

Morals and Money: Ideology and Pragmatism in the Kennedy Administration's Settlement of the Interhandel-General Aniline & Film Case 1962-1965.

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Abstract

In 1965, General Aniline and Film Corporation, the longest lasting hangover from the Alien Property Custodian's seizure of German property in WW2, and pre-war affiliate of the German Chemical combine IG Farben, was sold by the US Justice Department for \$320 million. As part of the deal the US gave Interhandel, a Swiss Corporation, (owned by the Union Bank of Switzerland) more than one third of the sale price. This settlement came as a surprise to most commentators, who had assumed that the US was fully justified in seizing enemy property in time of war. Moreover, the US had constantly claimed that Interhandel was nothing but a financial cloak, designed by IG Farben to conceal German assets; an ideological proposition built on a conspiracy explanation for German militarism, which identified IG Farben as an industrial foot soldier in Germany's drive for world domination. As a result, GAF was a running thorn in the side of the Swiss-American body politic, with both sides accusing each other of bad faith. In fact, the deal had taken years to negotiate, with Robert Kennedy offering a complex settlement formula that would see the Swiss getting a large share provided the company was sold at a high price. This reflects Robert Kennedy's pragmatic belief that settlement was better than trial confrontation. In this sense the morality of a sale took second place to its utility and illustrates the complexities of mid-20th century US political economy.

Keywords: GAF, Union Bank of Switzerland, IG Farben, Robert Kennedy, Interhandel, Justice Department, Bill Orrick, Alfred Schaefer and Nick Katzenbach.

Gravity's Rainbow

In January 1962, a buff envelope arrived on the desk of Dr Alfred Schaefer, the autocratic head of the Union Bank of Switzerland, smallest of the mountain republic's big three banks. It contained a telegram, signed by Robert F. Kennedy, United States Attorney General, confirming his verbal offer of settlement in the long-standing General Aniline and Film-Interhandel dispute, which had bedeviled Swiss-American relations since 1945.² Vested by the United States in World War Two, because of its links to IG Farben, Nazi Germany's pre-war chemical super-corporation, GAF was the largest and most important hangover from the wartime Office of Alien Property Custodian (APC). Valued at \$70 million the New York based enterprise was the key organic chemicals business in the USA.³ The company specialised in making synthetic dyes for the textile, leather, and paint industries. It also manufactured strategically important products for the US economy, including Ozalid photocopying papers (used in military engineering blueprints), Agfa film and photographic equipment and polyvinyl chloride, better known as PVC, as well as resins and detergents (surfactants). GAF also imported the new sulphonamide pharmaceutical drugs directly from IG Farben in Germany.⁴

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² US National Archives and Records Administration (NARA) RG 131: Department of Justice Case materials relating to IG Farben and IG Chemie, D-63-4, Ass No. 9-121-1335 (hereafter IG Farben Files) boxes 354/355. (Orrick) Cable, Robert Kennedy to Alfred Schaefer 26/1/62. Also, memo 30/1/62, record of a telephone conversation with Schaefer. A copy of the January 26 cable can be found in Schmitz v. Société International et al No.24, 600, February 15, 1972, (D.C. Cir.) Joint Appendix to the briefs (2 vols.) Plaintiffs, Exhibit. 204.

³ Wilkins, Mira (2004) *The History of Foreign Direct Investment in the United States, 1914-1945*, Harvard University Press, Cambridge Mass, London. p.519, this quotes the Alien Property Custodian *Annual Report 1943* GPO Washington DC, p.70.

⁴ Baptistia, Robert J., and Anthony S. Travis, (2006) 'IG Farben in America, the Technologies of General Aniline & Film,' *History & Technology*, 22: 2 (June), pp. 187-204.

The GAF case can be understood as a hermeneutic; a way to interpret the shifting nature of American economic and political power in the mid-20th century. With the war's end, responsibility for the seized company was assigned to the Justice Department's Civil Division, where ultimately its fate lay in the hands of America's highest law enforcement officer. The US government charged that IG Farben owned GAF, and that seizure was fully legal under the 1941 First War Powers Act. However, Interhandel, a company based in neutral Switzerland, objected on grounds that it, and not the German firm, was the legal owner of the disputed corporation. The US counter charged that Interhandel (formerly called IG Chemie) was merely a front for German interests.⁵ The resulting legal manoeuvrings lasted over 20 years and included appearances before both the International Court in the Hague and the US Supreme Court.⁶ For two decades GAF was in effect a 'socialized' or state-owned company; a dirty word in America's political lexicon. Over the years it became an international cause célèbre, and its high profile made the company a problem the new Administration was keen to dispose of. Given this political context, Kennedy's suggestion was startling; subject to some adjustments, particularly the Swiss agreeing to waive any rights to 11% of GAF stock held by the US government, and pay a tax claim relating to Standard Oil of New Jersey, which dated back to the 1920s, the Attorney General saw no reason not to settle the longstanding quarrel between America and Switzerland.⁷ Schaefer was astonished, after five years of unrelenting struggle he had a genuine offer of settlement, something that had eluded the previous owners of Interhandel since the 1940s.

Conspiracy Theory and the Justice Department's Institutional Memory

In his influential 1964 essay *The Paranoid Style and American Politics* Richard Hofstadter, the distinguished historian, suggests that in times of stress, Americans periodically resort to conspiracy theories to alleviate deep seated anxiety. The Roosevelt administration's attitude to IG Farben, which was built on a Manichean duality of good and bad capitalism, with the German variety being bad, fits this argument well.⁸ To justify GAF's wartime vesting, the US government postulated a grand conspiracy explanation for IG Farben's actions, which was based on a reading of events in WW1 and after. The company along with its predecessors, Bayer, B.A.S.F. and Hoechst, was part of a wider German militarism, which twice plunged the world into the chaos of war. In the First World War IG Farben's forerunners conspired to 'cloak' ownership of key industrial assets to prevent seizure by the US government. This failed in 1918, when German property was seized and sold by the United States. However, within a decade, by underhand means, IG Farben had recovered all it had lost and was now enabling the Nazi state to further its nefarious aims.⁹ The US was not alone in its suspicions of the German concern. In May 1941, Hugh Dalton, the British Minister for Economic Warfare denounced IG Farben's activities in the United States, singling out GAF as particularly dangerous.¹⁰ British Security Coordination, (MI6's New York outstation) as part of its anti-German propaganda drive, published *Sequel to the Apocalypse*, a hostile polemic detailing IG Farben's support for the Nazi regime, and its underhand business methods, which sold over 200,000 copies.¹¹

Conspiracy theories do not have to be true, only adequately consistent to be plausible.¹² Over the following twenty years this IG Farben conspiracy explanation became the institutional memory of the American state. Not all US government officials believed in the grand conspiracy idea, but enough did to build a long-term mindset, which subsequent administrations adhered to. A key trope of this view was American strategic vulnerability. For national security reasons the United States could not afford to leave a company so vital to American technical defence in foreign hands.¹³

⁵ IG Farben Files, box 2565, Report on I.G Chemie Basel, (marked exhibit xxxvi).

⁶ INTERHANDEL (Switzerland v. United States of America) International Court of Justice March 21, 1959 General List: No. 34 (PRELIMINARY OBJECTIONS) http://www.law.nyu.edu/kingsburyb/fall01/intl_law/unit2/interhandel.html (see Third Preliminary Objection).

