on 25 April 1949. The atmosphere was good, especially as General Clay, despite his previous irritation, took a constructive stance.<sup>185</sup> This became clear in preliminary talks with the Allied partners, when the American Military Governor was able to dispel the renewed fears of his French colleagues.<sup>186</sup> The three Generals agreed to concentrate their criticism in three areas, namely, the *Bund's* power to legislate for the maintenance of legal and economic unity, the need for the Bundesrat's approval, and the methods of achieving a financial adjustment between the *Bund* and the *Länder* (*Finanzausgleich*). Negotiations began in a relaxed atmosphere. After Adenauer's introduction, Carlo Schmid briefly outlined the result of the cross-party negotiations. He pointed to the federal character of the draft constitution, which was underlined, he said, by the priority given to the *Länder* in concurrent legislation wherever legal and economic unity was not threatened. In the new draft the sources of revenue of *Bund* and *Länder* were clearly defined and separated from each other. The tax administration would be set up accordingly. Schmid presented this as a strengthening of the *Länder*.<sup>187</sup>

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Clay made an effort to minimize any differences that remained. The Military Governors, too, he said, assumed that the *Bund* would be responsible for the legal and economic unity of the state. But this needed to be more precisely defined than it was in the draft. After several adjournments, General Robertson played a crucial part in finding a new formula which was acceptable to all,<sup>188</sup> although in reality, it changed little. In his report to the Foreign Office, he commented that 'in essence it gives them [the Germans] all they can want and is especially calculated to reassure the SPD on socialization'.<sup>189</sup> The SPD no longer feared for the legal and economic unity of the future state, as the 'solvency even of the revenue-poor *Länder*' was still a goal of the constitution.<sup>190</sup> Initially intended as a check on concurrent legislation, this clause was later to be used as a justification for stronger and stronger federal regulation.<sup>191</sup>

The real point of controversy remained the issue of the *Finanzausgleich*, closely connected with the questions of concurrent legislation. Clay was in favour of retaining the subsidies which he had previously proposed, modelled on the American system of grants-in-aid. He thought he could rely on General Koenig to reject the suggestion of basing the *Ausgleich* on the taxes raised by the *Länder* rather than the *Bund*. He now discovered that this had already been conceded to the German side, which had insisted on its position, in talks with the French Liaison Officer.<sup>192</sup> After brief negotiations, the Military Governors decided to allow both possibilities. Thus the *Grundgesetz* permitted financial adjustments both between efficient and inefficient *Länder*, and supplementary grants from the *Bund*.<sup>193</sup> 'Owing to the difficulties of translation it was a little while before the Germans realized that they were getting what they wanted',<sup>194</sup> commented Robertson on this solution, which helped to save Clay's face.

But this was a larger issue than personal vanity. In essence, the US model of federalism which Clay favoured, and which is based on the independence of the individual states, could not be reconciled with German federalism, which is orientated by 'uniformity of living standards' rather than the 'dual state'. Not separation, but 'governing as part of a team' and co-operation between the *Bund* and the *Länder* are characteristic features of the German development. In historical terms, of course, the Reich (and later, the *Bund*) was constantly expanding its legislative powers. But implementing legislation was always largely the task of a territorially structured administration at *Land* and local

level.<sup>195</sup> The Americans and the French, and to a lesser extent the British, had great difficulty in understanding German ideas. They suspected them of tending towards an unholy centralism. After the experience of the Third Reich the Western Allies (especially the French) saw German centralism as a historical burden which they tried to cast off as a security risk for the future. 'Allied interventions required some reorientation in the Parliamentary Council, especially in the area of finances. However, they did not completely frustrate the real intentions of the constitution-writers, namely, to make it possible, through federal legislation, for comparable living standards to exist throughout the federation.'<sup>196</sup> This assessment, which is made by Wolfgang Rensch in his book *Finanzverfassung und Finanzvergleich*, is confirmed by an investigation of British influence. However, we might ask whether a federal system should be judged purely in terms of its 'efficiency and unity'. Surely territorial diversity and the check on the use of force inherent in federalism also have an intrinsic value.

Agreement on the clauses of the financial system removed the last real impediment which had been blocking German-Allied negotiations. During the conference in Frankfurt, representatives of the Parliamentary Council managed to resolve their final differences during a break in negotiations. These differences had mainly concerned basic rights and the vital interests of the Catholic Church.<sup>197</sup> This made it possible to bring the negotiations on the *Grundgesetz* to an end. Together with the passing of an electoral law, this was scheduled for 14 May. It was estimated that the first Bundestag elections could be held in mid-June.<sup>198</sup>

The British Military Government was satisfied with the outcome of the constitutional conflict. The essence of the party compromise had survived Allied interventions. Now they could count on a broad majority of the parties to approve the *Grundgesetz*, so long as there were no last minute hitches before the law was passed. There were still a number of problems which the Liaison Office was following with concern.<sup>199</sup> Certain voices in the CDU/CSU began calling for concessions in cultural and church policy. The Bavarian representatives complained bitterly that the concessions made at the expense of the Bundesrat were too great. But the SPD and the FDP completely rejected the idea of making amendments of any sort. In the end Adenauer succeeded in keeping to the agreement, even against the protest of members of the CSU and Church representatives.

