CHAPTER FIVE

Banking and the Business Class

The emergence of commercial investment banks after the Revolution of 1848 was an institutional breakthrough for modern capitalism and one of the central factors in the accelerated development of the industrial revolution in Germany between 1848 and 1871. The accumulation and mobilization of capital in concentrated and accessible forms was indispensable for undertaking such large-scale projects as railroads, coal mines, and iron works. Long-term promotional loans that enabled entrepreneurs to start up new businesses became an evident necessity in the growth of modern business. As one bank director noted, “Capital, more than water, steam, or electricity, put the machines into motion.” 1 In view of the unprecedented magnitude of capital needed to build railroads, the railroad industry’s need for joint-stock commercial banking was crucial.

Given the immeasurable importance of commercial investment banks for industrialization, the establishment of such banks as the Bank für Handel und Industrie in Darmstadt (hereafter the Darmštädter Bank), the Disconto Gesellschaft, and the Berliner Handelsgesellschaft in the 1850s represented a milestone for the political and socioeconomic aspirations of Prussia’s business class. Economically, investment banks were the catalyst for what we now know as the “industrial take-off,” the attainment of sustained, irreversible economic growth in Germany after 1851. Politically, these institutions were the expression of an assertive middle class, enabling businessmen to practice trade free of government wishes and restrictions. The liberal aspiration for freedom of association and self-administration in commercial and civic affairs was partially realized by the creation of joint-stock commercial banks.

Although German banks have never suffered from a lack of historians, rarely are they studied in a political context. Alfred Krüger, Karl Erich Born, Wilhelm Treue, W. O. Henderson, Richard Tilly, Fritz Seidenzahl, Hans Jaeger, Hubert Kiesewetter, Hans Pohl, and Manfred Pohl have all written extensively about the development of German banking in the 1850s, but most gloss over the political aspects of the story, primarily because they are inter-
ested in questions of continuity in the national economy or the role of the state in industrialization. Surveys of German economic and political history reflect this deficit. Karl Obermann and Helmut Böhme are two exceptions to the trend; both splice together economic and political events for a more integrated argument. Obermann first attempted to ascribe some political meaning to the bank foundings of the 1850s. In orthodox Marxist fashion he argued that the bank openings were the result of the alliance between the bourgeoisie and the crown-aristocracy following the estrangement of the middle classes from the proletariat after 1848. The new joint-stock banks of the 1850s, Obermann argued, formed an essential part of the bourgeoisie’s “compensation” for “recognizing the political power of the king and aristocracy.” By assuming, though not demonstrating, that the Prussian state supported the joint-stock principle to promote the bourgeoisie’s economic needs, Obermann interpreted joint-stock banks as the crucial link between the failed revolution of 1848 and the “revolution from above.”

Böhme, too, ascribed the development of the banks to an alliance between the bourgeoisie and Junkers, thus viewing the bank foundings as an outgrowth of the reactionary period. He sketched how proposed bank reforms in 1848, which intended to serve a more liberal society, emerged in 1849–50 as a banking policy that served the interests of reactionary government. Böhme’s narrative portrayed David Hansemann as the lone champion of progressive economic reforms. Hansemann’s attempt as a government official to charter credit associations for lower middle-class artisans (and thus continue the liberalizing process of the revolution) threatened the monied interests of both the rural and urban elite: “What Hansemann strove for, wealthy businessmen, bankers, and large landholders wanted to hinder.” Thus Böhme argued that because both private bankers and government officials stood to lose economic and political influence with banks independent of state interests and old money, Hansemann became politically isolated. This led to his dismissal as finance minister in 1848 and his resignation as chief director of the Prussian bank in 1851.

Although Böhme’s account of Hansemann’s political struggles with the Prussian government over the course of 1848–51 is instructive, it conveys the mistaken impression that Prussia’s leading businessmen uniformly sided with the Prussian state. Hansemann, however, was neither politically isolated from entrepreneurial elites nor the sole critic of Prussian economic policy. Böhme’s thesis, although seemingly well documented, is less than convincing. In 1851 Gustav Mevissen, a director of the Schaaffhausen’sche and later of the Darmstädter Bank, assisted Hansemann in working out the statutes of his credit bank, the Disconto Gesellschaft, and later asked Hansemann to be president of his Darmstädter Bank. Mevissen and Abraham Oppenheim, two key Rhenish entrepreneurs who were railroad directors as well as bankers, were also being
sued by the trade ministry during this period for their unwillingness to comply with ministerial orders to schedule night trains (see chap. 4). Further, they and other private railroad directors were inclined to disregard government directives to discharge workers connected with the Revolution of 1848, exhibiting a reluctance to cooperate with reactionary policies (see chap. 3). In sum, the argument for an alliance between businessmen and authoritarian government in the postrevolutionary era is flawed and needs modification, for it does not recognize the many frictions between Prussian entrepreneurs and the state.

The bourgeoisie should be recognized as an additional force in Prussian politics; their political ambivalence in the 1850s both defied and accommodated the conservative Prussian government. Having practiced business before 1848 in a bureaucratic-absolutist state that accepted principles of free trade, entrepreneurs of the 1850s learned to use the Prussian bureaucracy and simultaneously practice free enterprise in piecemeal fashion to achieve their interests. Consistent neither as unfailing parliamentarians nor as obedient subjects of the crown, Prussian businessmen were nonetheless resolutely unwavering in attaining bourgeois social and economic needs. And, more important, the ambivalent position of the entrepreneurial class toward authoritarian government expressed a strategy of successful negotiation, not defeatism or compliancy. The banking sector is just one area where the business class adopted a position independent of the crown, one which was tantamount to defiance.

To underscore the element of friction and defiance between the state and the bourgeoisie in Prussia’s banking history, this chapter focuses on an episode that has hitherto failed to be integrated into the secondary literature: a decree (Octroy) drafted and signed by the king and the cabinet on 12 July 1856 to ban commandite banks.10 This decree is the most concrete evidence we have documenting the failed attempt of the Prussian state to control the political and economic power of the business class. The principal businessmen involved in this episode were connected to the railroad industry.