⁷ IG Farben Files, boxes 354/355. (Orrick) Cable, Robert Kennedy to Alfred Schaefer 26/01/1962.

⁸ Hofstadter, Richard, (1964) *The Paranoid Style and American Politics*, Harper's Magazine, NY, November Issue. <https://harpers.org/archive/1964/11/the-paranoid-style-in-american-politics/>

⁹ O'Reilly Declan, (1995) 'Between a Nazi Hammer & an Allied Anvil: Cloaking IG Farben's Foreign Property 1938 - 1942.' Ian Blanchard (Ed.) *New Directions in Social & Economic History*, New Lees Press, Edinburgh.

¹⁰ *New York Times* 02/05/1941. The full text is contained in the Dalton Papers, London School of Economics. For the extent of British complaints, see, US Senate Committee on Scientific and Technical Mobilisation, 78th Congress, Part 2, 08/02/1944, pp. 2233.

¹¹ John Boylan (1942) *Sequel to the Apocalypse*, Booktab, New York, New York.

¹² David Aronovitch (2009) *Voodoo Histories, the Role of Conspiracy Theory in Shaping Modern History.*, Johnathon Cape, London.

¹³ Franklin D. Roosevelt Presidential Library (hereafter FDR Library), Hyde Park New York, *Morgenthau Diaries*, 140/496, pp.237-266. 'A Short Survey of General Aniline & Film Corporation Its Business and Personnel. p.250.

Despite the restrictions of post-war government control, vesting seemed to be efficacious. GAF profited greatly from the long post-1945 world boom. By the 1960s the company had dramatically expanded its scope to include new dyes, medicines, and speciality products for the space industry. Notwithstanding GAF's obvious success, state supervision was irksome both to the company and the United States government, which felt that operating a private business, however well-intentioned its acquisition, was ideologically disquieting. A second trope saw IG Farben as a key industrial footslogger in Germany's determination to conquer the world. Hitlerism was only the latest and nastiest manifestation of Germany's innate aggressiveness. Prussianism, the Kaiser, the Third Reich; a historical continuity existed, which made seizure of German property in both World Wars morally and politically necessary. A third idea, which chimed deeply with America notions of exceptionalism, concerned a naïve 'new world's' habitual abuse at the hands of devious Europeans, something that stretched back to pre-revolutionary times.¹⁴

A Tale of Reports; the SEC and the US Treasury

From 1937 to 1941, GAF and its connections to Interhandel were the subject of a Securities and Exchange Commission (SEC) investigation, which, though inconclusive, cast suspicion on IG Farben's activities worldwide.¹⁵ In 1943, two Justice Department lawyers, Joseph Borkin and Charles A. Welsh, who both had an interest in US anti-trust questions, published *Germany's Master Plan*, which set out the historical case for Germany's economic and military quest for world power.¹⁶ At the same time the Treasury produced an extensive report in 1943 that explained in detail, with reams of footnotes, exactly how the US had been the victim of German machinations over decades.¹⁷ Thirty years later Borkin returned to this theme, with the additional cachet of adding GAF and Interhandel directly to his catalogue of German infractions, with a bestselling book *The Crime and Punishment of IG Farben* published in 1978.¹⁸ The conspiracy explanation found in both the Treasury Report and *Germany's Master Plan*, served to justify the seizure of GAF, but it was also intended to be the factual basis for a US rebuttal of Interhandel's claims and it became part of a widespread public discourse about GAF and Interhandel during the 1940s and 1950s. While politically appealing, (especially to the more xenophobic parts of the US political spectrum) a conspiracy explanation is no basis for state policy as it obscured other, more prosaic, accounts for IG Farben's actions. Moreover, it led the US government to a decades long search for an elusive phantom; documentary proof that a grand conspiracy existed. This fruitless quest served only to reinforce existing prejudices in both America and Switzerland and justified a politics of intransigence and paranoia,¹⁹ which prevented a rational settlement for twenty years.

Great War Stories: Loss and Recovery

Given their post-war pre-eminence we tend to think that the big US chemical companies held the same position before 1939 as they did after 1945. This is not the case. Before WW2, Germany led the world's chemical industry and had done so since the late 19th century.²⁰ The giant chemical combine IG Farben was created in 1925 by merging Bayer, BASF, Hoechst and three of the Reich's other most important chemical enterprises.. An industrial colossus it was Germany's largest business and the fourth biggest company in the world.²¹ IG Farben dominated organic (carbon-based) chemistry, including dyes and key synthetic technologies in oil, nitrates and rubber.²² It is only in the post-war petrochemical boom that companies like Dow, Monsanto, Union Carbide and even Du Pont's chemical division came to be super corporations themselves.²³

¹⁴ A good example of this literature is Howard Watson Ambruster, *Treason's Peace, German Dyes and American Dupes*, Beechhurst Press, NY 1947.

¹⁵ SEC Report on Investment Trusts and Investment Companies, Part IV, 1942, pp. 135-151, on-line at <https://babel.hathitrust.org/cgi/pt?id=osu.32435057209686&view=1up&seq=153&size=125>

¹⁶ Joseph Borkin and Charles Welsh (1943) *Germany's Master Plan: The Story of Industrial Offensive*. Preface by Thurman Arnold, Duell, Sloan, and Pearce, New York.

¹⁷ IG Farben Files, box 2566. Treasury Report on GAF, April 1943, 2 Vols. This is an amalgam of earlier reports particularly by Lawrence Linville.

¹⁸ Joseph Borkin, *The Crime and Punishment of IG Farben*, The Free Press, New York, 1978.

¹⁹ For a general view of the politics of paranoia, see Robert S. Robins & Jerrold M. Post MD. (1997) *political paranoia (the psycho-politics of hatred)*, Yale University Press, Newhaven London.

²⁰ Anthony S. Travis, (2006) *Dyes Made in America*. Edlestein/Hexagon, pp. 33-37.

²¹ Debórá Dwork and Robert van Pelt, (2008). *Auschwitz 1270 to the Present*. New York: W.W. Norton & Co., p. 198.

²² Peter Hayes, (1987) *Industry and Ideology, IG Farben in the Nazi Era*, Cambridge University Press, Cambridge.

²³ David Hounshell and John Kenley Smith, (1988) *Science and Corporate Strategy, Du Pont R&D 1902-1980*, Cambridge University Press, Cambridge.

Even before 1914, the US was strong in inorganic chemicals, including phosphate based fertilizers and acids for the oil industry, which reflected tariff protection against British competition.²⁴ However, because of the British blockade, the United States suddenly found itself faced with the loss of key German dye imports.²⁵ Before the war few Americans had bothered to consider the strategic implications of this vulnerability,²⁶ which is hardly surprising since dye imports of a mere \$10 million serviced over \$2bn worth of goods in the textile, paint and leather industries²⁷ In 1917, after the US had entered the war on the allied side, a new institution, the Alien Property Custodian (APC) under the control of Mitchel A. Palmer (a close political friend of President Wilson's) was set up to administer in excess of \$600 million worth of enemy (mostly German owned) property.²⁸ A significant part of this property consisted of seized patents, plant and cash belonging to the Bayer, Hoechst and BASF subsidiaries in the USA.

