

DIARY

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BK173

January 2, 1939.
4:25 p.m.

George Monnet: Hello.

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Operator: Mr. Monnet?

M: Yes.

O: Go ahead.

HMJr: Hello.

M: Hello. How are you, Mr. Secretary?

HMJr: I'm all right, how are you?

M: Well, I wish you a Happy New Year again.

HMJr: The same to you.

M: I've had a telegram from Paris --

HMJr: Yes?

M: And they say that -- two things. On the various questions which we discussed, they say they will telegraph me immediately after the holidays.

HMJr: Pardon me?

M: They say that they will telegraph immediately after the holidays; meaning that they will telegraph me tomorrow or the next day.

HMJr: Yes.

M: Apparently the -- they say that they are very busy with the budget discussions and so on, and -- and the Minister there wants to speak to Daladier before he leaves for Corsica.

HMJr: Yes.

M: Now, on the other question which we discussed on Saturday morning, which I did not raise with them, but they say that they are disturbed at the late delivery.

HMJr: Yes.

M: And that they are conquering that, but they doubt whether the late delivery will meet them.

HMJr: Yes.

M: So it looks -- it looks from that cable that the question which worried you on Saturday morning --

HMJr: Yes.

M: Hello?

HMJr: I'm listening.

M: Might well be disposed of by we discussed.

HMJr: I don't follow you.

M: Well, they may not -- they may not want --

HMJr: Any planes.

M: No, no, no. They may not want the Douglas.

HMJr: I see.

M: You see?

HMJr: Uh-huh.

M: And from the reading of the cable which is general my impression is they may well concentrate on the Curtis which they can get --

HMJr: Yes.

M: And on the Martin, and leave the Douglas alone.

HMJr: Well, what about publicity?

M: I can't hear that. And as to the publicity they say that they will - I raised -- I did not raise the question that you raised on Saturday.

HMJr: About publicity?

M: Not the one that you raised on Saturday for immediate publicity.

HMJr: Yes.

M: I had raised the question of the public statement to be made -- ah -- as you raised it with me on Thursday.

HMJr: Yes.

M: ✓ And they said that they will welcome the public statement the French Government has bought planes, but they say that they would like to have that publicity solely when the orders have placed.

HMJr: Well, I don't think they are going to be able to get into any more plants until they get about a public statement. That is, as far as we are concerned.

M: You think they will not be able to get any more planes unless immediate publicity.

HMJr: No, they won't be able to visit any more plants.

M: Oh?

HMJr: They will not be able to visit any more plants until this mission is a public matter.

M: No. Well, I left -- I did not mention the -- the suggestion of immediate publicity that you made on Saturday.

HMJr: Well, I just -- these are the instructions that I am leaving with Mr. Hanes --

M: Yes?

HMJr: As far as the United States Treasury is concerned, we cannot cooperate any further until the French Government makes a public statement.

M: I see.

HMJr: Now that's my position.

M: Yes.

HMJr: Now -- ah -- the United States Treasury can offer no more cooperation until a public statement is made in regard to this mission. I -- I -- I want to make that very plain.

M: Yes. Well, now -- ah -- all right. Well, that's your -- that's your --

HMJr: That's my ultimatum. I'm sorry but that's --

M: I understand fully.

HMJr: But I mean -- as far as the United States Treasury is concerned, until the French Government announces publicly that you have a mission here -- ah -- we can't offer any more cooperation. I'm sorry, but I have to take a stand.

M: No. I do - I do understand fully the -- the difficulties of the position.

HMJr: Now, if the United States Army wishes to offer you that cooperation, that's their business, but as far as the

United States Treasury is concerned -- ah -- we are out until your Government makes a public statement.

M: Well, I see that, and I appreciate the difficulties.

HMJr: Yes, well -- well, I'm very sorry, but I'll have -- I have to take that firm position.

M: I do -- I do understand --

HMJr: And that's the instructions that I'm leaving with Mr. Hanes.

M: I see. I do appreciate your position and the difficulties --

HMJr: So --

M: And I appreciate all that you've done, so you don't --

HMJr: So if you want further cooperation from the Treasury, you'll have to ask your Government to make a public statement.