On 8 May 1949 the Parliamentary Council passed the *Grundgesetz*

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with a large majority (53 to 12). Thereafter the British side urged the Military Governors to accept it quickly, especially as General Koenig was again playing for time, and had already indicated that he was thinking of putting forward a number of reservations. This time the Foreign Office intervened because it feared it might be denied the fruits of the Washington Agreements. On 9 May the British ambassador in Paris was instructed 'to urge M. Schuman to instruct General Koenig to meet his two colleagues at the earliest possible moment and to agree with them to give approval to the German constitution. There is really not a moment to be lost if we are to retain the solid advantages which these long and painful negotiations have won for us.'<sup>200</sup> One day later, a report from Paris came in that Schuman had indicated his willingness to instruct the French Military Governor as requested after the cabinet meeting to be held on 11 May. He had accepted the British argument against any delay, and had expressed the hope that no further changes would be necessary. He could not, of course, commit himself on this question before he had examined the version of the constitution which had now been accepted. 'In general he asked me to assure you,' wrote the ambassador to the Foreign Office, 'that he would do his best to contribute to a smooth and rapid passage for the constitution, but the matter was one of deep importance for France and the necessary decisions had to be taken after full consideration.'<sup>201</sup>

### XIII *British Assessments of the Grundgesetz*

The British side did not accept the solutions in the *Grundgesetz* without reservation either, even though it had played a major part in ensuring that German wishes were taken into account. This becomes clear in the analyses which both the Liaison Office and the Foreign Office wrote of the final text.<sup>202</sup> Chaput de Saintonge pointed out that the *Grundgesetz* had much in common with earlier German constitutions.<sup>203</sup> Like these, it was a product of compromise between the parties. This time, of course, the general Allied guidelines had also been taken into account. 'That these principles were in some instances in line with German ideas was fortunate.' Where Allied and German views had diverged, the Allies had had to modify their requirements.

According to Chaput de Saintonge, in many respects the *Grundgesetz* was superior to the Weimar Constitution. It was better organized and

more practicable. Of course, where the Parliamentary Council had been obliged 'to use foreign timber and to embody foreign ideas of construction', they had had to take recourse to German tradition.<sup>204</sup> The idea that federal law takes precedence over state law had been a trade mark of German constitutions since 1849, 'but it embodies a conception completely alien to a real federal system where the legislation of each unit is supreme in its own sphere of competence'. The administration of federal law by the *Länder*, too, went back as far as the German *Bund*. In essence, this was incompatible with a federation, a feature of which was the independence of the parts from each other. These two traditional concepts made true federalism impossible in German political life. 'The *Laender* and the Federation are too interdependent and the domination of the Federation is too inevitable.' In order to prevent the *Länder* from being the mere agents of the central state instead of partners in tackling a joint task, Bonn had invented a system which made it possible for the *Länder* to participate in the work of the *Bund*, and at the same time to defend their own interests. That is why a *Bundesrat* had been created which not only represented the *Länder* in the system of government, but also gave the *Länder* adequate control over federal legislation and the administration. They were thus in a position to prevent too strong a centralization of power at their expense. The solution found after the constitutional conflict, however, was less decentralized because the introduction of federal grants had ultimately strengthened the *Bund* in financial matters again.

None the less, in the British view the *Grundgesetz* was more federal than the Weimar Constitution had been. The changed position of the *Bundespräsident* compared with that of the former *Reichspräsident* was considered specially advantageous. The constructive vote of no confidence was regarded as a new means of stabilizing parliamentarism. In a certain sense, it could be seen as a substitute for the two-party system. The final assessment was that the *Grundgesetz* had 'to a very considerable extent' taken account of Allied guidelines. There was no reason why the Military Governors should not give their approval.

On 12 May 1949 the occupation statute was presented and the Military Governors gave their assent to the *Grundgesetz*, which they acknowledged as a successful constitution. 'It happily combines German democratic tradition with the concepts of representative Government and a rule of law which the world has come to recognize as requisite to the life of a free people.'<sup>205</sup> Their reservations about Berlin and Ger-

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many as a whole, about the re-organization of the *Länder* and the emergency laws are well known. Almost forgotten, by contrast, is their comment on Article 72 para. 2(3) of the *Grundgesetz* (preservation of legal and economic unity). They were prepared to interpret this text only in the way proposed by General Robertson in the talks of 25 April.<sup>206</sup>

Thus the memory of the Allied-German constitutional conflict flared up once again. In retrospect, Chaput de Saintonge, the British Liaison Officer, described it as unnecessary, dangerous, and ultimately counterproductive. In his view, it would have been more sensible to have followed the course suggested by the British Military Governor from the start. 'That this was not done was due almost entirely to General Clay who acted on purely theoretical grounds, as well as on a narrow and formal interpretation of the provisions of the London Agreement.'<sup>207</sup> The crisis had been precipitated and intensified by an Allied intervention. The upshot had been a less federal solution. 'In the end, therefore, the victory of the centralists can be attributed directly to General Clay's inflexibility.'<sup>208</sup>

### *Conclusions*

Clay's attitude was certainly a factor in aggravating the constitutional conflict. But we cannot overlook the different criteria which the Western Allies used in judging the work of the Parliamentary Council. While the French and the Americans came with specific ideas and suggestions for the federal system in Germany, the British side always insisted that no individual demands should be put. Their position was that an overall assessment was the aim. They therefore hesitated to follow the lead set by their partners and intervene in the negotiations. On the one hand General Robertson did not want to break the united front presented by the occupying powers. On the other, he wanted to do everything possible to ensure that the *Grundgesetz* had the support of a broad majority of the German parties. The British Military Government therefore noted with increasing concern that the compromise between the CDU/CSU and the SPD, which had been difficult enough to achieve anyway, was turned into a trial of strength by Allied interventions which ultimately threatened to bring down the whole constitutional project. While the British Military Government admitted that certain financial regulations in the draft *Grundgesetz* deviated from Allied guidelines, they advocated accepting this.