That historians have neglected the decree is somewhat understandable—it was never promulgated. Otto von Manteuffel, the minister-president, opposed the bill on political grounds and worked persistently to block publication of the signed law. Although originally outvoted in the cabinet, Manteuffel quickly undermined the majority position by obtaining a postponement of the law’s promulgation. In late August, Manteuffel convinced the king and cabinet to bury the law permanently and averted what he believed to be a serious misadventure. Yet the successful maneuvers of Manteuffel do not diminish the decree’s significance. Though never put into action, it reveals a crisis within the Prussian government in the summer months of 1856 regarding commercial banking, the control of capital, and the political power that might be derived
from high finance. And it dispels the idea that commandite banks were accepted, if not welcomed, by the Prussian government.\textsuperscript{11} For these reasons this incident deserves analysis, because it illustrates concretely how businessmen confronted government restrictions and how officials reacted to their circumvention.

The decree was the cabinet's reaction to the bold move of David Hanse-mann and Gustav Mevissen, two railroad entrepreneurs who established capital-share investment banks using the commandite principle. Commandite companies were a substitute for joint-stock banks, which the government refused to charter. Inactive or "silent" partners in a commandite contractual relationship were protected with limited liability, while active partners—company directors—were burdened with unlimited liability. Commandite companies also did not possess the legal character of a juridical person; property, for example, could not be bought in the company's name. But not having the legal status of a juridical person brought one great advantage: a commandite company was not a legal corporation and therefore did not require a charter, the mechanism by which the government controlled commercial development. In fact, because Prussian businessmen had used commandite companies infrequently and on a small scale, only two paragraphs in the Rhenish and General law codes addressed the status of such companies.\textsuperscript{12} The establishment and practice of joint-stock companies, in contrast, were carefully prescribed in laws passed in 1838 and 1843.\textsuperscript{13}

Hansemann set the precedent in January 1856 by reorganizing his credit association, the Disconto Gesellschaft, into a commandite bank. A consortium, organized by Gustav Mevissen, followed in July by founding the Berliner Handelsgesellschaft. In the same month, commandite banks were opened in Breslau, Königsberg, and Magdeburg, as well as in Coburg and Hamburg.\textsuperscript{14} The decree expressed the reaction of an angry government regarding these banks which, totaling over forty million thalers in nominal capital,\textsuperscript{15} had no charters from the state yet had been established in full accordance with the law. The lack of a charter requirement meant freedom from government proscription and supervision. Promotional investment banking, heralding a new era in the movement of capital, had arrived in Prussia against the will of the government.

Prussian businessmen resorted to the commandite principle as the last step in a long confrontation with the Prussian government over banking privileges. Banking freedom (Bankfreiheit) had been a point of contention between entrepreneurs and government officials since the 1820s.\textsuperscript{16} The government's tight control on the money supply and its continued refusal to set up more affiliates of the Royal Bank produced a sizable store of ill will among business circles.\textsuperscript{17} In spite of its professed aims to liberalize the economy after 1806-
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13, the Prussian state, with an eye toward its own financial problems, failed to meet the needs of businessmen in leading sectors of the economy in the following decades. Owing to public and internal pressures, some concessions were granted, however slight. In 1846 the Royal Bank of Prussia was transformed into a semipublic central bank of issue; ten million thalers of share capital were added to its reserves, and in 1847 it was renamed the Prussian Bank. An advisory board of shareholders exercised some degree of input, but the state still retained dominant control. The multiple requests for bank reform at the United Diet in 1847 confirmed the continued dissatisfaction of the business class.

During the revolution, the “liberal” cabinet of Camphausen and Hansemann transformed the A. Schaaflhausen'sche Bankverein into the first joint-stock bank in Prussia in August 1848. In March 1848 the imminent collapse of the private bank, whose investments in the Rhineland and Westphalia affected over 170 factories and 40,000 workers, had compelled the government to accept the reform as preferable to further radicalization of the Rhineland. Yet the bank’s low share-capital base (5,187,000 thalers) and its restriction on note issue did not appease Rhenish businessmen. And once the crisis of 1848 abated, the government canceled any plans for further joint-stock charters. The A. Schaaflhausen'sche bank owed its joint-stock status not to a progressive policy shift of the Prussian state but, rather, to the emergency conditions of 1848.

After 1848 the problem became more acute, for it was clear that the twenty-one million thalers of the Prussian Bank, the central bank of issue, were grossly inadequate for the growing economy of Prussia. In 1848 the Camphausen-Hansemann ministry introduced normative statutes (which had been codified in 1846 but never enforced) for banks of issue to issue notes as well as engage in Lombard and discount. Banks in Berlin, Cologne, Magdeburg, Stettin, and Breslau were accorded the privilege, but this did not quell criticism. The maximum on note issue, set at one million thalers per province and at eight million thalers for the entire country, made the reform more cosmetic than meaningful. Moreover, the restrictions on discounting bills and receiving deposits by these banks limited their usefulness; critics claimed it deterred rather than promoted the growth of banks of issue. This de jure “reform” of banks, however, did aid the government in staving off criticism from the Landtag and chambers of commerce and help the Prussian state maintain its mercantilist policy on money supply and private banking. Thus, from businessmen's perspective, Prussian banks at the beginning of the boom business cycle of 1851–57 were woefully undercapitalized.

