Allied Watch on the Rhine

Article

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ON THE LAST three Thursdays of each month, the US High Commissioner for Germany, John J. McCloy, and his British and French counterparts, General Sir Brian H. Robertson and Andre Francois-Poncet, flanked by a score of their advisers and experts, gather around a large circular table in the softly-lit "Marble Room" of a mountain top hotel overlooking the Rhine. When they open discussion on the first point of their agenda, they set in motion the highest Allied authority in western Germany.

The three high commissioners, their deputies, advisers and more than 100 secretariat personnel of the three countries, form the Allied High Commission for Germany. A complex organization which overflows the five stories of the annex and garage of the Petersberg hotel, the High Commission (HICOM) must consolidate the policies of the three occupying powers with due consideration to the views of the German federal government and the changing conditions in Germany as reported through the field organization of each high commissioner. It must finally produce the Allied legislation and guidance to the German federal and state governments necessary to carrying out the terms of the Occupation Statute.

Symbolic of its supreme authority, High Commission headquarters in the rambling white Petersberg is visible for miles up and down the Rhine valley. From its roof fly the Stars and Stripes, French Tricolour and British Union Jack, with the colors of the high commissioner serving as chairman for the month on the middle staff.

BUILT IN 1886, the Petersberg was formerly an exclusive resort for many distinguished and wealthy travelers of the world. It is now devoted exclusively to tripartite operations. Its bedrooms, lounges and dining rooms have been converted into conference rooms and offices for the high commissioners, their advisers and the Allied General Secretariat staff.

The federal German capital is located a few miles down the river at Bonn, and the area around Bonn and the Petersberg is an international enclave administered jointly by the three Occupation Powers. Each high commissioner maintains a separate headquarters nearby — the British at Wahn a few miles to the north, the French in a former hotel in Dreesen, across the Rhine from the Petersberg, while the Americans have renovated a large residential building in the nearby village of Mehlem.

The meetings of the three high commissioners represent the fruition of Allied policy towards Germany established nearly two years ago in London. In the winter and spring of 1948, the foreign ministers of America, Britain, France and the Benelux countries met in the British capital to decide what should be done about Germany. The country was stagnating economically and creating new financial burdens on the occupying powers. Miserable living conditions were threatening democratic trends which it was hoped would take root in the ruins of the Third Reich.

The principal reason for this dangerous situation was the breakdown of four power control due to Soviet intransigence. The Russians had refused to join with the Western Powers in treating the country as an economic unit; they had balked at currency reform, had turned down proposals for free elections of a new German government, in short, had completely obstructed the movement to unify Germany except under their own terms, which would mean Communist domination of the country.

AT LONDON the foreign ministers agreed, and their governments approved, a new and more constructive policy for at least the two-thirds of Germany which lay outside of the Iron Curtain. It was decided that the three western zones would be unified as a federal republic with a democratic government until such time as a way could be found to bring the eastern zone into the federation. At the same time, to provide security for western Europe, an International Authority was proposed for the Ruhr, industrial heart of Germany, in which the Western Powers, Benelux countries and Federal Republic would participate.

As the first step, a drastic currency reform was effected in the three western zones in June 1948, which gave the economy a tremendous lift toward recovery. This resulted in the blockade of Berlin by the Soviets and the Allied counter-blockade of eastern Germany. While the Anglo-American airlift was defeating Russian efforts to freeze the Western Powers out of Berlin, the western German states convened a constitutional assembly in Bonn. The "Basic Law" or constitution for the federation was drafted during the course of six months and ratified by the German states in the summer of 1949. In August democratic elections were held and on Sept. 21 the government of the Federal Republic of Germany was installed.

On the same date Military Government was ended, the Allied High Commission was activated, and the Occupation Statute came into force. Developed by the three Western Powers while the federal constitution was being drafted, the Occupation Statute became the basic charter for Allied operations in Germany, defining the powers of the Occupation Authorities vis-a-vis those of the federal government. It granted the Germans more independence and responsibility for their own affairs than they had had since the end of the war.

Basically, the statute allows the federal government full authority over all domestic affairs, with a few exceptions in so-called reserved fields, primarily with respect to disarmament, reparations, decartelization and respect for the Basic Law and state constitutions. The Occupation
Powers retain the authority to supervise western German foreign relations, foreign trade and internal economic activities to the extent necessary to assure the best utilization of German resources with a minimum of external assistance.

The High Commission also has the right to disapprove federal or state legislation within 21 days after its transmission to the Occupation Authorities, and to intervene if necessary to preserve security or democratic government or in pursuance of international obligations.

To implement the Occupation Statute, the Allied High Commission is organized to provide for uniform Allied policy in all three zones of western Germany. At its head is the Council, comprised of the three High Commissioners or, in their absence, their deputies, Maj. Gen. George P. Hays (US), Christopher E. Steel (British) and Armand Berard (French).

