

IN the past 56 hours, two incidents of Washington have occurred which will let a good deal of light into the black chambers of Government for those willing to learn.

The first of these was the declaration by Secretary of the Treasury Henry Morgenthau that he favors limiting the profits of enterprise in the U.S.A. to 6 per cent per annum on invested capital.

The second was a press conference called by Thurman Arnold, Assistant Attorney General in charge of antitrust matters, to defend the manner in which the Department of Justice has settled a criminal antitrust charge against Sterling Products, Inc., a holding company for several drug manufacturers.

MR. MORGENTHAU'S talk about taxing 100 per cent of the profits of a company above six per cent of the invested capital may be good in the headlines to make the poor people of the U. S. A. think they aren't going to pay for this war, but it looks like something else under the analytical eye.

There are many companies in this country so set up they couldn't operate under such a limitation. Would it help defense to bankrupt these and send their employes on the street along with all the salesmen and workers now being let off because their companies can't get materials to make into finished products?

Would it even be fair?

CONSIDER, for instance, Tommy Corcoran. All that hullabaloo at the Department of Justice yesterday stemmed from the fact that Sterling Products, Inc., hired Tommy Corcoran and another New Dealer, John Cahill, as counsel.

Corcoran opened his campaign to get a favorable settlement for Sterling Products, Inc., by letting it be known he was to be made Solicitor General just as soon as Mr. Francis Biddle, then Solicitor General, was moved up to Attorney General.

The inference was plain enough, and still is. You are a shiny-pants bureaucrat trying to do a fair day's work and ordered to buck a fellow who once in effect carried the Great Seal of the United States around in his hip pocket. Would you put the screws down tight, especially if he was having his and your friends remind you he would soon be back on the job?

Thurman Arnold, yesterday, said that Corcoran's client "got just what Bausch & Lomb got," and that was an opportunity to stand up in court without trial and accept fines without jury trial of the evidence.

It is true that Sterling Products and Bausch & Lomb (the famous optical goods company) were both released on consent decree footing after fines and pleas that they would "not con-



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test" the Government's charges. Two horses may each have four legs, but that doesn't make them equal horses.

IN THE case of Bausch & Lomb, the Government was rough, tough and it spit in everybody's eye. There was a great blare of publicity when subpoenas were issued, and every newspaperman in Washington knows the antitrust division took special pains to see that the story of the case "leaked" like a sieve.

Bausch & Lomb was terrorized, and it should have been.

A grand jury was summoned and evidence submitted in such a way that when the Government and the company finally agreed on a consent decree policy the jurors were furious that the case was halted without trial in open court. Some of them still talk about it. The discipline was so severe the Department of Justice ever after has threatened stubborn defendants with the phrase, "Bausch & Lomb," so as to say "if you fellows don't behave we'll have to Bausch & Lomb you." And that's all right, too, when deserved.

BUT how was the Sterling Products case handled?

When subpoenas were issued, the Department of Justice was just as backward as it had been forward. It is a fact that Corcoran blasted eardrums all over the place when the story did escape—as stories always do—and a part of it reached print, though not the fact that his brother was an officer of one of the defendant companies. Had Bausch & Lomb been over that barrel!—Oh boy!

Furthermore, the lid was on from that moment, and not a

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"leak" of the type that had so terrified Bausch & Lomb could be had. Instead, Corcoran and Cahill began promptly to needle their friends in the Government.

Finally, there was no indictment on evidence before a grand jury. Instead, there was a terrific struggle to "keep it a civil suit," and this resulted in the department and the company going quietly before a Federal judge for hearing on a warrant of criminal information.

In this, the detailed evidence was not disclosed. It was sufficient that the department said it had criminal information and Sterling said it would not contest the charge. Mr. Arnold said yesterday this was a mere "time-saving" device. Why didn't he save time with Bausch & Lomb?

AND what of the consent decree itself? Here is what:

Sterling is severed from contractual relations it had with the I. G. Farbenindustrie, a huge German chemical company, but takes over in South America the exclusive business built up down there by I. G. Farben almost as if it were a designated trustee singled out to handle Germany's interest until the war is over.

Other American drug companies which might want to compete in South America are, in effect, shut out from the Latin-American market, for the Sterling inheritors of I. G. Farben are now so strong that other American companies are without a look-in. Had the Farben outlets been cut loose by some other method these companies could have bought the relics and split the business.

But these are technical matters, not necessarily interesting to the general public until after the price of goods has gone up and the places to buy it closed.

Suppose Sterling, Bausch & Lomb and other companies socked around by the Government were allowed to earn and save for dividends, growth, competition and blunders only 6 per cent of their investment?

How would they ever have on hand enough surplus to hire such expensive lawyers as Tommy Corcoran?

How could they survive the economic struggle—which has no rule more stern than the rule that you must save if you expect to live?

FINALLY, if it isn't too rude a question:

Do lawyers get taxed everything above 6 per cent of invested capital, same like business? If that's so, Tommy Corcoran had better get back in Government service right away whether as Solicitor General or messenger boy.

All his earnings go somewhere, but Tommy has invested so little in the practice of law he doesn't even keep his name on a door. He doesn't even rent a door to keep his name on. Why, he doesn't even sign the documents of the companies he represents!

For instance, though he was chief counsel and guide to Sterling Products through the recently navigated perils, you may look the papers over from A to Z—but Tommy's signature is nowhere to be found.

Now why is that?