The sources clearly reveal a latent sympathy for the SPD, although there was a great deal of scepticism about the blunt position adopted by Schumacher and the party executive in Hanover. On the other hand, good contacts existed with the SPD group in the Parliamentary Council, which was considered to be more moderate. SPD plans to nationalize large industry at a later date were rejected by the American Military Governor, but were regarded with favour by the British Labour government. This is one reason why it was concerned to ensure that a democratically legitimated, efficient form of government was created in Germany which gave the centre enough legislative powers to make any far-reaching social and economic changes if they were endorsed by the electorate. None the less, it is not accurate to speak of a one-sided preference for the SPD. The British side was more interested in making sure that the SPD did not preclude itself from contributing constructively to the constitution.

The British government undertook a number of supporting actions in order to rescue the party compromise arrived at by the Parliamentary Council. It tried to counteract the delaying tactics adopted by the French. When even the American Military Governor began issuing ultimatums for amendments, the British government chose the path of direct negotiations at government level, which were prepared by careful diplomatic work. At the Washington Conference, Foreign Secretary Bevin was able to hasten the American administration's change of direction on the German constitution, and to commit his Allied colleagues to co-operation.

The American Military Government in Germany, however, did not adopt this changed stance immediately. General Roberston decided to go it alone in order to undermine the delaying tactics adopted by his American colleague. He put the SPD representatives on the Parliamentary Council in the picture about the contents of the second Foreign Ministers' letter. Our investigation has shown this was not a direct infringement of Allied agreements. We have also seen that General Roberston believed that releasing this information would strengthen the moderate forces of the SPD in time for the 'kleiner Parteitag' in Hanover. There is evidence that he urged the Foreign Ministers' message to be delivered officially before this date. Unfortunately, however, it did not reach the Parliamentary Council until two days after the SPD meeting. To the CDU/CSU, which was prepared to make concessions, and in particular to Konrad Adenauer this must have seemed like a

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public snub. But thanks to the pragmatism of those responsible, the parties quickly came to an agreement which was acceptable to the occupying powers. Ultimately, the British view of the role of the Allies in the negotiations for the *Grundgesetz* had triumphed. The constitution was therefore not imposed by diktat, but was seen to be the independent work of the Germans.

## References

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- 1 Hans-Jürgen Grabbe, 'Die deutsch-alliierte Kontroverse um den Grundgesetzentwurf im Frühjahr 1949', *Vierteljahrshefte für Zeitgeschichte*, 26 (1978), 393-418, quotation p. 415.
- 2 This article was based on the American documents which had been published at that time (Foreign Relations US and Clay Papers).
- 3 On this see Rudolf Morsey, 'Die letzte Krise im Parlamentarischen Rat und ihre Bewältigung (März/ April 1949)', in Dieter Schwab et al., *Staat, Kirche, Wissenschaft in einer pluralistischen Gesellschaft. Festschrift zum 65. Geburtstag von Paul Mikat* (Berlin, 1989), pp. 408-10; also id., 'Verfassungsschöpfung unter Besatzungsherrschaft. Die Entstehung des Grundgesetzes im Parlamentarischen Rat', *Die Öffentliche Verwaltung*, 42 (1989), pp. 477-9.
- 4 Printed in Konrad Adenauer, *Erinnerungen, 1945-1953* (Stuttgart, 1965), pp. 218 f.
- 5 Hans-Peter Schwarz (ed.), *Konrad Adenauer. Reden 1917-1967. Eine Auswahl* (Stuttgart, 1975), pp. 144 f.
- 6 Morsey, 'Die letzte Krise' (as in note 3), pp. 63-8.
- 7 Adolf M. Birke, Hans Booms, and Otto Merker (eds), *Akten der Britischen Militärregierung in Deutschland. Control Commission for Germany / British Element. Sachinventar / Inventory 1945-1955*, 11 vols (Munich, 1993).
- 8 Rudolf Morsey has already pointed this out. Cf. Morsey, 'Die letzte Krise' (as in note 3), p. 393. Erhard H. M. Lange, *Die Würde des Menschen ist unantastbar. Der Parlamentarische Rat und das Grundgesetz* (Heidelberg, 1993), now offers an overview.
- 9 Text printed in *Der Parlamentarische Rat. Akten und Protokolle*, vol. 1: *Vorgeschichte*, ed. by Johannes Volker Wagner (Boppard, 1975), p. 4.
- 10 'Letter of Advice to Military Governors Regarding German Constitution', in *Foreign Relations of the United States (FRUS) 1948*, vol. 2: *Germany and Austria* (Washington, 1973), pp. 240 f.