THE HIGH COMMISSIONERS and their deputies have a rich and varied background in government, diplomacy and German affairs. US High Commissioner McClay was assigned to uncover German responsibility for the famous "Black Tom" explosion during World War I, becoming an authority on German espionage and sabotage. Having served as assistant secretary of war, he came to his position in Germany from the presidency of the World Bank.

General Robertson, Britain's high commissioner, had served as British military governor for Germany for two years prior to his present appointment.

A career diplomat, Mr. Francois-Poncet had been France's ambassador to Germany before the war, now serves as France's highest authority on the High Commission.

From command of the wartime 10th Mountain Division which fought its way up through Italy, General Hays assumed in 1947 the job of deputy military governor under Gen. Lucius D. Clay, and now serves as Deputy US High Commissioner. His British counterpart, Christopher Steel, brings with him a background as British political adviser to SHAPE in 1945, and as political adviser to the British Military Government in 1947. French Deputy High Commissioner Berard is, like his chief, a long-time diplomat who had five years' service in Berlin during the early 1930's.

Beneath the Council are nine permanent tripartite commissioners in the respective fields.

The committee members are automatically directors of the Joint Export-Import Agency until its liquidation.

The Economics Committee, comprised of the economic advisers, observes German economic policies and advises the Council in exercising its reserved powers in this field, including decartelization and deconcentration of German industry.

The three finance advisers form the Finance Committee, which observes German financial policies and advises the Council in exercising its powers under the Occupation Statute in this field.

The Law Committee, comprised of the legal advisers, provides the Council and its committees with advice on legal and judicial affairs arising out of the work of the High Commission.

A Special Committee for the Review of German Legislation (both federal and state) is comprised of representatives of the legal and political staffs of the high commissioners. This committee must review all German legislation in sufficient time so that final action can be taken within 21 days of its receipt from the German authorities. If disapproval is recommended, the Council itself must make the decision.

A NINTH AGENCY, the Military Security Board, handles all matters of demilitarization, disarmament, and prohibitions and limitations on industry and scientific research. This agency, currently located in Berlin, is scheduled to move to Coblenz this spring.

The High Commission charter also provides for the formation of subcommittees and subordinate agencies, usually concerned with more specific fields under the permanent committees.

Currently there are about 25 of these subordinate agencies, such as the Coal and Steel Control Groups which report through the Economics Committee, the Combined Travel Board and an Information and Cultural Affairs Subcommittee under the Political Committee, the Public Safety Subcommittee, the Civil Aviation Board under the General Committee, and so on.

Holding the key to smooth operation of the High Commission is the Allied General Secretariat, a three-power body which receives and dispatches all communications for the High Commission, prepares agendas, keeps minutes, provides briefs and background material to the members of the Council and committees, and acts as the channel of communications between the High Commission, the German federal government, the state commissioners,* and all outside agencies.

The Secretariat consists of the three national secretaries and their staffs. Joseph E. Slater, the US secretary, had previously served as secretary of OMGUS' Economics Division and assistant US secretary with the Allied Control Council in Berlin and also with the UN planning staff. Leo Handley-Derry, the British secretary, had been secretary of the Bizonal Delegation to the OEEC in Paris. Lt. Col. G. P. Glay, the French secretary, had been French secretary with the Allied Control Council.

* The official term is "Land Commissioners," but to avoid confusion with the American word meaning Earth, the German "Land" is translated in this article to "State."
Necessary to exercising efficient and continuous tripartite control of western Germany. Members of the federal cabinet and other German experts are consulted from time to time either formally or informally.

Illustrative of the activity of the Allied High Commission is the fact that 203 meetings took place in the first three months, exclusive of Military Security Board and Secretariat meetings.

In this manner the major Allied policies in Western Germany are established by the High Commission and carried out uniformly throughout the three occupation zones. The zones remain important primarily as areas of responsibility of the respective high commissioners and for the location of occupation troops. Each high commissioner is authorized under the Charter to take unilateral action only in a few reserved fields, such as: maintenance of law and order if German authorities are unable to do so; protection of the prestige and security of the Occupation Forces; operation of Allied courts and care of prisoners sentenced by them. Even in these fields, the high commissioner is required to coordinate his policies in so far as possible with those of the other high commissioners.

Significantly, the High Commission charter states that the High Commission will be represented in each state of the western zones by an Allied state commissioner who shall be solely responsible to the Council for insuring due compliance on the part of the German state authorities with the Council's decisions and directives. In effect, this makes the state commissioner accountable to the Council for all tripartite matters in his state, rather than responsible only to his own high commissioner.

As a further guarantee of uniform tripartite operations in the three zones, each high commissioner is authorized to delegate state observers with small staffs to state commissioners of the other two zones for consultation and advice.

The first few months of Allied High Commission operations have been arduous and difficult. A great amount of Military Government legislation had to be reviewed and extended or dropped; policies under the Occupation Statute had to be defined; new procedures, the authority and responsibilities of the state commissioners, the transfer of most JEIA functions to the federal government, the establishment of occupation costs budget and a host of other problems incident to the development of the new civilian control of Germany confronted the Allied High Commission during its first months.