M: Yes. And your position is that the public statement be made at once?

HMJr: Yes, please. As far as the Treasury is concerned.

M: Yes.

HMJr: All right?

M: Well, I do -- I do --

HMJr: Well, I mean, that's just my position, and your Government can do whatever they see fit, but that's the position that I'm taking as Secretary of the Treasury.

M: I do appreciate fully the reasons and -- I -- I'll do my best to convey to them the necessity of it, and I do appreciate fully --

HMJr: All right, Mr. Monnet. I'll be back on the sixteenth of January.

M: Well, now, Mr. Secretary, -- just one thing --

HMJr: Yes?

M: If during your holiday -- ah -- would you give me the favor of being able to communicate with you?

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HMJr: No, I'm sorry, you'll have to communicate with Mr. Hanes.

M: Mr. Hanes?

HMJr: John Hanes, Under-Secretary, and for two weeks Acting Secretary.

M: John Hanes?

HMJr: Yes.

M: All right. Then I'll -- I'll do that -- I suppose he will be in Washington from tomorrow on?

HMJr: He's here now. He knows all about this. He's entirely familiar.

M: Well, I hope to see you when you come back.

HMJr: You'll find him very sympathetic, provided we get the publicity.

M: I understand fully the position.

HMJr: Right! All right.

M: Thank you very much, and good bye.

HMJr: Thank you.

M: Good bye.

HMJr: Good bye.

January 9, 1939

To: The Secretary

From: Mr. Hanes

Ambassador Bullitt came in to discuss the French aviation mission now in this country under the leadership of Mr. Monnet. Mr. Bullitt stated that it was the President's wish that an assembly plant and corporation be formed in Canada for the purpose of assembling airplanes in case of declaration of war. He also stated that it was the President's wish that the American Army and Navy lend every cooperation to the French High Commission in the purchase of the most modern fighting ships which we are capable of producing.

I informed Mr. Bullitt that there was some doubt in the minds of both Army and Navy officers, and which doubtless had been transmitted to the industry, concerning the ability of France to put down a sum of money equal to 65 million dollars for the purchase of planes. With that thought in mind, Mr. Bullitt said he would recommend to Mr. Monnet the immediate transfer to a bank in this country, to be held in escrow, the sum of 10 million dollars.

Mr. Bullitt left here at 3:30 P.M. to go to the White House for a conference, and said he would try to get final instructions from the President as to the procedure from this point on, and that he would advise us concerning the result of his meeting.

J. W. H.

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TREASURY DEPARTMENT

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INTER OFFICE COMMUNICATION

DATE January 14, 1939

TO Secretary Morgenthau

FROM A. Lochhead

Re: British Purchase of Aeroplanes in the U. S.

From time to time, dating back to June, 1938, the Federal Reserve Bank of New York has received instructions from the Bank of England to make payment to the debit of their account to cover purchase of aeroplanes made in this country. The Bank of England furnishes the Federal Reserve Bank of New York with sample forms which must be presented to them before payments are made, as well as submits signatures of officials whose signatures must be affixed to these forms before payment can be made. There are about a dozen different types of forms used in connection with these payments, and in general they represent proof that aeroplanes, or aeroplane parts, have been placed on board steamer, either in New York or Los Angeles, for shipment to the United Kingdom. Some forms call for conditional delivery of planes in the future, and evidently represent advance payments on planes and cost of construction. The Federal Reserve Bank of New York merely acts as the American agent of the Bank of England in connection with these payments and does not open any credits or furnish any notification to the manufacturers of the planes. As these are private transactions between the Bank of England and the Federal Reserve Bank they do not feel that they have the right to furnish these forms to any third party unless they first obtain permission from the Bank of England. They are prepared to furnish us with any further details we may desire, but are taking no further action in regard to the forms unless they hear further from us.

RE FRENCH AIRPLANE PURCHASES

January 16, 1939.
11:30 a.m.

Present: Mr. Hanes
Mr. McReynolds
Mr. Collins
Mr. Gaston

H.M.Jr: Now, would you tell us what's happened since I've left in regard to this French aviation thing?