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- 11 The crucial sections are as follows: '1c. That the powers of the Federal Government shall be limited to those expressly enumerated in the Constitution and in any case shall not include education, cultural and religious affairs, Local Government and Public Health ...'
- 'd. That the powers of the Federal Government in the field of public finances shall be limited to the disposal of monies including the raising of revenues, for purposes for which it is responsible; that the Federal Government may set rates and legislate on the general principles of assessment with regard to other taxes for which uniformity is essential, the collection and utilisation of such taxes being left to the individual States; and that it may appropriate funds only for purposes for which it is responsible under the Constitution.'
- 'f. That the powers of the Federal Government to establish federal agencies for the execution and administration of its responsibilities should be clearly defined and should be limited to those fields in which it is clear that state implementation is impractical.' Ibid.
- 12 Ibid., p. 241.
- 13 *Der Parlamentarische Rat*, vol 1 (as in note 9), xxxiii-liv.
- 14 Cf. Ulrich Reusch, *Deutsches Berufsbeamtentum und britische Besatzung. Planung und Politik 1943-1947* (Stuttgart, 1985), p. 320.
- 15 Rainer Pommerin, 'Die Mitglieder des Parlamentarischen Rates. Porträtskizzen des britischen Verbindungsoffiziers Chaput de Saintonge', *Vierteljahrshefte für Zeitgeschichte*, 36 (1988), pp. 557-88.
- 16 Cf. Patrick Dean to the Foreign Office, 10 August 1948, in Public Record Office (PRO), Foreign Office (FO) 1049/1168, doc. 194/14/48.
- 17 Doc. 194/8/48, *ibid.*
- 18 'I think, however, that the Berliners are being unduly impatient if they are claiming equal rights with the Western Germans at the present time. It might, therefore, be advisable to warn a responsible SPD member of the Magistrat, Reuter for instance, that if the Magistrat presses this point at the present time (by passing a resolution) it will only succeed in aggravating the tension between the Soviet Union and the Western Powers.' Doc. 194/8/48, *ibid.*
- 19 Doc. 194/19/48, *ibid.*
- 20 Doc. 194/22/48. *ibid.*; cf. also *Der Parlamentarische Rat*, vol. 1 (as in note 9), doc. 25, pp. 410-14.

- 21 In a telegram to the FO on 31 August 1949, the Military Government in Berlin again emphasized that it was neither possible nor appropriate to prevent the Berlin delegates from participating. Any attempt to do so would lead to a confrontation with the democratic political parties in Berlin, and would also place a question mark over the willingness of the West German side to participate in the constitutional project. 'It is the feeling that they are supported by and are maintaining some connection with Berlin which has largely salvaged their consciences over splitting Germany. While, therefore, we should certainly seek to limit the capacity in which Berliners attend, I do not think we can at this stage prevent them from doing so and that to attempt it would be most unwise.' Ibid, doc. 194/23/48.
- 22 Doc. 194/35/48, 11 September 1948, *ibid.*
- 23 FO to British agencies abroad, 20 November 1948, *ibid.*, FO/1049/1559, doc. 1372/202/48.
- 24 *Ibid.*
- 25 Doc. 1494/11/48, *ibid.*, FO 1049/1577. The note was delivered by the Liaison Officers on 30 September 1949. The Foreign Office did not fully support the action taken by the Military Governors. A marginal note on the Liaison Officer's report of 16 September 1948 reads: 'It would, I believe, [be] most impolitic for us to attempt to restrain the Parliamentary Council from discussing Berlin and E. Germany in this way. It is true that such subjects do not really fall within its competence, but if we wish to secure popular support and prestige for the new governing body in W. Germany we should give the Parliamentary Council a certain amount of rope.' Doc C 7652, *ibid.*, FO 371/70598 A. On the American reaction cf. *FRUS 1948*, vol. 2 (as in note 10), pp. 421-6.
- 26 Cf. Adenauer, *Erinnerungen, 1945-1953* (as in note 4), p. 155.
- 27 Minute, Top Secret, PRO, FO 1030/85, fol. 148.
- 28 *Ibid.*
- 29 *Ibid.*
- 30 British Liaison Staff to Bercomb Berlin, 10 November 1948, *ibid.*, fol. 135.
- 31 *Ibid.*, fol. 136.
- 32 Secret Telegram to the FO, 19 November 1948, *ibid.*, fol. 119.
- 33 Report of 14 November 1948, *ibid.*, fol. 127.
- 34 *FRUS 1948*, vol. 2 (as in note 10), pp. 440 f. Report of the Military