In addition to the routine current activities there were such important problems as the review of federal and state legislation, the authorization of the federal government to join international organizations; the accreditation of foreign missions; consideration of numerous petitions from the federal government on dismantling and other questions, and so on.

Several particularly urgent problems have also confronted the High Commission which required night sessions and frequent contact with Washington, London and Paris for policy guidance. One of those was the revaluation of the Deutsche mark, and another was the conduct
of negotiations with Dr. Konrad Adenauer, federal chancellor, in carrying out the foreign ministers' agreements in Paris during November. The latter subsequently resulted in the Petersberg Protocol of Nov. 22.

THIS AGREEMENT is a manifestation of the new spirit of occupation policies which is beginning to be felt uniformly throughout the Federal Republic. The old emphasis on restriction and control is now being relaxed and replaced by the positive policy of aiding Germany to earn a respected place among the democratic nations.

In accordance with its pledge, the Federal Republic has now joined the International Authority for the Ruhr. It has agreed to cooperate with the Military Security Board, to liberalize the structure of government and to guard against any revival of totalitarianism. These security guarantees should serve to calm European fears and give the high commissioners greater latitude in aiding Germany's reconstruction and further extending the authority of the federal government.

The Allies are to permit the re-establishment of consular and commercial relations with other nations, and plans are already proceeding for the immediate establishment of such consulates in the United States, the United Kingdom and France.

The participation of Germany in international organizations through which she can contribute to the general welfare are also to be promoted. Already within recent weeks the High Commission has allowed Germany to join the Organization for European Economic Cooperation (OEEC), the European Customs Union Study Group, to attend certain International Labor Organization (ILO) conferences, and to consummate a bilateral agreement on ECA aid with the United States government. Negotiations are also going forward with regard to membership in several other international organizations.

INTERNALLY, MOST of the controls over press, politics, education, labor and economics have been relaxed. After a year the Occupation Statute will be revised to determine what further authority may be extended to the federal government.

When the high commissioners meet in the lofty Petersberg to render decisions and to issue instructions implementing the new constructive policies, they are not conducting an "ivory tower" operation. Through their field officers, state commissions and headquarters staffs, the high commissioners will observe the political and economic progress of the Federal Republic during the coming year. Western Germany must prove its allegiance to democratic principles and its sincerity in contributing to the recovery of Europe.

From the windows of their offices on the second floor of the Petersberg, the three Allied leaders can look down on the broad reaches of the Rhine 1,000 feet below. In effect they have mounted a new watch on the Rhine—a cautious but hopeful watch—with the objective that no military invader or foreign occupier will ever have to maintain vigil here again.

Judicial Powers in Reserved Fields Defined

A new directive has been issued by the Office of the US High Commissioner for Germany further defining judicial powers in reserved fields under Allied High Commission Law No. 13 and allowing German courts jurisdiction over certain types of minor crimes committed by Allied personnel and displaced persons.

The directive, issued as HICOG Staff Announcement No. 73 and signed by Maj. Gen. George P. Hays, deputy US high commissioner, was made retroactive to Jan. 1 and applies to the US Zone and US Sector of Berlin. It, in effect, restores the same jurisdiction to German courts which was granted under Military Government law before the enactment of High Commission Law No. 13.

The announcement specifies that German courts may, in accordance with applicable German law, issue penal orders (Strafbescheide) against American, British and French personnel who are not members of or accredited to the Occupation Forces, and displaced persons or persons with assimilated DP status. Such Allied and displaced persons may have the case transferred to a US Court of the Allied High Commission if they file a petition for such transfer at or before the stage of the proceedings at which, under German law, objections to such penal order may be made.

A penal order is a judgment issued by a court for minor felonies or misdemeanors, such as traffic infractions, petty thievery, etc., and may not exceed a small fine or a short term of confinement. The accused is given a brief period to object to the order and request an oral hearing.

Staff Announcement No. 73 also gives German courts jurisdiction over cases involving offenses against the Allied Forces wherein the maximum penalty would not exceed a fine of DM 150 ($33.70) and confinement of six weeks, as well as cases involving stolen Allied property which is not valued at more than $100 or property damage which does not exceed $100.

In addition, the exercise of the US High Commissioner's power to authorize German courts to take jurisdiction of certain cases involving Allied personnel and to withdraw from German courts cases affecting powers reserved to the Occupation authorities under the Occupation Statute, is delegated to the state commissioners under the directive. This authority must be carried out within the framework of Military Government and HICOG policies established prior to Jan. 1, or instructions to be communicated to the state commissioners.

The Allied Forces, or persons accredited to the High Commission, or to a high commissioner or a commander of any of the Occupation Forces and members of their families, are specifically excluded from jurisdiction of all German courts by law 13, except when specifically authorized by the high commissioner or state commissioners.

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