Collins: Yes, sir. There have been innumerable meetings, all of which - the outcome of which, at least, have been premised on the meeting that Mr. Bullitt is to have with the President today. We have had several meetings with the Martin Company. They seemed to be interested in the Martin bomber and the 166 and 167.

H.M.Jr: Go a little slower. What's the 166?

Collins: The one in production now, sir - 266 miles per hour. The 167 is the experimental one which is being built for the Army competition to be held the 17th of March, and that will do about 317.

Gaston: In that, however, they have evinced a certain interest.

H.M.Jr: Have what?

Gaston: They have evinced, I say, a certain interest in this 167.

H.M.Jr: Does the Army consider the 167 one of their secret planes?

Collins: No, sir. Through the liaison officer we have a clearance to show that to them and go ahead with a consummation of the contract.

H.M.Jr: Why are they willing to sell the 167 and not the B-7 of the Douglas?

Collins: I don't know, sir. That was one of the matters that was coming up. Now, they've just been marking time -

the French.

H.M.Jr: This is - but they like this on the Martin. Have they seen anything else?

Collins: They went up to Curtiss and saw the ships that they're now buying. The P-39 and the P-40

H.M.Jr: That's what they're buying now.

Collins: No, they're buying the P-36, sir. This new pursuit of Curtiss's cannot be given, because it's using the new Allison motor and the Allison is not available.

H.M.Jr: Oh. Did they see it?

Collins: No, it's at Dayton; they did not see it.

They have about made up their mind to buy one hundred more Curtiss ships, and they hope that it may be possible to get a release from the Army of a hundred of the Army P-36s to bring their total number to 250 by the end of July.

McR: They're buying nothing but the 36s.

Collins: 36s, that's right.

McR: They've got an order on hand of 150.

Collins: That's right - which order will be completed approximately the end of this coming April. On the P-36s they're trying now to get arrangements for an 1830 - that is, an 1830 cubic inch motor. That gives them a little more power than they're using in P-36 - larger motor.

H.M.Jr: Who makes it?

Collins: Pratt & Whitney. That's a matter which will have to be discussed later, if and when they make up their mind they want any more of the Curtiss pursuits.

H.M.Jr: Yes.

Collins: The French have, since Mr. Bullitt returned, about decided that the only answer to this whole problem of theirs is to pool all of our models in this country

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and let them take what they can by the early part of July, and that's one of the matters which

H.M.Jr: Now how would that work, if we pooled everything?

Collins: That would give them, of course, immediate access to the Douglas B-7.

H.M.Jr: I don't know what you mean by "pool everything."

Collins: In other words, if we have - just let them take all of our bombers that we might be able to get and then let them take what they can out of that pool. Now, there are only two of them concerned, as a matter of fact, the Douglas and the Martin, and the Douglas the Army is still holding off on. And that's a matter which I understand is to come up for discussion today at the conference which Mr. Bullitt is to have. They have shown a certain interest in the Dodd bomber that the Navy has coming out now, and the Navy said they'll give them to them, they'll alternate with them, give them every odd ship, if they want some of them. But they don't know whether they want that yet.

H.M.Jr: Who makes that?

Collins: Made by Northrop - some of Douglas. That would be flying very shortly.

H.M.Jr: Would that be for land or water use?

Collins: No, that's for land.

H.M.Jr: They wouldn't use them on carriers.

Collins: No, use them as land planes.

H.M.Jr: I see.

Collins: Now, they have evinced also a very recent interest in Seversky. The Seversky plane is not out now; it's in the experimental stage.

But frankly, sir, they have not definitely moved up on any commitments of any kind.

H.M.Jr: Waiting - sort of waiting for this meeting?