The refusal to charter joint-stock banks was the most prominent cause of the bourgeois discontent with the Prussian government. Businessmen felt
greatly disadvantaged, for the joint-stock bank, with its capacity to amass and lend capital, was the motor of business expansion. Although government officials dwelled on the problem of note issue, the businessman’s primary concern was credit. Unlike the traditional banks that handled mostly state paper and safe investments in established enterprises, these new banks actively sought to start up businesses and promote underdeveloped branches of commerce and industry. The banks’ principal attraction was floating long-term loans to new companies, but they also gave clients lines of credit, advanced raw materials for production, accepted future consignments of manufactures as collateral, and recognized promissory notes, securities, mortgages, and bonds as legal tender. The Société Général du Crédit Mobilier, the institution set up under the auspices of Napoleon III in 1852, set the standard in promotional banking with its capacity for massive loans, its know-how in the business world, its speculative willingness to start up new companies, and its unprecedented stock dividends. With its capital base of sixty million francs, the Crédit Mobilier was a dramatic breakthrough in commercial finance.25

The example spread quickly to Germany. The first such joint-stock bank to be established on German soil was the Darmstädter Bank für Handel und Industrie, founded by Cologne merchant-bankers Abraham Oppenheim, Wilhelm Ludwig Deichman, Viktor Wendelstadt, and Gustav Mevissen.26 Oppenheim was a charter shareholder in the Crédit Mobilier and was in fact related by marriage to one of its principal owners, Benoît-Fould. With this connection, Oppenheim secured the backing of the Crédit Mobilier to invest in a German counterpart. Because of the hostile behavior of both the Prussian government and the traditional banking houses of Frankfurt, Oppenheim turned to the Grand Duchy of Hesse-Darmstadt, whose government granted him a charter on the provision that the bank raise the capital to complete the Hessian railroad line from Mainz to Aschaffenburg.27 The bank opened for business in April 1853. After an initial rough start (due mostly to the difficulty of placing its shares at a satisfactory quote on German exchanges), the bank soon established itself as a leading industrial investor in Germany. In 1856 it raised 1.6 million gulden for the establishment of joint-stock companies; by 1870, it participated in no fewer than thirty-four major railroad transactions between 1853 and 1870.28 By 1856, sixteen such credit institutions existed in Austria and the German states.

The Prussian government’s response to the Darmstädter Bank’s opening indicated its general position on large-scale joint-stock banking in and outside Prussia for the coming years. Calling the new bank a form of “French propaganda” and its founders “agents” of the French, by whom Cologne was “most endangered,” King Friedrich Wilhelm IV warned his cabinet, “This institution is intended to transfer to Germany the credit swindles that have
raged in Paris to exploit the entire Rhineland, and [it] . . . will have an un-
deniably disadvantageous political influence." 29 In consequence, the cabinet
drafted a diplomatic note to the Hessian government expressing its utmost
disapproval, assured the king that the bank’s plans (as stated in its statutes) to
open branches in Prussia would be stopped, and authorized Heydt to prohibit
any transaction between the Darmstädter and the Schaaffhausen’sche bank,
whose directors included Mevissen and Oppenheim. 30

Undaunted by their government’s dislike of joint-stock credit banks, Prus-
sian businessmen and merchant bankers invested in prominent joint-stock
banks at Leipzig, Dessau, Luxembourg, Karlsruhe, and Vienna—as well as in
other smaller institutions ringing the borders of Prussia. In turn, these banks
did not shy from investing in Prussian enterprises. The Darmstädter Bank, for
example, advanced millions of florins to the Rhenish Railway to complete the
construction of its Rhine lines. 31 Because the official money supply (21 million
thalers) was patently inadequate, these banks provided the welcome stop-gap
measure of feeding the Prussian economy with currency. In return they used
Prussian enterprises for investment and speculation. The Prussian government
responded to this with a law in 1855 that forbade the use of foreign notes under
ten thalers. The law did not produce the desired effect, prompting Heydt and
Bodelschwingh, the trade and finance ministers, to publish an article in the
Staatsanzeiger, the Berlin journal of record, exhorting commercial circles to
cease using foreign money substitutes. Reflecting in retrospect on this effort,
Rudolf Delbrück, a member of Heydt’s ministry, wrote, “Voluntary help from
the commercial estate [Handelsstand] regarding foreign notes was not to be
counted on, for its most influential members themselves were founders and
directors of these foreign banks.” 32 (Delbrück failed to note, however, that
he and other top officials had also invested in Darmstädter bonds.) 33 Conse-
quently, another law was introduced in 1857 that extended the ban to all for-
eign currency. 34

By 1856, joint-stock credit institutions had been erected in all corners of
the Continent. Their influence extended from “the plains of Castile to the val-
ley of the Danube, from London to Constantinople and from Moscow to Tri-
este.” 35 Even the ultra-conservative Habsburg government consented to the
Credit-Anstalt in 1855. The trend toward joint-stock banks seemed irrevers-
able, and Prussian businessmen believed that their government would eventu-
ally capitulate and recognize such institutions as indispensable to industrial-
ization and economic growth.

In February 1856 two prestigious consortiums petitioned the government
to permit the chartering of joint-stock credit institutions. The simultaneity
of the petitions was not coincidental; they were part of a larger European
struggle between the upstart Crédit Mobilier and the Rothschilds vying for
supremacy in the years 1852–56. Waged first in Madrid and Vienna, the battle then shifted to Berlin. Mevissen, Oppenheim, Mendelssohn, and the Cré­dit Mobilier headed the first project, the “Prussian Credit Institute for the Promotion of Agriculture, Trade, and Industry,” and proposed a base capital of thirty million thalers with the expectation of raising it to fifty million. The Rothschild House, P. L. Ravené, and Gerson Bleichröder backed the second project, the “Prussian Society for the Advancement of Commercial and Agricultural Industry,” and requested twenty-four million thalers as an initial capital base with the option to expand to eighty million.

Submitted within four days of one another, these two proposals—because of the magnitude of the propositions, the prestige of their proponents, and the public attention they received—stirred the government to reconsider its stance on joint-stock commercial banking in Prussia. The petitions noted that the country was in danger of falling behind France and Austria in the tempo of industrialization but stressed that investments in agriculture in the eastern provinces were the banks’ first concern. To underscore the latter point, prominent aristocrats not only signed the petitions but also agreed to sit on the board of directors. The Erbprinz zu Bentheim was featured in the Rothschild petition, while the Herzog von Ratibor, Graf von Redern, Graf von Arnim-Boitzenberg, Graf von Solms-Baruth, Graf von Keyserling, and the Furst von Hohenlohe-Öhringen lent their names to the Mevissen proposal.