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- Governors' meeting of 16 November 1948.
- 35 This referred to the Frankfurt Documents.
- 36 *FRUS 1948*, vol. 2 (as in note 10), p. 441.
- 37 Cf. the draft of 18 November, instructions to the British Liaison Office, and the final text, in PRO, FO 1049/1558.
- 38 *FRUS 1948*, vol. 2 (as in note 10), p. 442.
- 39 *Ibid.*, p. 443. Cf. also the report by the British Liaison Office in PRO, FO 1030/85. fol. 115 f.
- 40 *Parlamentarischer Rat. Verhandlungen des Hauptausschusses* (Bonn, 1948/49), p. 111.
- 41 25 November 1948, in PRO, FO 1030/85. fol. 106.
- 42 *Ibid.*, fol. 107.
- 43 24 November 1948, *ibid.*, fol. 108.
- 44 Marginal comment by Grace Rolleston, 28 November 1948, in FO 371/70601, doc. C 9669.
- 45 *Ibid.*, FO 371/70601, fol. 9887.
- 46 Note on the envelope, *ibid.*; cf. also FO 371/70602, doc. 10061 about the talks between Henderson and Ollenhauer on 2 December 1948.
- 47 Report by Chaput de Saintonge, 11 December 1948, *ibid.*, FO 1030/85, fol. 36.
- 48 *Ibid.*
- 49 *Ibid.*, FO 371/70602, doc. C 10169.
- 50 *Ibid.*, FO 1030/85, fol. 40.
- 51 *Ibid.*
- 52 Comparison of Aide-Mémoire with Basic Law. Draft of 10 December 1948, *ibid.*, fol. 85-88.
- 53 Telegram of 8 December 1948, *ibid.*, fol. 94.
- 54 *Ibid.*
- 55 13 December 1948, *ibid.*, FO 371/70602, doc. C 10253.
- 56 Cf. *FRUS 1948*, vol. 2 (as in note 10), pp. 641-50.
- 57 Cf. Rudolf Morsey, 'Die Rolle Konrad Adenauers im Parlamentarischen Rat', *Vierteljahrshefte für Zeitgeschichte*, 18 (1970), pp. 65-94.
- 58 Telegram of 8 February 1949, in PRO, FO 1030/86, fol. 280.
- 59 *Ibid.*
- 60 *Ibid.*
- 61 Telegram from Chaput de Saintonge concerning talks with his American and French colleagues (Simons and Laloy), of 9 February 1949, *ibid.*, fol. 256 f.
- 62 *Ibid.*, fol. 264.

- 63 The German side was not aware of the contents of the 'Letter of Advice to Military Governors regarding the German Constitution'. It clearly prescribed 'that the Federal Government can only raise and collect revenues for purposes for which it is responsible', *ibid.* fol. 233 ff.
- 64 12 February 1949, *ibid.*, fol. 231.
- 65 Comment on the Basic Law (Draft of 10 February 1949) by Chaput de Saintonge, 13 February 1949, *ibid.*, FO 1050/533, fol. 58.
- 66 *Ibid.*, italics in original text.
- 67 *Ibid.*, fol. 59.
- 68 Thus Chaput de Saintonge in his letter to the Political Adviser, 13 February 1949.
- 69 22 February 1949, FO 1050/533. The report eventually became part of the Cabinet brief on the *Grundgesetz*. Cf. PRO, Cabinet Office (CAB) 128/15.
- 70 Cf. General Robertson's report on the meeting, *ibid.*, FO 1030/86. fol. 221 ff. On this also the report by the United States Political Adviser for Germany (Robert D. Murphy), 17 February 1949, in *FRUS 1949*, vol. 3: *Council of Foreign Ministers; Germany and Austria* (Washington, 1974), pp. 199-204.
- 71 PRO, FO 1030/86, fol. 222.
- 72 17 February 1949, Report of the Political Advisers on the Compatibility of the Basic Law (Provisional Constitution) with Allied requirements as described in the Aide-Mémoire of 22nd November, 1948, (Draft), *ibid.*, fol. 199 ff.
- 73 Cf. Outgoing Secret Telegram to Foreign Office, 20 February 1949, *ibid.*, fol. 193 f.; minutes of the meeting of British and American financial advisers, *ibid.*, fol. 191 f.; Report of the meeting of the three political and financial advisers on 23 February 1949 in Frankfurt, *ibid.*, fol. 178; Report to the Military Governors by the Political Advisers of 24 February 1949, *ibid.*, fol. 169-174.
- 74 *Ibid.*, fol. 180.
- 75 *Ibid.*
- 76 Cf. report of 26 February 1949, *ibid.*, fol 161.
- 77 Report by Robertson to the Foreign Office, 1 March 1949, *ibid.*, fol. 139; also *FRUS 1949*, vol. 3 (as in note 70), pp. 211-20.
- 78 Memorandum, 2 March 1949, *ibid.*, fol. 133 ff. There were also misgivings about the inclusion of Berlin in article 22, which was to be suspended, and reservations about responsibility in the area of

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security (police), the status of officials, and the restructuring of the *Länder*. Electoral law (article 144 of the draft) was not to be part of the constitution.

79 FRUS 1949, vol. 3 (as in note 70), p. 220.

80 Telegram from General Robertson to the Foreign Office, 2 March 1949, in PRO, FO 1030/86, fol. 127.

81 Ibid.

82 Ibid., FO 371/76/76717, doc. C 383.

83 4 February 1949, *ibid.*, doc. C 1043.

84 22 February 1949, *ibid.*

85 16 February 1949. Reference *ibid.*, doc. C 2384. The memorandum itself has not been found to date.

86 For the debates on relations between Church and state, parental rights and schools, and the continued validity of the *Reichskonkordat*, see Burkhard van Schewick, *Die katholische Kirche und die Entstehung der Verfassungen in Westdeutschland 1945-1950* (Mainz, 1980). He does not mention the Foreign Office's initiative.