Palmer's Deputy APC, an able lawyer named Francis P. Garvan, saw the complex series of 'cloaking' arrangements by these subsidiaries, made before the American declaration of war in April 1917, including fictitious stock transfers and sales to American 'front men,' as a crude attempt to prevent the just seizure of enemy property.²⁹ To counter this, Garvan, now a dedicated enemy of the German industry, set up a up the Chemical Foundation, a semi-public company, to licence the seized patents to US industry.³⁰ Garvan also decided that sale of the seized German companies to different American business interests was strategically necessary.³¹ Through this combination of direct disposal of the German industry's plant and liberal access to its vested patents, Garvan hoped to hothouse a domestic organic chemical industry,³² while at the same time avoid exchanging a German monopoly for an American one.

Francis P. Garvan's hopes proved illusory. The main American purchasers, Grasselli Chemical Company who bought the Bayer plant and Sterling Products, which purchased the patents to Aspirin (and the right to use its trade name) found that they could not work either the seized patents or the plant without German 'know-how' and expertise.³³ Reeling from the loss, by Allied order, of its new Haber-Bosch hydrogenation technology (for the fixation of nitrogen) and the demand for dyes as war reparations, the defeated Reich was only too glad to help. Bayer in particular saw cooperation with both Grasselli and Sterling Products Inc. (run by the irascible William Weiss) as a way of regaining a foothold in the most important industrial economy in the world.³⁴ This cooperation was dramatically extended after the 1925 merger of the big German chemical firms into the new IG Farben.³⁵ In 1928, when Dupont bought Grasselli Company the German super-corporation was able to buy back the lost Bayer dye plants.³⁶ Throughout this period, Cassandra like, Francis Garvan continued to oppose German involvement in the American organic chemicals industry.³⁷ The significance of this experience for the US government cannot be understated as these pre 1917 cloaking attempts and the German dye makers determination to recover its lost property became the prism through which the US understood IG Farben and subsequently Interhandel.

²⁴ Lutz Haber (1971) *The Chemical Industry 1900-1930, international Growth and Technological Change*, Clarendon Press, Oxford.

²⁵ Nicholas A. Lambert (2012) *Planning Armageddon*, Harvard University Press, Boston, London.

²⁶ In 1915, T. H. Norton wrote a highly critical report for Congress on the failure of the dye industry to get any effective protection before the war. T. H. Norton (1915) *Dyestuffs for American Textile and Other Industries (US Dept. of Commerce, Special Agents Series No. 96)*, p.51.

²⁷ United States Senate, S199-1 Senate Hearings, Dyestuffs 1922, p.490. Statement of Morris R. Poucher.

²⁸ Rex M. Potterf, (1927) 'Treatment of Alien Enemy Property in War Time and After by the United States,' *Indiana Law Journal*, Volume 2, Issue 6, p. 465.

²⁹ IG Farben Files box 2566, Treasury Report 1943, p49. Based on the relevant sections of the *1919 Alien Property Custodian Report*, GPO Washington DC, pp.45-8.

³⁰ Mitchell A. Palmer (1919) Aims and purposes of the Chemical Foundation, incorporated and the reasons for its organization, De Vine Press, New York.

³¹ Kathryn Steen (2014) *The American Synthetic Organic chemicals Industry: War & Politics 1910-1930*. University of North Carolina Press, pp. 138-172.

³² Kathryn Steen (1995) 'Confiscated Commerce: American Importers of German Synthetic Organic Chemicals, 1914-1929.' *History and Technology* (Vol 12: No. 3) pp. 261-284.

³³ Francis. C. Steckel (1990). 'Cartelization in the German Chemical Industry 1918-1925.'. *Journal of European Economic History*, 50: pp. 329-376. IG Farben Files, box 2567. Treasury Report. Exhibit 79, Grasselli Co., Memo, 14 April 1921.

³⁴ Jefferies, Dairmuid (2008) *Hell's Cartel, IG Farben and the Making of Hitler's War Machine*, Bloomsbury London. pp. 85-91.

³⁵ Gottfried Plumpe, (1991) *Die IG Farbenindustrie AG.*, Dunker and Humblot, Berlin, pp.131-40

³⁶ Hounshell and Smith, (1988) op. cit., p. 445

³⁷ See the US Treasury's comments on Garvan in, Treasury Report 1943, IG Farben Files, box 2566, p.191.

Enter AMIG

Having regained its pre-war American position, Hermann Schmitz, IG Farben's masterly finance director, set the stage for a series of complex financial manoeuvres to improve the company's cash situation. In early 1929, the American IG Chemical Corporation was incorporated in Delaware. The name was deliberate. Schmitz neatly linked the US firm with IG Farben's brand in Germany, which enabled the new American IG to sell some \$30 million in bonds on Wall Street.³⁸ Next, Schmitz transferred the bulk of AMIG's shareholding to Interhandel, a Swiss holding company, which was incorporated the previous year under its French guise, IG Chemie. Floated on the Geneva bourse for Sf 290 million Interhandel was not a subsidiary of the German firm, but a sister enterprise and Schmitz's specific purpose was raising money to finance IG Farben's radical new synthetic oil and rubber technology. To attract wily Swiss burghers, Schmitz offered them a dividend guarantee equivalent to IG Farben's own, as well as encouraging a set of cross holdings between both companies.³⁹ Contrary to later US assertions, these were not cloaking operations designed to prevent seizure of its property in war. That was confined to IG Farben's assets in the British and French empires. Instead their impetus was minimising IG Farben's tax liabilities in various international jurisdictions. As part of his wider financial plan Schmitz also used Interhandel's 'good offices' to transfer the bulk of Standard Oil of New Jersey's \$35 million payment for the purchase of IG Farben's catalytic hydrogenation processes for making synthetic oil to Germany.⁴⁰ The American oil giant, which for several years had been seeking a closer relationship with the German enterprise, saw this new high-pressure (hydrogenation) technology as a way of dramatically increasing the petroleum yield from a barrel of crude oil.⁴¹ This money soon became vital. Between 1930 and the advent of Hitler's government, IG Farben's investment in 'big science haemorrhaged cash, to the point where it threatened the company's very existence.⁴² Without government intervention IG Farben was in trouble and although they disliked the concern's internationalism intensely, the autarkic implications of IG Farben's synthetic oil and Buna rubber technologies appealed to the Nazis, which edged them towards collaboration with the company after Hitler's brutal *Machtergreifung* (seizure of power) in 1933.⁴³

The Road to Armageddon

Both Interhandel and GAF were legally independent entities. Notwithstanding its interlinked shareholdings, the dividend guarantee, or the fact that Interhandel's directors were all related to or connected by marriage with IG Farben executives in Germany, Interhandel was in no sense owned by IG Farben itself.⁴⁴ This inconvenient truth was the basis for the post-war legal tussle between Interhandel and the American government. What IG Farben wanted from both companies was influence and control, which could be exercised in myriad ways. Because of their penchant for a conspiracy explanation and an obsession with ownership, American authorities blinded themselves to alternative or more ordinary accounts for Farben's actions, especially reducing its tax liabilities across its complex international dealings. As the war clouds gathered in the late 1930s, senior Prockurists (officials with the right to sign legal documents) in the company's Central Finance Administration (Zefi) prevailed upon Herman Schmitz, somewhat against his will, to totally sever IG Farben's connections with the Swiss company.⁴⁵ In 1940, the dividend guarantee was cancelled, and the crossholdings sold back to the Swiss. In this way, Schmitz hoped to forestall a repeat of the 1918 seizures. At the same time, in a deal brokered by the new president of GAF, Dietrich A. Schmitz, (Hermann Schmitz's brother) and a long time American citizen, IG Farben's important Technical Committee (TEA) transferred hundreds of its US registered patents to GAF for \$500,000.⁴⁶ However, not long after this success D. A. Schmitz was removed in a boardroom coup. Though this did not end his family's connection to GAF.