A two-month ministerial debate ensued on whether the charters should be granted. The debate divided the cabinet into camps supporting and opposing the enterprises. The argument for approval came chiefly from Heydt and Marcus Niebuhr, an adviser in the king’s Privy Council. Their memoranda argued that rigid opposition to promotional banking was no longer a viable option. Blanket condemnation of joint-stock banking, Heydt maintained, had not enabled the government to control commercial and industrial investment. Moreover, this policy was out of step with rapid expansion in recent years. Fully aware that the government’s railroad funds were already overextended for the coming years and that the Prussian Bank and the Seehandlung did not possess the capacity to service the existing enterprises in Prussia, Heydt reluctantly recognized the desirability of more joint-stock banks. Although in public the trade minister held firm to the government’s restrictive position, he began around 1855 to question the policy in government memoranda. He stated that the government should return to the philosophy embodied in the bank reform of 1846, which worked toward a compromise between private banking and state control. After 1848, Heydt noted, the government had become “frightened in following the newly embarked course.”

Niebuhr advanced a stronger argument by asserting that the government “no longer has a free choice with this charter.” Prussia’s restrictions on do-
mestic banks had encouraged joint-stock banks in neighboring Dessau, Brunswick, Rostow, Weimar, Gera, Thuringia, and Darmstadt (two), and now a rejection of a credit company would produce “more than one on our borders. This would be far worse than allowing one within the country, because a border crédit mobilier would draw all its business from Prussia and simultaneously be free of all government control.”

In pleading for a joint-stock investment bank, neither Niebuhr nor Heydt sought to abandon the state’s philosophy on controlling finance and the use of capital. (Niebuhr, an early protégé of Ludwig von Gerlach, was part of the ultra-conservative Kreuzzeitung circle.) Instead, they argued that new conditions required a change in tactics to meet this end. Introducing joint-stock banking to Berlin would diminish the business of foreign border banks and allow the state to exercise greater control over financial affairs. Heydt conceded that these banks would influence Prussian business whether or not they had their seats in Prussia; hence the state should garner what control it could.

Actually the proposals came at an opportune time to dovetail with other planned changes by the government. In May 1856 Heydt and Bodelschwingh increased the note issue of the Prussian Bank more than threefold, from twenty-one to seventy-one million thalers, in an effort to reassert the state’s control over the economy and permit the government to ban all foreign currency. Allowing a major credit institution to operate in Berlin would enhance the plan, for it would use government notes and stand under the trade ministry’s supervision. He proposed that rewording the statutes in more restrictive terms to prohibit activities outside of Prussia and limiting the type of enterprises funded in the country would preempt the major dangers. With such arguments, it was clear that Heydt and Niebuhr did not ground their advocacy of the charters in the liberal doctrines of self-administration and economic freedom. Firm advocates of a bureaucratically controlled economy, the two government officials saw the charter as a way for the state to guarantee “a long-lasting and influential intervention.”

The tactic, however, did not sit well with the minister of the interior, the minister of agriculture, and the directors of the Prussian Bank, who together formed a bulwark against the new charters. Heydt had perhaps anticipated their opposition, for he appealed to the king for his consent without a cabinet vote. All three parties protested this action, stating that these charters touched on their spheres of administration and therefore required a cabinet vote. In consequence, they submitted written rejections. The Prussian Bank directors disclaimed any need for new credit banks. The enormous economic growth in the last five years hardly bespoke of lethargy or the danger of being outstripped by France and Austria, the report stated. On the contrary, the bank directors warned Heydt of too much activity and drew a parallel between the
current speculative fever and the financial panic of 1844. Moreover, they saw no guarantee that the bank’s capital would flow to agriculture instead of commerce and industry. Not least, they objected to the Prussian Bank’s potential loss of status as the primary instrument for shaping the domestic financial market and controlling the interest rates.\textsuperscript{43}

Minister of Agriculture Karl von Manteuffel also argued that a private institution would eclipse the power of the state bank and thus limit the freedom of the government to make decisions. For the state to be beholden to such an institution for loans would be regrettable.\textsuperscript{44} Yet Manteuffel undercut his own position with the admission that, if the government was predisposed to permit such banks, he favored chartering not one but both banks. In this way the “government can avoid the accusation that it chose one company over another without sufficient justification.”\textsuperscript{45} This fear of adverse public reaction suggests the extent to which potential public pressure affected even the most arch-conservative members of Otto von Manteuffel’s government.

The forceful rejection of the charter came from Ferdinand von Westphalen, the minister of the interior, whose criticisms were clustered around the two interconnected themes of economics and politics. The economic objections centered mostly on the minister’s belief that the proposed institutions’ primary aim was to pursue stock speculation. As evidence he cited the intention of the Rothschild consortium to reserve eighteen of the twenty-four million thalers in stock for the bank’s ownership, including eight million for Rothschild alone. A liability of such large dimensions, he argued, would strengthen an already overly strong hand and invite rash and risky speculations.\textsuperscript{46} The sole interest in quick profits was apparent in the stocks of crédit mobiliers, whose volatility could only be attributed to deliberate manipulation.\textsuperscript{47} And, he continued, credit institutes in Berlin would be no different. “Among the founders of the Prussian Credit Institute are people whose connection with the Darmstädter Bank is notorious; and among the promoters of the other company are founders of the crédit mobilier in Vienna. The businesses of both institutions and their stockholders have until now merely been active in unsolid enterprises and stock-jobbing.”\textsuperscript{48} He dismissed as farcical the petitioners’ assertion that the banks would make a “solid contribution” to the economy.