87 PRO, FO 1030/86, fol. 121. In a letter to Frings of 7 February 1949, Adenauer argues along surprisingly similar lines: 'The political consolidation of West Germany, both internally and in terms of foreign relations, is an absolute necessity both from the German and the West European point of view. This consolidation cannot be achieved unless this *Grundgesetz* is accepted ... Anyone who calls for the *Grundgesetz* to be rejected because not all expectations have been fulfilled in the area of parental rights ... would, in my opinion be exposing himself to the damning charge that he had acted against the interests of the German people in its hour of greatest need.' Reprinted in Schewick, *Katholische Kirche und die Entstehung der Verfassungen* (as in note 86), p. 116.

88 Cf. PRO, FO 1030/86, fol. 64 f.

89 Report to the Military Governor from the Foreign Office, 12 March 1949, about the talks with Archbishop Godfrey of 7 March 1949, *ibid.*, fol. 41.

90 Ibid.

91 Ibid., fol 42.

92 17 March 1949, *ibid.*, fol. 39 f.

93 Ibid., fol. 40.

94 W. I. Mallet to Victor Perrowne, 5 April 1949, *ibid.*, FO 371/76717, doc. C 2384.



- 95 Early in April Bishop Keller of Münster had tried, via Major General Bishop of the Regional Commission in North-Rhine Westphalia, to find out whether the right of parents to decide the religious character of schools could be excluded from the *Grundgesetz* and decided in a separate referendum. General Robertson let it be known that the Military Governors would not object. But they would not take the initiative on this matter. 'If, therefore, steps are to be taken to omit these clauses from the Basic Law, the initiative must be a German one.' Robertson to Bishop, 7 March 1949, *ibid.*, FO 1030/86, fol. 87; cf. also fols 85 and 67.
- 96 In the end, the bishops were prepared to make do with what had been achieved. Although they were deeply annoyed, they did not reject the *Grundgesetz* on 23 May 1949, but contented themselves with emphasizing its provisional nature and pointing out that it was open to revision. Cf. Adolf M. Birke, 'Katholische Kirche und Politik in der Phase des Neubeginns 1945-1949', in Victor Conzemius (ed.), *Die Zeit nach 1945 als Thema kirchlicher Zeitgeschichte* (Göttingen, 1988), pp. 190 f.
- 97 PRO, FO, 371/76717, doc. C 3795.
- 98 Telegram to the Foreign Office, 8 March 1949, *ibid.*, FO 1030/86, fol. 88.
- 99 *Ibid.*
- 100 *Ibid.*, fol. 73. The British Financial Advisers and Liaison Officers had already met with representatives of the Committee of Seven on 9 March 1949, when they established that the German position had not changed. 'They had not explored the possibility of moving towards the position taken by the Military Governors but were merely waiting to see if the Financial Advisers had themselves moved in their direction.' *Ibid.*, fol. 75.
- 101 14 March 1949, *ibid.*, fol. 66.
- 102 *Ibid.*
- 103 The Foreign Office recommended to Cabinet that 'provided the agreement which the three Military Governors reached in Frankfurt on 1st and 2nd March can be maintained as regards the general principles appertaining to the Basic Law, and provided that there is no tendency among any of the three Governments to insist on small and detailed amendments which could only lead to delays and possibly to the destruction of the compromise between the two major parties which has made the present draft possible,

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- the position which we have now reached seems to me satisfactory. For reasons connected with our broad policy in Germany and in Western Europe generally, it is most desirable that the remaining steps upon the draft Basic Law should be completed as soon as possible.' Ibid., CAB 129/33, C.P. (49) 50.
- 104 Ibid., CAB 128/15. Discussion of the *Grundgesetz* under C.M. 19 (49), pp. 109 f.; on electoral law, *ibid.*, pp. 110 f. The discussion was based on two memoranda prepared by the Foreign Office. C.P. 49 (50) and C.P. 49 (53), *ibid.*
- 105 C.M. 19 (49), p. 109, *ibid.*
- 106 *Ibid.*
- 107 C.P. (49) 53, fol. 68, *ibid.*, CAB 129/33.
- 108 Paper on electoral systems in Germany's Western zones, 4 June 1948, *ibid.*, C.P. (48) 142.
- 109 One of the points raised in the discussion was that proportional representation, if strictly applied, carried the risk 'that the new German constitution would reproduce the central weakness of the Weimar Constitution'. It was therefore hoped that some of the Landtage would look more closely at the majority voting system. C.M. 19 (49), p. 110, *ibid.*, CAB 128/15.
- 110 C.P. (49) 53, fol. 69 f., *ibid.*, CAB 129/33.
- 111 14 March 1949, *ibid.*, FO 1030/86, fol. 56.
- 112 18 March 1949, *ibid.*, fol. 36.
- 113 *Ibid.*
- 114 19 March 1949, *ibid.*, fol. 38.
- 115 *Ibid.*
- 116 20 March 1949, *ibid.*, fol. 21.
- 117 19 March 1949, *ibid.*, fol. 29.
- 118 *Ibid.*, fol. 20.
- 119 *Ibid.*, fol. 17 f.
- 120 Robertson wrote his letter to Koenig in Clay's presence. *Ibid.*, fol. 16.
- 121 *Ibid.*, fol. 13.
- 122 *Ibid.*, FO 1030/87, fol. 274.
- 123 *Ibid.*, fol. 273.
- 124 *FRUS 1949*, vol. 3 (as in note 70), p. 229.
- 125 25 March 1949, PRO, FO 1030/87, fol. 267.
- 126 *Ibid.*, fol. 258.
- 127 *Ibid.*