³⁸ Moody's Industrials 1929, p. 2821.

³⁹ 1938 SEC Report on Investment Trusts p.221. This was also confirmed by Werner Gabler in his interviews with Lawler at the Treasury 10/9/41. See Bonnar (W.N.R.C.) Linville Rpt., p.5 fn. 12.

⁴⁰ O'Reilly, Declan, *IG Farben, Interhandel and GAF Corp*, Unpublished Ph.D. diss., University of Cambridge, 1997, p. 114.

⁴¹ 77th Congress (1941-1943) US Senate, 1st Session, *Investigation of the National Defense Program, Agreement between IG Farbenindustrie AG and Standard Oil of New Jersey*, 09/11/1929, pp.4572-4580.

⁴² For the vast scale of this investment, see UK National Archives (hereafter TNA) FO 1031/233 'Investment in Large Plant by IG in Millions of RM, 15/08/1945.

⁴³ Peter Hayes, (1987) *op.cit.* pp. 69-80.

⁴⁴ See NARA Bonnar, (W.N.R.C) Trial Transcript, Milde Cross p.2469. (refers to Dfx exhibit, 467).

⁴⁵ NARA Bonnar (W.N.R.C.) Trial Transcript, Krüger Cross p.1360.

⁴⁶ The aim was not primarily 'cloaking' but to prevent IG's American rivals from getting easy access to its technology through GAF. IG Farben Files box 2557, Gunther Memo, 24/09/1947 p.19. Extract, IG to RWiM on its relations to IG Chemie. 15/05/1940.

New directors, including a series of high-profile US citizens, among them Judge John H. Mack, a personal friend of President Roosevelt, were appointed to more fully Americanise GAF's management. Unfortunately for IG Farben many of the legal gyrations involved in uncoupling these share holdings were undertaken through Dutch holding companies based in Amsterdam.⁴⁷ Not being privy to the Führer's plans, it went on blithely assuming that, as in World War One, the Netherlands would remain neutral; this miscalculation proved costly as Holland also fell to the Nazi military scythe in 1940. As a result, the US refused to recognise the validity of any financial transfers made through Dutch firms. Moreover, the Treasury, under Henry Morgenthau, Jr., also extended US financial freezing orders to Switzerland, thereby making further transmission impossible.

Two years later, US Treasury agents seized GAF and purged its new 'American' directors.⁴⁸ Subsequently, the Treasury, which had hoped to run GAF itself, transferred the vested company to a resuscitated Alien Property Custodian headed by Leo T. Crowley, formerly Chairman of the Federal Deposit Insurance Company, another long-time friend of President Roosevelt.⁴⁹ It was at this point Interhandel's most intrepid champion entered the lists. John Wilson, a Washington DC lawyer, filed 'suit' against the US government on behalf of the Swiss company demanding either the return of its property or full compensation.⁵⁰ For the next two decades Wilson's tenacity kept Interhandel's suit before the courts. The 5th Amendment to the United States Constitution, (its better-known clause enables people to refuse to answer questions in a court of law on the grounds of self-incrimination) forbids the government taking private property without due process of law or compensation.⁵¹ Wilson saw that during wartime the US government had the absolute right to dispose of GAF in any way it saw fit. However, it was clear the United States intended to contest Interhandel's claims on the grounds that the Swiss company was only a front for IG Farben. An ongoing legal suit would prevent any government sale, except through enabling legislation. The government decided not to dispose of GAF during wartime. In part this was due to Wilson's challenge, but also because of the political complexity in getting the legislation required for such sales through Congress. The simplest option, for now, was to maintain government control. When the war was inevitably won, the APC expected that documents captured from IG Farben's factories, offices, and archives, would prove America's assertions of a grand conspiracy, leading the way open to Americanise the company completely.

Reckoning

In March 1945, the US Third Army captured bomb devastated Frankfurt and with it the Poelzig-Bau, IG Farben's elegant Bauhaus designed head offices. Soon afterwards they bagged Farben's leading executives, including Hermann Schmitz. With the US now in possession of vast amounts of documents and the company's leading executives, American authorities were confident they could win any legal confrontation with the Swiss. IG Farben's fate was now in the hands of US occupation planners. Working from a 'New Deal' interpretation of bad capitalism, the Americans had already decided that Germany's vast industrial concentrations had facilitated Hitler's war.⁵² In the interests of peace these must be de-cartelized and broken up.⁵³ IG Farben was just one of many companies that needed radical reorganisation. The revelation of a synthetic oil and rubber factory at Auschwitz only sharpened America's moral imperative to dismember the company and punish its leaders for crimes against humanity.⁵⁴ It also reinforced US determination to resist Interhandel's demands for a rapid return of GAF. Not to do so was to call into question America's moral purpose in fighting Hitlerism. In addition, in 1945, the fate of the American company was not Interhandel's only financial problem.

⁴⁷ NARA Bonnar (W.N.R.C.) box 61 Linville Report p.77 fn. 15. Lawler's discussion with Jack Steel of the *NY Herald*.

⁴⁸ The US Treasury described Judge Mack as 'a self-styled country-lawyer' with little knowledge of the chemical industry. It particularly annoyed Treasury officials that Mack was paid \$90,000 a year as President. FDR Library, *Morgenthau Diaries*, 140/496. Report on GAF p. 264, Sketch of John E. Mack.

⁴⁹ Peters, Gerhard and John T. Woolly, 'Franklin D. Roosevelt: "Executive Order 9095 Establishing the Office of Alien Property Custodian., March 11, 1942,' *The American Presidency Project*, University of California, Santa Barbara. Retrieved 20/02/20. See Also Stuart L. Weiss, (1996) *The President's Man: Leo Crowley and Franklin Roosevelt in Peace and War*, Southern Illinois University Press.

⁵⁰ See the pen portrait of Wilson in Nicholas Faith, (1982) *Safety in Numbers*, Hamish Hamilton, London.

⁵¹ https://www.law.cornell.edu/constitution/fifth_amendment

⁵² Mark E. Spicka (1999) *The Devil's Chemists on Trial: The American Prosecution of I. G. Farben at Nuremberg* Author(s): Source: *The Historian*, Vol. 61, No. 4, pp. 866-867.

⁵³ The best study of the post-war break up of IG Farben is Raymond G. Stokes, (1987) *Divide and Prosper, the Heirs of IG Farben*, University of California Press.

⁵⁴ See Joseph E. Dubois, (1952) *The Devil's Chemists*, Beacon Press NY.

The new Norwegian government had just sequestered its stake (acquired as a result of its relationship with IG Farben) in Norsk Hydro, the leading Norwegian hydro electric company, and the Swiss were fighting tooth and nail to get it back.⁵⁵ However, even with all this US investigators could find neither the single document nor get a confession from IG's directors, which proved America's grand conspiracy.