The minister’s political objections addressed the potential power that would accrue to the credit institutions and the corresponding loss of power to the state and the Junker class. Initially Westphalen criticized joint-stock banks as injurious to the moral well-being (Sittlichkeit) of the lower classes and to the benevolent, nonpartisan status of the state, but the actual reason for rejecting such banks lay in their deleterious effect on the Junker class. He remonstrated that the recent new stocks were devaluing state paper, above all the mortgage bonds (Pfandbriefe) issued by the Kurmark, Neumark, and
Pommeranian Landschaften, the land banks (first established by Frederick the Great after the Silesian wars) that had become the financial bulwark of the Prussian landed nobility.\textsuperscript{49} Whereas these bonds held bravely at par through the financial panic of 1846 and the revolution, their market value fell 2 to 3 percent in the bull market of the 1850s. Speculation, he maintained, explained the low quotes; there were too many new industrial and commercial securities promising lucrative, short-term profits that overshadowed the older, more stable equities. The slackened growth of the provincial mortgage bonds in the 1850s was cause for alarm.\textsuperscript{50} The sluggish trend endangered the viability of a newly established agricultural institution in Posen and, overall, might force landowners to resort to normal mortgages as a substitute. "The worth of these bond mortgages," he reminded Heydt, "is that they cannot be called in and make ownership of land a stable, conservative element."\textsuperscript{51} More directly, Westphalen stated, "The credit of the larger landowners . . . rests in the credits of these agricultural institutions and in the worth of the bonds they issue."\textsuperscript{52} Westphalen feared an expanded stock exchange that would drain capital out of land banks. To invite promotional banking to Berlin was tantamount to shutting off investment in agriculture.

In his first written opinion, Westphalen suggested not an outright rejection but two major revisions. First, the two proposed institutions were to be amalgamated and the base capital reduced from thirty to ten or twelve million thalers. Second, the securities should be issued not as common stock with fluctuating dividends but, rather, with a fixed dividend, much like a bond or a preferred stock.\textsuperscript{53} The offer of a compromise might have been nothing more than a tactic, for the two consortiums would not have accepted such conditions. Two days later, however, Westphalen retracted the proposal in a brief final Votum and flatly opposed approval of both charters.\textsuperscript{54} Nonetheless, the reluctant spirit of compromise displayed by both Westphalen and Manteuffel merits interest: even the most conservative members of Friedrich Wilhelm's government were resigned to some form of modernization, as long as the state possessed preeminent control. On this dictum the whole cabinet could agree.

Of central importance was the position of the king, who was initially inclined to support the projects in some form. On 11 March he wrote Heydt, "I have decided to demand either the merger of both companies or to confirm one of the two."\textsuperscript{55} Confident of approval, Heydt had already opened negotiations for a merger of the two credit institutions.\textsuperscript{56} But the king, troubled by the various arguments mounted by the conservative side, wavered and finally decided to support the ministerial vote on 26 March 1856 that ended in defeat for any kind of reform. The cabinet's recommendation to the king to reject both charters summed up the arguments of Karl von Manteuffel, Westphalen, and the Prussian Bank, and the king accepted and authorized the rejection of
both charter petitions. The report drew attention to the danger of neutralizing the aims of the Prussian Bank, of unwarranted stock speculation, and of threatening the stability of railroads and agriculture. Lamprecht, the Prussian Bank director, stressed the possibility of an impending money crisis on the international market and the need for Prussia to act prudently. The attempt of the merchant class to modify Prussia's banking system with the cooperation of the government had failed.

The refusal to charter joint-stock banks proposed by the two most prestigious banking circles in Germany sent a powerful signal to the Prussian business class, and it was this decision that most likely convinced financiers of the need to employ the commandite principle. Trade Minister Heydt drew this connection in a memorandum to the Privy Council, stating that "for reasons of an objectionable nature, many big Berlin bankers have prepared an enterprise [Berliner Handelsgesellschaft] that has not yet been made public in which the rejected joint-stock crédit mobilier will be established as a commandite company." The connection was also evident in the identity of the founders of the Berliner Handelsgesellschaft. Most had been backers of the two joint-stock proposals. In March 1853, Mevissen, who helped organize the consortium, wrote: "We are patronized by Berlin in one letter after the other in a manner of which I do not at all approve. The gentlemen in Berlin, who are entirely ignorant of finances, want to give us special directions, draw balances, etc. If that continues for long, I will seriously consider the idea of transforming the [A. Schaaffhausen'sche] Bankverein into a commandite company and double its capital." Mevissen, then, had long toyed with the option of a commandite company as a counterstroke to government obstinacy and saw the need for the commandite principle after the government's reaffirmation of its refusal to charter joint-stock banks.

In 1856 the commandite principle, hitherto applied to small firms involving one entrepreneur (unlimited liability) and a few dozen notables (limited liability), was now used to found large companies with a wide ownership. By using the legal status of a trading company, which, because unincorporated, fell outside legal restrictions imposed on joint-stock companies, directors of a commandite company could acquire investment capital from "inactive partners" not unlike the directors of a joint-stock company. In effect, such a company was no longer a genuine commandite association but, rather, a commandite joint-stock company (Kommanditgesellschaft auf Aktien): a distinction that enabled financiers to mobilize capital and split it up in shares, while simultaneously avoiding government supervision.