- 128 Ibid., fol. 259.
- 129 Ibid., fol. 266.
- 130 Ibid.
- 131 Ibid., fol. 260.
- 132 Ibid., fols 249-253.
- 133 Ibid., fol. 249.
- 134 Ibid., fol. 250. 'The Military Governors' memorandum proposed the following rather clumsy and abstruse definition in the form of a redraft of the preamble to Article 36: "The Laender shall retain the right to legislate in the fields hereinafter enumerated except where it is clearly impossible for a single Land to enact effective legislation or where the legislation if enacted would be detrimental to the rights or interests of other Laender. In such cases and provided that the interests of the several Laender are clearly, directly and integrally affected, the Federation shall have the right to enact such legislation as may be necessary or appropriate."
- 135 Ibid., fol. 250.
- 136 Cf. Verbatim Reports of the meetings between the Committee of Seven and the Allied Liaison Officers held from 8 to 10 March 1949 in Bonn. PRO, FO 1049/2134, doc. XC 2443.
- 137 Ibid., FO 1030/87, fol. 250.
- 138 Cf. the detailed report by Chaput de Saintonge, 15 March 1949, about this meeting which had taken place on 9 March. Ibid., FO 1049/2143, doc. XC 2443. The Verbatim Report of the meeting with the Allied Financial Reporters in the same place.
- 139 Ibid., FO 1030/87 fol. 251.
- 140 Ibid., fol. 252.
- 141 See note 134.
- 142 Letter of Advice to Military Governors regarding German Constitution, London, 12 May 1948, as Annex H of the Report to the London Conference on Germany; reprinted in *FRUS 1948*, vol. 2 (as in note 10), pp. 240 f. The Letter of Advice had served as the basis for the Allied *aide-mémoire* of 22 November 1948. See note 37.
- 143 PRO, FO 1030/87, fol. 252.
- 144 Ibid., fol. 253.
- 145 Steel's report, *ibid.*, fol 248.
- 146 Ibid.
- 147 More detail in Grabbe, 'Die deutsch-alliierte Kontroverse' (as in note 1), pp. 400 f.

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- 148 *FRUS 1949*, vol. 3 (as in note 70), pp. 138 f.
- 149 30 April 1949. Tentative Outline of Approach in the Discussions with the British and French Foreign Ministers on Germany, *ibid.*, p. 142.
- 150 Teleconference of 2 April 1949. *The Papers of General Lucius D. Clay. Germany 1945-49*, ed. by Jean Edward Smith, vol. 2 (Bloomington, 1974), pp. 1,076 f.
- 151 On this see also Grabbe, 'Die deutsch-alliierte Kontroverse' (as in note 1), p. 407.
- 152 On the French change of course, which became apparent from mid-March, cf. *ibid.*, p. 406.
- 153 *FRUS 1949*, vol. 3 (as in note 70), pp. 236 f.
- 154 Report by Riddleberger, 7 April 1949, *ibid.*, pp. 235 f.
- 155 British Liaison Officer's report, 1 April 1949, in PRO, FO 1030/87, fol. 236.
- 156 Report to the Military Governor, 2 April 1949, *ibid.*, fol. 230.
- 157 *Ibid.*, fol. 231.
- 158 Liaison Office weekly report, 3 April 1949, *ibid.*, fol. 225.
- 159 4 April 1949. Report by Chaput de Saintonge on a meeting with Simons, *ibid.*, fol. 224.
- 160 *Ibid.*
- 161 For details, see *The Papers of General Lucius D. Clay*, vol. 2 (as in note 150), pp. 1,093-1,099.
- 162 Message to the Military Governors from the Foreign Ministers of the US, UK and France, Washington, 8 April 1949, in *FRUS 1949*, vol. 3 (as in note 70), p. 185. The message further specified: 'On the question of Article 36 ... they will also give sympathetic consideration to any formula which 1) eliminates from the federal powers those matters definitely excluded by the London agreement 2) assures to the Laender sufficient powers to enable them to be independent and vigorous governmental bodies 3) assures to the Federal Government sufficient powers in the important fields of government to enable them to deal effectively with those fields in which the interests of more than one Land are substantially involved.'
- 163 *Ibid.*
- 164 On this see also Wolfgang Krieger, *General Lucius D. Clay und die amerikanische Deutschlandpolitik 1945-1949* (Stuttgart, 1987), pp. 462-466.