The Sturzenegger Complex

The United States Justice Department, (responsible for the case after the APC was wound up in 1946), soon became convinced that proof of the conspiracy must exist in Interhandel's records. The key lay in what Civil Division lawyers termed the Greutert/Sturzenegger complex. This was IG Farben's private Swiss bank, which controlled Interhandel's shareholding.⁵⁶ However, these records were protected by Swiss bank secrecy laws. Much of the legal wrangling over the next eighteen years centred on Hans Sturzenegger (owner of the largest block of shares) and Interhandel's inability to provide American courts with the documents they demanded due to bank secrecy. Not unnaturally, these demands annoyed the Swiss, which were interpreted as a direct attack on Switzerland's sovereignty. Moreover, American government suggestions, made during the 1945 'Safehaven' negotiations, (in part to resolve issues relating to the sale of looted gold on behalf of Germany during the war), that Switzerland had compromised its neutrality by its dealings with the Nazis caused deep anger in the mountain republic.⁵⁷ In Swiss minds' Interhandel's seizure was inextricably linked with American bullying over its wartime role. Matters were not improved by a Swiss declaration that two secret government investigations of the 1940 share transfers, (the Rees Bericht) details of which they would not provide to the US, proved, to Swiss government satisfaction, that Interhandel had severed its relations with IG Farben fully 18 months before America entered the war.⁵⁸ Ergo, Interhandel was a neutral Swiss company, free of enemy taint and entitled to its property back.⁵⁹ The United States counterclaimed that Interhandel was, at the relevant dates, a cloak for the German company and demanded to see more and more documents in the expectation of finding the key written agreement.

Enter UBS

This was the crux of the legal cases in the 1950s. These eventually got to the International Court and the US Supreme Court. A key issue was extra-territoriality; the propensity of the United States to legislate outside its borders when it demanded access to Swiss documents. In fact, in 1952, an American Special Master (Judge) agreed that Interhandel had honestly attempted to comply with US demands but had been prevented by the laws of a foreign sovereign.⁶⁰ Interhandel was now an international issue and rumours of a settlement caused its share price to wax and wane throughout the decade. In 1957, the International Court disclaimed jurisdiction and the following year the United States Supreme Court suggested that both parties go back to lower courts and continue negotiations; it was John Wilson's finest hour.⁶¹ Mindful of its international reputation, in November 1957, the Swiss government persuaded Hans Sturzenegger to sell his shares to the Union Bank of Switzerland.⁶² It was a politically adroit move as Sturzenegger was seen, perhaps unjustly, as too close to the old IG Farben. Led by the dynamic Dr Alfred Schaefer, the UBS, then the smallest of the big three Swiss banks, was nonetheless generally considered by informed commentators to be the most speculative.⁶³ Acquiring Interhandel was typical of Schaefer's aggressive approach to business and his first act as owner was to reconfirm that he wanted GAF's return or full compensation, estimated at anything between \$100-\$200 million.

⁵⁵ *Trials of the War Criminals* (TWC) before the Nuremberg Tribunals, (Green Series) Vol VII, Vol VIII (U. S. Government Printing Office 1953) Nuremberg Industrialists NI-8449. See also IG Farben Files, box 2576, document 439 (marked restricted) Groves to Sec. State, 03/11/1945. Norsk Hydro-ownership and control. The best academic studies of this are, more generally, Alan Milward, (1972) *The Fascist Economy in Norway*, OUP, Oxford, pp 171-208. and Mario König, (2001) *Interhandel: Die schweizerische Holding der IG Farben und ihre Metamorphosen – eine Affäre um Eigentum und Interessen 1910–1999*. Chronos, Zürich.

⁵⁶ NARA (W.N.R.C) IG Chemie v. Bronwell. 4360-48 Ass. No. 70-A-5426. loc: 16-7-8-6-5 Boxes 142-56. (142) Statement of the Case, exhibit 1.

⁵⁷ Arthur I Smith, (1989) *Hitler's Gold*, Berg London, pp.68-73

⁵⁸ dodis.ch/9266. Revisions-Bericht, Internationale Gesellschaft für Chemische Unternehmungen A.G. (I.G. Chemie) Basel, [bzw. Seit 19.12.45 International Industrie und Handelsbeteiligungen A.G Basel] Bankhaus E Sturzenegger & Cie Basel [ehemals Ed. Greuter & Cie., Basel] [sog Rees-Bericht/Rapport- Rees].

⁵⁹ Mario König, (2001) *Interandel: Die schweizerische Holding der IG Farben und ihre Metamorphosen – eine Affäre um Eigentum und Interessen 1910–1999*. Chronos, Zürich.

⁶⁰ IG Farben Files, box 2565, IG Chemie: Report of the Special Master.

⁶¹ See 357 U.S 197 p.198. The term *Inability to comply* is italicized in the judgement. Also, Nicholas Faith, op cit., p.168.

⁶² See, *Neue Zürcher Zeitung* (NZZ) 26/11/1957.

⁶³ Pohl, Manfred (1994) *Handbook on the History of European Banks*, Edward Elgar, London.

Bob Schmitz and Electric Charlie Wilson

In the USA, Robert Schmitz, the son of GAF's former president and Hermann Schmitz's nephew, who also had a long interest in GAF, now approached UBS. Schmitz suggested appointing a special intermediary, or Trustee, with full power to negotiate a settlement, either with the Eisenhower Administration or more likely with Richard Nixon, after his expected victory in the forthcoming 1960 presidential election. Schmitz had in mind Charles E. 'Electric Charlie' Wilson, the former Korean War defence mobilizer, and ex-head of the General Electric Company. Schaefer thought the idea had merit. Wilson agreed to act as 'Trustee' and began the slow process of sounding out the US government.⁶⁴ It was not the first time Interhandel attempted direct negotiations as a way of solving the problem. In 1948, while deep in its fight with the Norwegians over Norsk-Hydro, Interhandel had offered to settle for \$14 million. Tom Clark, President Truman's Attorney General, had counter-offered with \$12 million, but when news of the proposal leaked, hostile public reaction in Switzerland and the United States caused the arrangement to fall through.⁶⁵ Later Bill Orrick, the Kennedy Administration's chief negotiator, claimed it was the 'worst deal' Tom Clark ever did.⁶⁶ Nevertheless, 'Electric' Charlie Wilson had several meetings with Col. Dallas Townsend, Deputy Attorney General under Eisenhower, but agreement always seemed just beyond reach. Wilson was inclined to wait until Richard Nixon's expected election victory, but his hopes were dashed when John Kennedy narrowly won the presidency in 1960.

New Frontiers

Public expectations of the young and dynamic president, sharpened by New Frontier rhetoric, meant the Kennedy brothers entered office with a mandate for change. As pragmatists, GAF was high on their agenda. Robert Kennedy was keen to for the administration to relinquish what he called an 'unnatural position'; government control of a private business.⁶⁷ However, a new debility in the US economy constrained Kennedy's political choices. Despite economic growth, the US faced a soaring public deficit, and a weak balance of payments, which boosted inflation.⁶⁸ As a consequence, General de Gaulle, the independent-minded president of France, objecting to what he called America's 'exorbitant privilege,' financing US budget deficits by printing inflated money, mounted a sustained attack on the dollar, exchanging cash for bullion in the notorious gold war.⁶⁹ All this helped alter American attitudes toward Switzerland, one of Europe's principal financial centres. Keeping control of GAF was now a potential hindrance to improved relations with an important ally.