The loophole was worked out by degrees. David Hansemann first employed the strategy in 1851 soon after resigning the directorship of the Prussian Bank. While still director he petitioned the government in 1849 for a charter
to start the Berlin Credit-Gesellschaft, a credit bank designed to aid craftsmen and shopkeepers in Berlin during business slumps. In 1848 the Belgian government had responded to the scarcity of money by creating the Union du Crédit in Brussels, and Hansemann proposed a similar institution in the Prussian capital. After a delay of eleven months the government refused Hansemann’s request. The refusal angered Hansemann greatly and was one of several incidents that prompted his resignation from office.\(^6^1\) Once a private businessman, he pursued the idea further and realized that the law allowed him to operate a credit bank if the statutes were established along the lines of a trading company \((\text{Handelsgesellschaft})\), a form of association that did not require a government license.\(^6^2\) In October 1851 the Disconto Gesellschaft began business. The government treated Hansemann’s maneuver with disdain; the Prussian Bank refused to discount any bills of the Disconto Gesellschaft or otherwise recognize it as a financial institution.\(^6^3\)

The credit company’s initial reserves of approximately 500,000 thalers did not threaten the government’s bank policy, and, moreover, its statutes forbade speculation with securities or promotional investment. Hansemann’s idea in January 1856, however, was to reorganize his credit company into a share-capital commandite company and to issue stock in two series totaling ten million thalers—an elasticized application of the limited partnerships. Having had a charter rejected as a high-ranking government official and having subsequently experienced mixed relations with the trade ministry, Hansemann did not apply for a charter to issue public shares. His willingness to accept the risk of unlimited liability was motivated by the need to bypass the petitioning process.\(^6^4\) Within days the stock was privately subscribed and Prussia’s largest private bank (in respect to capital) was launched.\(^6^5\) The bank’s success in attracting investment capital ensured its long-term viability and became the precedent for widespread use of the commandite principle.\(^6^6\) The bank, however, only became a lodestar for other bankers in the spring of 1856 after the government turned down the two bids to bring joint-stock banking to Prussia.

Forewarned by Hansemann of the statute changes,\(^6^7\) Heydt did not attempt to forestall it. Most likely he tolerated it because he had to—there was little the trade ministry could do legally to block it. Tacitly, the government granted Hansemann a privilege, earned perhaps through a conservative and sensible banking practice in its first five years.\(^6^8\) Heydt should have been more concerned about the second statute change in November 1856, when the Disconto Gesellschaft partners empowered its directors to speculate with its reserves on the stock market and promote new businesses. But again the minister and cabinet did not react. By its failure to check the changes inaugurated by the Disconto Gesellschaft and by its continued rejection of joint-stock charters, the government opened the way for investors to follow Hansemann’s
lead. "The Hansemann'sche Disconto Gesellschaft," wrote Heydt, "has, as is well known, opened up the escalation of large joint-stock commandite companies... this has had the necessary consequence that every enterprise which shies from a government license for joint-stock status appears as a commandite company." 69

Reacting to rumors of imminent commandite bank openings, the king asked the cabinet to convene and discuss the advisability of outlawing commandite banks. The cabinet met on 1 July. Unable to reach a unanimous decision, the report to the king contained a majority vote and a dissenting opinion. The majority decision, led by Heydt, Westphalen, and Bodelschwingh, supported the idea of imposing a regulation on the crypto joint-stock banks. These ministers recognized "justifiable objections," namely, doubts about the constitutionality of the decree, and consequently recommended immediate action—a provisional decree, allowing the Landtag's subsequent approval. The founding of a few large-scale commandite banks compelled the state to establish new regulations. The decree must distinguish between normal, small-scale commandite companies, deemed to be a healthy component of the economy, and the newer stock-issuing commandite companies, whose emergence was clearly a circumvention of the commercial code. Hence the report recommended that the decree restrict the number of silent partners to 100, ban transferable shares (thus canceling their attraction for the bourse), and institute bureaucratic controls to supervise all new commandite companies. 70

Otto and Karl von Manteuffel mounted the dissenting opinion. These ministers did not believe that "an emergency situation was at hand" justifying "a deep invasion" into the rights of business enterprises. 71 Without denying the negative aspects of these banks, the Manteuffels maintained that such "outgrowths cannot at all be avoided, if one does not want to destroy simultaneously the healthy development" of business in Prussia. 72 Such "aggressive intervention" (gewaltsame Eingreifen) against commandite companies would prevent undesirable companies but would also hinder the establishment of "solid and useful enterprises." 73 The cure, they argued, was not to be found in government intervention but in the market; speculators would soon learn not to invest in unsound enterprises. Finally, the two ministers claimed that such an ordinance did not justify departing from the normal legislative process. 74

Outnumbered in the cabinet, Otto von Manteuffel sought to assert his will by telegraphing additional appeals to the king's councilors. Writing from the Hague on 8 July, Manteuffel sent a long telegram to Privy Councilor Illaire, an influential adviser attending the king during his cure in Marienbad. He announced that two new commandite companies had been founded, but their moderate reception by the market confirmed his opinion that the Berlin public was "coming to its senses by itself." In view of the imminent decree, Manteuff-
fel questioned whether these companies should receive the same privileged status as Hansemann's company or whether Hansemann should be denied the privilege as well. The legal questions were unclear and he believed that the problem would best be solved by leaving it alone. Heydt, Manteuffel wrote, "favors decisive intervention, but I see neither a legal nor a political reason why the government alone should take on itself the odium of adopting an aggressive measure instead of sharing it with the Landtag." The argument failed to convince the king and the decree on commandite companies was drafted and signed on 12 July.

On the following day Manteuffel sent another telegram to Illaire exhorting the king to delay publication of the decree. He argued that the legality of the measure was "at the very least dubious." The constitution's article 63 granted the crown the power to rule by decree only in times of emergency. It was difficult to argue that an emergency existed. The decree, he wrote, "is impractical and therefore impolitic." A law severely restricting commandite companies, he reiterated, had to be reached in agreement with the Landtag, which would most likely approve the measure. Arbitrary intervention with a decree, on the other hand, would only alienate those parties in support of the government's position, for the means were too questionable. The larger public would disapprove of the decree, argued Manteuffel, because it appeared to favor the "Capitals-Aristocratie"; moreover, the public would recognize that to restrict competition would increase interest rates. Only the established commandite companies would approve.