- 165 Ibid., p. 462.
- 166 Report by Robertson on the meeting, in PRO, FO 1030/87, fols. 191 f.
- 167 Verbatim Minutes of Meeting of Three Military Governors with Representatives of the Parliamentary Council, 14 April 1949, *ibid.*, fols 170-89. Cf. the joint declaration of the German delegation which, on Adenauer's suggestion, was read out by Menzel. *Ibid.*, fol. 184.
- 168 Thus Robertson's report to the FO, *ibid.*, fol. 191.
- 169 *The Papers of General Lucius D. Clay*, vol. 2 (as in note 150), p. 1,117 suggests that Clay had agreed only to propose a compromise along the line of the grant-in-aid system.
- 170 Cf. Morsey, 'Die letzte Krise' (as in note 3), p. 420 and note 67.
- 171 Report by Robertson to the FO, 14 April 1949, in PRO, FO 1030/87, fol. 191.
- 172 *Ibid.*, fol. 192.
- 173 *The Papers of General Lucius D. Clay*, vol. 2 (as in note 150), pp. 1,122 f.
- 174 *Ibid.*, p. 1,113.
- 175 *FRUS 1949*, vol. 3 (as in note 70), p. 244.
- 176 *Ibid.*, p. 245. A second British *aide-mémoire* followed on 21 April, demanding instructions for General Clay on 22 April.
- 177 *Ibid.*, p. 245, note 4.
- 178 20 April 1949. Teleconference, in *The Papers of General Lucius D. Clay*, vol. 2 (as in note 150), p. 1,118.
- 179 On this see also Grabbe, 'Die deutsch-alliierte Kontroverse' (as in note 1), pp. 413 f.; Krieger, *General Clay* (as in note 164), pp. 464 f.
- 180 Morsey, 'Verfassungsschöpfung' (as in note 3), p. 478.
- 181 Speaking on the Nordwestdeutscher Rundfunk, Adenauer deplored the result of the SPD party congress in Hanover on 21 April 1949, and suggested that accusations of 'appeasement' should be avoided in order not to poison the political atmosphere as had happened after 1918. Cf. Morsey, 'Adenauer im Parlamentarischen Rat' (as in note 57), p. 81.
- 182 On this see Morsey, 'Die letzte Krise' (as in note 3), pp. 398-402; cf. also Grabbe, 'Die deutsch-alliierte Kontroverse', pp. 412 f. Cf. also Riddleburger to Secretary of State, 21 April 1949, in *FRUS 1949*, vol. 3 (as in note 70), p. 246. The British Liaison Officer's assessment was also positive: 'most of the requirements of the memo-

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- randum of the Military Governors have been met, particularly when these requirements are read in conjunction with the message of the Foreign Ministers on the Basic Law', 22 April 1949, PRO, FO 1030/87. fol. 161.
- 183 The SPD renounced its abbreviated draft constitution.
- 184 Morsey, 'Die letzte Krise' (as in note 3), p. 404.
- 185 Record of the Meeting of the Three Military Governors with the Parliamentary Council Delegation held on 25 April 1949, at 14.30 hours, in Main Conference Room, Hq Building, Frankfurt, 24 April 1949, in PRO, FO 1030/87.
- 186 Report by Robertson, 25 April 1949, *ibid.*, fol. 136.
- 187 Record of the Meeting, *ibid.*, fol. 120.
- 188 Report by Robertson, 25 April 1949, *ibid.*, fol. 137. The new wording was as follows: 'because the maintenance of Legal or Economic unity demand it in order to promote the Economic interests of the Federation or to ensure reasonable equality of economic opportunity to all persons.'
- 189 *Ibid.*, fol. 137.
- 190 According to Article 72 of the *Grundgesetz*, the *Länder* have the authority to legislate in cases where the *Bund* cannot and does not make use of its right to legislate. Para. 2 also gives the *Bund* the right to legislate where 'the maintenance of legal or economic unity, especially the maintenance of uniformity of living conditions beyond the territory of any one Land, necessitates such regulation'.
- 191 On this see Wolfgang Rensch, *Finanzverfassung und Finanzausgleich. Die Auseinandersetzungen um ihre politische Gestaltung in der Bundesrepublik Deutschland zwischen Währungsreform und deutscher Vereinigung (1948 bis 1990)* (Bonn, 1991), p. 68, note 66.
- 192 Report by Robertson, 25 April 1949, in PRO, FO 1030/87, fol. 137.
- 193 The relevant passages are Article 106, paras. 3 and 4 of the *Grundgesetz* (in the version of 23 May 1949).
- 194 Report by Robertson, 25 April 1949, in PRO, FO 1030/87, fol. 137.
- 195 On this see Rensch, *Finanzverfassung* (as in note 191), p. 73.
- 196 *Ibid.*, p. 74. Rensch also points to the astonishing fact that according to Article 107 (in the version of 23 May 1949), Articles 106 (*Finanzausgleich*) and 105 (vertical division of tax legislation), which made up 'the essence of the federal tax administration' could (for a specified period) be changed by a simple federal law. *Ibid.*, p. 69.
- 197 Basic rights to be expressed more concisely, vocational schools not

## References

- to be mentioned in the later Article 7, civil service law (Article 33), the issue of the Concordat (Article 123, para. 2). Cf. Morsey, 'Die letzte Krise' (as in note 3), p. 405.
- 198 Report by Robertson, 25 April 1949, in PRO, FO 1030/87. fol. 136.  
199 Weekly Report, 30 April 1949, *ibid.*, fol. 87 f.  
200 *Ibid.*, fol. 66.  
201 *Ibid.*, fol. 7.  
202 Comparison between the Bonn Constitution and the Weimar Constitution, 12 May 1949, *ibid.*, FO 371/76592.  
203 Report, 10 May 1949, *ibid.*, FO 371/76660, p. 1.  
204 *Ibid.*, p. 2.  
205 Telegram of 13 May 1949 to the Foreign Office, *ibid.*, FO 1030/87, fol. 3.  
206 Cf. note 188.  
207 Report, 6 May 1949, in PRO, FO 371/76659, fol. 97.  
208 *Ibid.*

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## References

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## References

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