The civil service 'spoils system' in American politics produces strange, but not always negative, results. The Kennedy administration attracted men of considerable ability into key government positions. Among them a future US Attorney General, Nick Katzenbach and William H. Orrick, (a tough-minded San Franciscan) who became Assistant Attorney General for Alien Property. ⁷⁰ In Orrick, the GAF case found a determined and imaginative lawyer who saw the problem in simple terms, a trial or settlement and to prepare the US for either alternative he created two competing teams. The Eisenhower administration had dealt with the problem piecemeal, being mainly concerned with getting legislation through Congress to bypass the 5th Amendment and enable a sale of the company. Orrick was unimpressed by his predecessor's efforts, (the department took no new depositions after the 1940s), and Orrick promptly reactivated the Justice Department's trial investigators. To his intense surprise, the UBS agreed to let his men view thousands of documents, but in Switzerland, not in a US court. The only exceptions were those documents marked classified; as Orrick wryly remarked, 'it turned out they were all classified.'⁷¹ Bill Orrick also organised a settlement negotiation team headed by his old friend Prentice Hale, while he arranged for an up-to-date valuation for GAF.

⁶⁴ Davis, Polk & Wardell (New York) V05/11. Client File: Charles E. Wilson as Trustee for Interhandel. Hereafter DPW V05/11/10. Letter of Robert Schmitz to Alfred Schaefer 10/11/1959, referring to a proposed meeting the following April. Also, Hugo Frey, a director of Interhandel, to Charles E. Wilson 10/03/1959 and 06/04/1959

⁶⁵ The \$14 million was an attempt by Interhandel to head off a War Claims Act designed to facilitate a sale of captured enemy property. IG Farben Files, Box 2558 Myron to A.G. 30/03/1953, p.2.

⁶⁶ JFK Presidential Library, Orrick oral history interview, 13/4/1970 pp.40-43.

⁶⁷ See Congressional Record for March 1963. IG Farben Files, Box 2561, Cong. Record, 04/03/1963 pp.3332-3334.

⁶⁸ In 1960 the US Balance of Payments was \$3.4bn in the red, ten years later this had swollen to \$10.7bn. *Balance of Payments of OECD Countries 1960-77*, Paris 1979, pp10-11.

⁶⁹ Ian Davidson and Gordon Weil, *The Gold War*, London 1970, p.187.

⁷⁰ Katzenbach was educated at Yale and was a Rhodes Scholar at Baliol College, Oxford while Orrick was a graduate of Yale and the California Law School.

⁷¹ JFK Presidential Library, Orrick 13/04/1970 p.41. On the difficulties of obtaining these records see IG Farben Files, boxes 353/4, (Orrick). Unsigned Memo, (probably from John Wolf) 'Investigation of the Books of the Sturzenegger Bank in Switzerland,' also exchange of letters between John Wolf and Swiss Federal Attorney's office 91/01/1962 and 12/03/1962.

Charles Spofford, 'Electric' Charlie Wilson's lawyer, also called on Orrick to discuss the case, but unbeknownst to either Spofford, Wilson or Orrick, the UBS was planning to bypass the Trustee altogether and seek direct contact with the Kennedy Administration.

Our Mutual Friend

Shortly after Kennedy's inaugural address Alfred Schaefer announced he wanted to meet personally with Orrick and other Justice Department officials. He arrived in Washington D.C. in May 1961, not a propitious moment as the new administration was embroiled in the Bay of Pigs fiasco. Tempers frayed and Bill Orrick later testified that the meeting was so stormy he had to ask Schaefer to leave.⁷² Bloody but unbowed, the Swiss banker made two counter moves. First, he suggested to Orrick that the UBS use the proceeds of any sale of GAF to create a European investment and development bank.⁷³ The UBS chief also decided on an unorthodox method of contacting the Attorney General. Schaefer persuaded Robert Kennedy's brother-in-law, Prince Stanislas (Stash) Radziwill, that Interhandel was in no way connected to Germany or German interests. Radziwill agreed to act as an intermediary between the Swiss and the Attorney General.⁷⁴ Whatever Radziwill's reasons for agreeing to act for UBS, Schaefer was aware of the political pitfalls and in any subsequent dealings referred to 'other channels' and to the exiled Polish Prince as 'our mutual friend.'

Back in Washington Wilson and Spofford waited for the outcome of the initiative through 'other channels' and a letter from Prince Radziwill, supporting a settlement and suggesting a meeting between Schaefer and the AG, duly arrived at the Justice Department. However, the efficacy of Radziwill's intervention can be doubted. Bill Orrick claimed it was irrelevant since Robert Kennedy was interested in settlement primarily as a political act to resolve the long running problem. Kennedy was also indifferent to the European development bank idea,⁷⁵ but the Attorney General was prepared to meet with Alfred Schaefer, provided there was "no intermediary, no counsellor, no adviser, because this must be a talk from man to man."⁷⁶

Schaefer may not have been willing to admit it, but the Attorney General adopted no new position. He had always been willing to consider both trial and settlement options; rather it was Schaefer who had shifted his ground away from a complete return of GAF. Moreover, Senator Kenneth Keating's Enemy Property Compensation bill was still before the Senate, something bound to cause consternation to the Swiss, who feared a potential fire sale of GAF.⁷⁷ The Attorney General and the Swiss banker met in October 1961. Kennedy reaffirmed that he had no interest in any bank plan but, if Schaefer allowed a competitive sale of GAF (which meant John Wilson dropping his lawsuit against the US government) he was willing, against Justice Department opinion, to consider a settlement that "more or less cut the apple in half."⁷⁸ The banker was flummoxed. Schaefer still wanted all of GAF, but he was realistic enough to accept that this was the best deal on offer. Despite his posturing, Schaefer had little choice but to agree and having abandoned the principle of full return the way was open for settlement.

Hale and Orrick's Excellent Adventure

The meeting with Kennedy resolved one other problem. 'Electric' Charlie Wilson's role as Trustee was now moribund, and he resigned immediately. But there was considerable difficulty over Spofford's financial recompense as the Swiss were unused to the scale of fees US lawyers charged.⁷⁹

⁷² JFK Presidential Library Boston Mass. Orrick Oral History, 13/04/1970. pp. 43-44. Under oath in the Schmitz trial nearly 10 years later, Schaefer denied that this incident ever took place.

⁷³ This was a more serious suggestion than was realised. As late as 1965 Schaefer was pursuing the idea with various European banks. Barclays Bank Archives, Accession No. 0038-0441: 12A/05/03: Box 177, Interhandel, board minute 23/12/1965.

⁷⁴ IG Farben Files Box 2556, Letter of Prince Radziwill 28/09/1964. Memo of Bill Orrick Re: Interhandel 14/10/1961. Letter of J. H. Max-Muller to Prince Radziwill 13/07/1961.

⁷⁵ IG Farben Files, boxes 353/354, (Orrick). Settlement Proposals S-1, Orrick to RFK 14/09/1961. "I assured Mr. Spofford that the idea was so absurd as to merit little or no consideration."

⁷⁶ Schmitz (Joint Appendix Vol. II) Schaefer Testimony, p.1124, fn.

⁷⁷ As APC, Col. Townsend opposed a general return of enemy property as it would give huge windfalls to large enemy corporations that had supported German and Japanese militarism. Obituary, Dallas Townsend Sr., Ex-Assistant Attorney General dies at 77. *New York Times*. 28 May 1966.