Manteuffel's opposition to the decree was grounded more in his government's fragile relationship with the House of Deputies than in a principled regard for the constitution, which he saw fit to alter on numerous other occasions. Banking policy had been an issue in the lower house during the 1850s and one that aroused strong opposition. Friedrich Harkort, citing the "insufficiency of the Prussian [state's] credit organization," called in February 1851 for a twenty-one member commission to examine the government's competency to meet the country's growing banking needs. Although the government contested the right of the lower chamber to occasion a formal inquiry as an unjustifiable expression of mistrust, the commission and three subcommittees were nonetheless formed in April 1851. The committee's massive report to parliament a year later raised several problems. It criticized the government's reluctance to issue small loans to artisans; the restricted money supply, especially the eight-million thaler ceiling on notes issued by the provincial banks of issue, which impeded growth and encouraged the inordinate import of foreign currency; and, finally, the government's unwillingness to lift the restrictions on joint-stock banks in Prussia. In particular, the commission faulted the government's rejection of Hansemann's credit bank. The commis-
sion recognized the government's right to oversee general banking practices and to prohibit the circulation of foreign currency but concluded that the credit needs of an entire land could not be met by one state bank. Prussia's banking system, it concluded, must be reformed. In subsequent debate on the report during May 1852, the Landtag rejected both the commission's draft for a bill and its own reworked bill. Harkort submitted a new bill in February 1856, which underwent intense debate but was dropped in April. In spite of the liberals' failure to bring about a new law, it was generally recognized that Prussia needed reform. To have promulgated the decree three months after the government had narrowly defeated a reform bill would have been politically unwise. The government's economic policy and its reputation as the Zollverein's leader would have suffered, as would Manteuffel's attempt to steer a course between the Camarilla's reactionary neoabsolutism and the democratic parliamentarism of 1848.

The minister-president's second telegram warning the Privy Council to take heed of the parliament and public opinion had its intended effect: the king began to doubt. Unable to make the final decision, he ordered on 14 July that the decree's publication be delayed until further counsel with the minister-president and his cabinet. Between sojourns in the Hague and his estate in Lausitz, Manteuffel returned to Berlin and submitted another recommendation (18 July) that the decree be abandoned. Two additional commandite companies in Berlin were now in business, he noted, and the decree's efficacy was all the more diminished. The cabinet had met to discuss the issue, he reported, but only two ministers were in town, Minister of Interior Westphalen and Minister of War Waldersee. Both thought it wiser to delay the final decision until their colleagues returned.

Westphalen, however, recognized Manteuffel's delaying tactic and saw an opportunity to thwart it. When the minister-president left Berlin three days later, Westphalen submitted a memorandum directly to the king. With diffuse moral arguments he implored the king to publish the decree. The minister asserted that the new commandite companies were speculating in grain, driving up prices already elevated by the forecast of a bad harvest. Their price gouging endangered the welfare of the poor, the "less well-off classes of the population," and especially "the minimally paid civil servants." The stock-jobbing of these companies furthermore harmed the general welfare by attracting capital for quick profits and not for useful investment. "They are nothing more than a means of circumventing the existing restrictive laws on joint-stock companies, and therefore I must believe that the enactment of the ordinance is fully justified."

Heydt, too, attempted to counterbalance Manteuffel's efforts by sending one of his top aides in the trade ministry, Rudolf Delbrück, to Marienbad to
persuade the king of the decree’s necessity. “The matter,” wrote Delbrück in his memoirs, “did not belong to my jurisdiction, rather to Herr Hoene’s, but my minister believed that I, because favorably received by the king, would be able to exert some influence on the decision.” Although the king had in principle no objection to the decree, “for he despised anything resembling stock swindles,” Delbrück noted, Friedrich Wilhelm hesitated to oppose his minister-president. After three days Delbrück left the spa with the postponement of the decree’s proclamation still in effect. The king wished that the decree, technically a law since 12 July, be reviewed again by the cabinet before its promulgation.

By the time the cabinet congregated on 19 August to submit an opinion to the king, the situation had changed enough to force a shift toward Manteuffel’s position. Five commandite companies had been established in Prussia (two in Berlin, three others in Breslau, Magdeburg, and Königsberg), thus rendering the decree, in practical terms, useless. The original intention had been to prevent companies that had been denied corporate status from establishing themselves in some other form. Although the decree would prevent future companies from reorganizing as commandite banks, the damage already incurred by the recent company start-ups had greatly reduced the efficacy of the decree. The opinion concluded that it was not worthwhile to depart from the normal legislative process, for the “aim has been thwarted.”

The cabinet opinion, however, took particular notice of the persisting division of opinion: collegial unanimity did not exist. All ministers save the two Manteuffels recognized the legitimacy and legality of the king’s decree and refused to concede to the minority opinion that it was “neither political nor constitutional.” And yet the cabinet recommended that the decree be abandoned for purely pragmatic reasons. To avoid further discussion on constitutional and legal questions, the majority agreed to forgo a second vote and acquiesced in the minority position. In return the minority surrendered the right to elaborate its position in writing. The waiver was a magnanimous gesture that swept the legal and political issues under the carpet, emphasizing instead the decision’s practical side. Having received his wish to drop the decree, Manteuffel avoided rubbing salt in the wounds of royal prerogative and ministerial authority.

Manteuffel’s victory translated into a silent, grudging consent to commandite banks and companies. With the decree formally buried, the government took no action, issued no statement. The lack of reaction did not go unnoticed. Mevissen, for example, both publicly and privately pointed up the government’s hypocrisy in rejecting the petitions of the credit institutions yet allowing the Berliner Handelsgesellschaft to form as a commandite bank with no difficulty whatsoever. The Bremer Handelsblatt echoed this complaint.
To the public the government presented a fitful, contradictory policy that was logically indefensible. Behind the scenes, however, the government's effort to be consistent in its banking policy was frustrated by quick-acting businessmen, a potentially troublesome Landtag, and Manteuffel's delaying tactic.

The incident of the abandoned decree is important chiefly because it documents a vital stage in the decline of the government's power to control and direct the Prussian economy. During the same decade that witnessed the Prussian government's abandonment of the direction principle in the coal and iron industry, it grudgingly relinquished to private enterprise its authority to channel and restrict the availability of credit for industrial expansion. The Prussian government opposed the establishment of commandite banks in Prussia and resented entrepreneurs who evaded their control over banking and finance. Clearly the relationship between the government and business class was not one of "alliance."

Later, the Darmstädter Bank, Disconto Gesellschaft, and Berliner Handelsgesellschaft became financial pillars for the Prussian-German state. But they were founded in a circumventive, rebellious operation, launched in the face of governmental opposition. The economic recession of 1857 drastically curtailed the program of promotional underwriting that these banks envisioned; it forced them to retreat for a while from the large-scale, company promotion that the government had feared. After 1859 these banks participated in the "Prussian Consortium," which found it profitable to float government bond issues that financed the wars of German unification. Their later relationship to the government is not descriptive of the time of their origin.

These frictions in business-government relations during the 1850s raise questions about the validity of attempts to explain the ruling establishment in Prussia during 1848-66 as an unholy alliance or unhealthy symbiosis between capital and authoritarian government. In such vital areas as banking the relationship was hardly conflict free. Clearly the politics of the Prussian business class were more complex than has been generally assumed. The story of the suppressed decree of 1856 shows that the progress of industrial capitalism in this critical decade was not the result of cooperation between officials and entrepreneurs. The archives reveal the contrary. The business community had to oppose and outmaneuver the government in order to further its vital interests.

The crisis over commandite banks, furthermore, should not be consigned merely to economic or banking history. The alacrity with which the king and the cabinet resorted to a decree shows that bank openings had political overtones. The decree poses the question why the king and his cabinet felt such urgency to bypass the Landtag on a commercial matter. Royal commands were provided for in the 1850 constitution (the "Notenverodnungsrecht" in
article 63) but only for emergency situations—and the opening of commandite banks hardly constituted a state emergency. The move to unconstitutional executive action underscores the perceived threat of the business class's operations and the growing frustration of the government in its effort to harness the influence of this group. The incident demonstrates that the government did not always grant economic concessions to ensure the quiescence of the business class. More crucially, this instance contradicts the binary paradigm of economic concession versus political reform. The Prussian government perceived this particular economic reform as a political issue. Friedrich Wilhelm and the ministers Westphalen, Karl von Manteuffel, and Heydt objected to bank reform on grounds that were partially political. The king attributed the demand for credit banks to an insidious French influence; the ministers Westphalen and K. von Manteuffel believed bourgeois self-administration in banking would expand capitalism and destabilize the traditional social order; and Heydt rejected the change because it threatened his capacity to determine how industrial growth should serve state interests. The government documents bearing on this issue show no clear separation between economic and political spheres.

Minister-President Otto von Manteuffel also viewed the problem in political terms, albeit differently from his cabinet members. Manteuffel, usually characterized as the architect of reactionary state policies, emerged as the unlikely defender of bourgeois interests. His support is largely attributed to the role the Prussian parliament played in Manteuffel's policies in the 1850s, a role that has not yet been fully appreciated. His defense of commandite banks was part of a greater strategy for maintaining his brand of bureaucratic absolutism, which needed the constitution and a body of elected deputies as an essential counterbalance to check the patriarchal conservatism of the Junker class—most visibly embodied in the Camarilla. For this reason he chose to tolerate commandite banks rather than unduly injure his status in parliament by forbidding them. Although this decision was unpopular with his cabinet, Manteuffel recognized that a royal decree on banking practice would greatly harm his relations with the lower house by revealing too starkly its impotence under the constitution. Manteuffel's political strategy had, however, a double-edged quality; to neutralize the ultraconservative right as well as the democratic left, his government was required to concede undesirable measures to the moderate liberals of the center. The influence of public opinion and the presence of the Landtag—albeit indirect—had grown more powerful. Manteuffel's repeated references to the decree's unconstitutionality and the adverse impact it would have on public opinion and in parliament reveal the silent pressure of business interests on his policy. For this reason, his protestations that the decree was a "deep invasion into the rights of businessmen" rang true.
No longer could the crown impose its will without considering how the business class would react. In other words, the Rechtsstaat and the parliament possessed some genuine worth. That parliamentary commission reports, chamber of commerce protests, and newspaper articles could affect government policy reveals an erosion in the state’s autocratic power over the economy.

In this respect the question of agency is of central importance. The party exhibiting instrumentality, demonstrating action, and exerting power was the middle class and not Prussian state officials. The business class introduced modern banking to Prussia in spite of and not through the government. The increased accessibility to capital in northern Germany resulted from a shrewd evasion of government controls by businessmen who wrested rather than received reforms from the government. That reform was hard-earned and achieved in spite of official resistance enhanced the bourgeois belief in the inevitability of political progress.

Although the transformation of governing authority from bureaucratic control to a negotiated consensus between government and a broader range of elite groups was a gradual process over the course of the 1850s, the decree of 1856 presents a concrete instance in which to view the change. This example of assertive middle-class evasion of state control gathers greater significance when placed in the larger context of Prussian political culture in the 1850s. Providing new reference points to examine how the bourgeois class interacted with an authoritarian government in the 1850s (and vice versa) will enable us to reconstruct and understand a political style that was neither democratic nor defeatist. If the construct of German exceptionalism is to have any application to the 1850s, it should presuppose an active, assertive bourgeois class willing to resist the government and successfully affect the decision-making process. Deficiencies and omissions of the bourgeoisie do not explain the middle-class disregard for parliamentarism, but rather the success such groups as the business class had in the 1850s in attaining material and social goals that weakened the need for democratic procedures. The July decree was one of the last attempts of the Prussian crown to assert its will arbitrarily in the marketplace. Its repression provides a sharp illustration of the latent power in the capital and commercial networks of the business class. It allows us to understand how the business class accrued more influence in the Prussian ministries and why the business class became particularly successful in arranging its terms with the Prussian state on a more favorable basis.