⁷⁸ Schmitz (Joint Appendix Vol. II) Schaefer Testimony, pp.1126-29.

⁷⁹ DPW V0511/10 encs. 2A. Schaefer complained that, "We are used to very different figures in connection with professional services rendered in this country". Pltfs. exhibit, No. 175, Schaefer to Spofford 06/08/1962. The exact figures were \$85,104.12, with Charles Wilson returning \$15,20.24, in expenses.

Likewise, Robert Schmitz who had been instrumental in pushing forward the idea of settlement also felt aggrieved and unhappy then and later with the USB's offer of financial compensation.⁸⁰ Despite these problems, negotiations proceeded cordially and Robert Kennedy telephoned Schaefer to repeat his offer of the previous October. The Attorney General promptly confirmed this by telegram and in April 1962, Bill Orrick and Prentice Hale arrived in Munich to start detailed negotiations. However, in one session Hale abruptly broke off discussion at a point Orrick thought very dangerous, especially given an advantageous US position of \$60 million, a figure Orrick was happy to accept. Over lunch, Bill Orrick remonstrated with Hale, complaining, 'Prentice, you balled it up worse than I could imagine.' Hale was more sanguine, "by the time we get through lunch (he blithely told Orrick) these fellows will talk again." Hale was right, as the afternoon session gained the US considerably more money. It was a satisfactory conclusion to Hale and Orrick's excellent adventure.⁸¹

A Question of Value

Despite the obvious will to make a settlement, there was still a long way to go before any sale by the government. Meanwhile Orrick transferred from the Justice Department to become an undersecretary in the State Department. Deputy Attorney General Nick Katzenbach took over the GAF-Interhandel negotiations. His first act was to get a new valuation for GAF, which upped the company's price to \$250 million-plus. Second, he had to decide on how to return GAF to private ownership; eventually, he opted for a system of sealed bids, which Katzenbach hoped would blunt any public criticism. Having decided how, Katzenbach needed to find the means since any sale would need Congressional approval. Fortunately, the Keating bill was still before the Senate.

In the summer of 1962, Nick Katzenbach explained the government's position to the Congress. There were three alternatives, trial, settlement, or sale. None was without hazard, and Katzenbach was careful not to specify, which he preferred. A trial was risky, the lapse of time, the passing of key witnesses and a lack of documents all pointed to a lengthy and complex courtroom encounter, without guarantee of success. A settlement was equally chancy since it was bound to attract criticism, which might make it untenable. Finally, there were political pitfalls with any sales bill, which could be challenged on constitutional grounds. The stumbling block was, as usual, John Wilson. The canny D.C. lawyer was reluctant to make a legal *auto da fé* by dropping his opposition to the Keating bill. However, he could see no real alternative if a settlement was to go ahead. Katzenbach, echoing the Attorney General, then stressed that the government wanted to remove itself from its 'unnatural position' as owner of a private enterprise.⁸² Katzenbach neglected to mention that the threat of a successful sales bill had been enough to force Interhandel to the negotiating table. The Keating bill, with an amendment authorizing sale of GAF, finally passed the Senate late that summer and on October 22, 1962 President Kennedy signed it into law.⁸³ Hardly an auspicious date as the nuclear hydra was already spreading its deadly claws over Cuba.

The vexed question of GAF's valuation now came into play; current estimates were anything up to \$250 million. This disparity meant that a 50-50 split gave the Swiss \$125 million, or much more depending on its final valuation. US economic growth was a healthy 3% with the chemical sector much higher, so it was reasonable to assume that GAF would be worth more money by the time of sale. However, paying the Swiss so large a sum was economically sensitive and to reduce any domestic US political flak, Katzenbach revived the 1929 IG Farben-Standard Oil tax claim against Interhandel, which now stood at a hefty \$24 million.⁸⁴ This news plunged the settlement into crisis; John Wilson later claimed it was 'my worst Christmas.' He wasn't the only bewildered party. A demoralised Justice team was equally nonplussed. On the last day of December 1962 Robert Kennedy telephoned Bill Orrick, (still on temporary detachment with the State Department), to announce that he was 'kicking your settlement over.' Orrick arrived at the Attorney General's office to face an improvised kangaroo court (he termed it a 'blanket party' after an unpleasant custom in local jails) where he defended the settlement vigorously.

⁸⁰ Interview with Robert Schmitz, 1993.

⁸¹ JFK Presidential Library, Orrick, 13/04/1970, p.42.

⁸² IG Farben Files, box 274. Enclosures, Section XV Misc. file. Memo 'GAF' (sales bill) 30/10/1962. This same statement is to be found in the Congressional Record for March 1963. IG Farben Files, Box 2561, Cong. Record, 04/03/1963, pp.3332-3334.

⁸³ IG Farben Files, boxes 353/4, (Orrick). Schaefer to Kennedy 18/09/1962. Schaefer was concerned about the effect of the Keating bill on Swiss public opinion.

⁸⁴ In late 1961, Schaefer had specified that there should be no tax claim. Orrick's handwritten 'no' is clearly visible against this. IG Farben Files, boxes 353/4, (Orrick). Schaefer to Orrick 9/11/61. Nick Katzenbach also testified to the level of surprise that the Swiss felt when he announced the tax claim. Interview with Nick Katzenbach June 1993.

Along the way he demolished much of the government's trail case, particularly the untried doctrine of enemy taint. Kennedy ruefully agreed he might have made a mistake, testily Orrick demanded 'make up your mind.'⁸⁵

Robert Kennedy did 'make up his mind.'⁸⁶ In the spring of 1963, the Attorney General again met Wilson and Schaefer in his office at 950 Pennsylvania Avenue. John Wilson later described it as an encounter between cold-bloodedness and stiff-neckedness. Schaefer began by claiming 2 million Swiss were watching the transaction, Kennedy coolly replied, '199 million were watching him.'⁸⁷ The final settlement gave the government nearly 70% of anything under \$200 million, but if the price was higher Interhandel's share would balloon. The Swiss would pay the tax claim and take responsibility for compensating any interveners in the case (private non-UBS shareholders of Interhandel) while the US would keep all the vested cash belonging to GAF, some \$3 million.

Opposition and Protest

On 4 March 1963, Robert Kennedy announced the deal to the press. There was an immediate howl of complaint. Many commentators damned the appointment of William Peyton Marin, the President's father's private lawyer, to GAF's board of directors. Marin's appointment is easily explained. The government wanted no dissent about the settlement from within the company and Marin was there to ensure total compliance. The administration need not have worried since Jesse Warner, the CEO, was as keen to escape government tutelage as anybody else. Other commentators picked up on moral issues. Having already leaked the story of Radziwill's involvement, Drew Pearson (influential author of the nationally syndicated political column, *Washington Merry Go Round*) offered the most trenchant criticism; he argued that a succession of senior law officers had refused to settle with Interhandel claiming for twenty years that the Swiss firm was a German 'cloak,' why, he asked, had Robert Kennedy broken ranks?⁸⁸ President Kennedy subsequently addressed this point by saying the US had got the best of the deal as litigation could last decades.⁸⁹ The Kennedys took pride at being both pragmatic and proactive; GAF was a practical problem needing solving.⁹⁰ Besides, there were more pressing issues for the administration to deal with, such as Vietnam and civil rights.

Once again, the question devolved to exactly how much was GAF worth? For two decades, the Justice Department's primary concern was conserving GAF as an asset, rather than with competitive dynamism. Chemicals had been a great post-war success story but although GAF had profited during the boom, its sales in the first six months of 1962 were \$91 million with net earnings of \$4.5 million, other companies like Dow and Monsanto did much better.⁹¹ Even the German industry, allowed to return to the US market in the 1950s, was making faster strides than GAF. Part of the problem was a lack of investment, (any significant expenditure needed authorisation by the government), but another part was the absence of real strategic direction.

Sale of the Century

On 9 March 1965, while simultaneously trying to deal with serious civil rights disturbances in Alabama,⁹² Nick Katzenbach, now promoted to Attorney General, (Robert Kennedy had resigned to contest Kenneth Keating's Senate Seat in 1964)⁹³ opened the sealed bids to begin the sale. There were two main syndicates, one led by Kuhn Loeb and one by Blythe-First Boston. The Blythe-First Boston syndicate bid just over \$329 million and the Kuhn Loeb some \$15 million less.⁹⁴ The Blythe-First Boston syndicate lost no time in taking GAF to market, raising over \$340 million. The government received \$207 million as its share and Interhandel \$122 million. By 1968, the US transferred all but \$16 million to Europe.⁹⁵

⁸⁵ JFK Presidential Library, Orrick Oral History 13/04/1970, p. 44-45.

⁸⁶ IG Farben Files, boxes 353/354, (Orrick). Schaefer to RFK 08/01/63: seeking to re-open negotiations.

⁸⁷ Victor Navasky, (1971) *Kennedy Justice*, Scribner, New York, pp. 349-52.

⁸⁸ *Washington Post* (Pearson's Washington Merry Go-Round) 19/5/64 Sec. B. p27: *Washington Post* 25/05/1964 Sec. B. p11.

⁸⁹ *Published Papers of the Presidents* 'John F. Kennedy' 07/03/1963.

⁹⁰ Victor Navasky sees this pragmatic approach as the defining characteristic of the Kennedys. The *New Frontier* had a mandate for action and Robert Kennedy believed that such action should be seen to be taken. Victor Navasky, op. cit., pp.349-52.

⁹¹ IG Farben Files, box 2562, General Aniline and Film Corporation_(Sales Data), p.2.

⁹² Author's interview with Nick Katzenbach, June 1993.

⁹³ Arthur M. Schlesinger Jr (1978) *Robert Kennedy and His Times*, Houghton Mifflin, Boston.

⁹⁴ *Annual Report of the Attorney General of the United States* (Fiscal Year 1965) Government Printing Office, Washington D.C. pp.162-165. The US received \$207 million (\$1 million was already deducted for sales costs) and Interhandel \$122 million, IG Farben Files, box 2576. Weisl to Senator John G. Tower, 07/05/1968.

⁹⁵ Ibid, Weisl to Senator John G. Tower, 07/05/1968.

With such a significant injection of capital, in the 1970s, the Union Bank of Switzerland emerged as the largest of the big Swiss banks and one of the most important in the world.⁹⁶

Money and Morals

This is a story of money and power, neither of which are frivolous things. The US position was paradoxical, not because the American government didn't know what it wanted from the seizure of GAF but rather because it wanted too much; an Americanized high-tech chemical industry able to dominate the world market. However, successive United States administrations refused to accept that GAF's connection to German technology was what made it important; break that and GAF was a much weaker enterprise. Yet, for reasons of national security, the United States also sought to end those links permanently. In this sense, Americanisation of the company proved a failure. GAF never became the great white hope of American chemistry. Without its links to the German colossus, GAF was always in the invidious position of being a follower rather than a leader. Its prosperity depended on the long world boom, not on exceptional management.⁹⁷ Overtaken by its domestic rivals and by the German industry, by the 1980s GAF had ceased to be a chemical company and was now a specialized roofing enterprise.

For the Swiss the question was simpler, GAF was their property and they would fight for it. By suggesting otherwise, the United States impugned Switzerland's historical neutrality and denigrated her sovereignty.⁹⁸ However, the burgeoning Cold War inevitably altered American attitudes to both Switzerland⁹⁹ and its defeated enemies.¹⁰⁰ Once this was recognised, and by 1949 it was, then GAF should have been only a question of money, which can always be negotiated. What began as a financial stratagem in the 1920s, ended as a question of national prestige and credibility where both sides had different conceptions of the moral high ground. American pride in the Allied victory over Nazism and Swiss resistance to what it saw as US bullying produced a politics of intransigence and gesture, which lasted over two decades. The US fought the case at inordinate length precisely because in 1945 it could not satisfactorily prove its conspiracy thesis. The Swiss had to prove nothing because the limitations of American law made it possible for them to cling tenaciously to their position. However, it was only after the old guard at Interhandel stepped down that settlement was possible.¹⁰¹ Even then it was the Swiss position that altered, not the US.

That any settlement was possible is the direct consequence of Robert Kennedy's pragmatism. Kennedy 'Justice' was 'activist' rather than reactive, with an agenda for change.¹⁰² Solving GAF distracted its men from more important tasks, chief among them Civil Rights and the war against organised crime. The irony is that GAF was already beyond the apogee of its technical capability; from the 1970s onwards, it began its long slide toward its current status as a manufacturer of rubber speciality products; a long way from the expectation that it would be America's 20th century chemical super-corporation.

If Robert Kennedy was guilty of condoning a technocratic solution for GAF, that is in keeping with the mid-twentieth century's predominant ethos: bureaucratic, ordered, non-judgemental. If he chose what Victor Navasky in his book *Kennedy Justice*, terms 'Wall Street' or lawyer values; seeking a settlement that provided the most money to the client, in this case, the American people,¹⁰³ then he was successful. Despite many assertions to the contrary, political factors not economic ones are often the key determinant of issues in democratic societies; doing anything in politics can be difficult, doing the right thing is sometimes nearly impossible.

⁹⁶ UBS *150 years of Banking Tradition*, (2012) Union Bank of Switzerland, Basel, Switzerland, p.24.

⁹⁷ *International Directory of Company Histories Vol 1*. p. 338. Between 1942 and 1965 the Company had 8 Presidents and over 80 directors.

⁹⁸ In 1954, the Swiss Foreign Minister pointed out that the Swiss courts had declared Interhandel untainted by enemy interests. IG Farben Files, boxes 353/354, (Orrick) #2199, Settlement folder: Memo 17/03/1954, Attorney General to Dallas Townsend.

⁹⁹ In defending a settlement, Secretary of State Dean Rusk termed Switzerland 'neutral but not neutralist.' JFK Presidential Library, Orrick papers, Appendix to Orrick Memo 12/12/1963, Rusk to AG, 11/06/1962.

¹⁰⁰ For changing Cold War attitudes to German industry see Volker Berghan, (1990) *The Americanisation of West German Industry*, Berg London, pp. 40-70.

¹⁰¹ *Neue Zürcher Zeitung* (NZZ) 26/11/1957.

¹⁰² Arthur Schlesinger, *op cit.*, pp. 261-316, also interview with Nick Katzenbach, June 1993.

¹⁰³ See Victor Navasky, (1971) *Kennedy Justice*, Scribner, New York.

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