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- Collins: I think so. I think everything is premised on the meeting today. Now what they expect to come out of it I do not know, sir.
- H.M.Jr: Now let me ask your advice: from the standpoint of the President, in view of this new appropriation coming up - let's do it this way first - do you see, or do you think it would be good or bad business, from the standpoint of national defense of the United States, to let these fellows - well, do what they're doing, say, with the Navy, take every alternate plane, or go up to Curtiss and get every alternate plane; in other words, to give them part of our existing orders?
- Collins: Well, of course, as far as the Navy goes, sir, I think that would be perfectly agreeable; this is more or less of an experimental plane with the Navy. I see no objection to that. As a matter of fact, I think the Navy might be willing to let them have the first thirty of them. But the Army is taking the position that by turning over a hundred of their P-36s to the French it's going to delay their program.
- H.M.Jr: Isn't the P-36 obsolete right now?
- Collins: It will be. Here are two new planes out, and the P-36 is going to be no good as soon as the P-40 gets out. It's an old ship.
- H.M.Jr: Isn't it out of date?
- Collins: It will be out of date as soon as the P-40 comes in, with the Allison motor.
- H.M.Jr: If I was Secretary of War, I'd say, "Take it."
- McK: Can't understand why he doesn't.
- Collins: Mr. Secretary, they have not yet seen in the Army - if they see, they won't admit it - the advisability of the French putting money into tools for putting planes into production which would give them by fall a much larger average monthly output of these planes, instead of having five or ten of them made by hand at that time. They can't, for some reason, see it.

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Now, the French are willing to go ahead with Martin and spend some money on additional tools, if necessary advance him the money to build another million feet of plant, in order that he may speed up the program on these Martin 166s - that's a new bomber. And if the Army ever wants any of those they'll step in probably in August with the plant running to full capacity and they turning out at that time probably fifteen or thirty a month.

H.M.Jr: Now the 166 which is in production now - what are they powered with?

Collins: Pratt & Whitney motor.

Hanes: Some of them use the Wright Cyclones. How much horsepower?

Collins: Two thousands.

Hanes: Two one-thousands.

Collins: Yes.

Hanes: That's optional; the equipment is either Pratt & Whitney or Wright.

H.M.Jr: Have they gone, for instance - the Martin bomber - do they want the guns and all that?

Collins: They want everything.

H.M.Jr: Can we do that?

Collins: Yes, sir.

H.M.Jr: Who makes those guns?

Collins: Well ...

Hanes: I don't know who makes them, but they - the Army supplies the engines and the gun equipment for Martin. Now, I don't know who makes them.

H.M.Jr: There's something in the law - if it's built in a United States arsenal...

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Collins: Not United States guns. These are all commercially built.

Hanes: Brownings?

Collins: Savage makes them, I think. These are not United States guns.

McR: Contract.

H.M.Jr: I thought they were made

Let me ask you this: whether you think this is a practical thing. I'm just thinking out loud. And this, with the exception of the Admiral - I don't want it to go any further. If the kind of thinking continues in the Army the way it is now, the President will never get what he wants. I'm convinced of that. I'm not asking you to comment on that.

Do you think it would be feasible, for instance, for the Army Aviation Corps to say, "Well, all right, we want - well, this plan is all right, we'll take this plan," and then, say, from that point, for instance, for the Procurement of Treasury to take over the handling of the purchasing and everything else.

Collins: For the what?

H.M.Jr: United States Government - for Army and Navy.

Collins: I see no reason why that can't be done, none whatever. Of course, the inspection of them is up to them, but they could turn over the contracts and the rest of it. There's nothing to it.

H.M.Jr: For instance, they'll say, "Here's some plans coming along," and we'll say, "Now, in a reasonable time... " - can't monkey around doing that thing - "... this is the plane you want. All right, once you approve that plane, you can't make any changes, and that..." - the President has kept saying this all the time - "... and that's the plane, of that type. If this is the pursuit plane, all right. Now, if it's the P-40 and that suits you and that's it, all right, we'll

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buy a hundreds of these planes. But the question of production and so forth and so on - that's up to the Procurement of the Treasury, and the handling of the manufacturers and the distributing the orders amongst the manufacturers and everything else. You can inspect them during the process, but from the point of time that you decide on the model, the rest is up to Procurement of the Treasury."

Collins: That can be done, sir.

H.M.Jr: what?

Collins: That can be done, sir.

H.M.Jr: What we need on that would be to get somebody detailed from the Army to Procurement to work on our side, some fellow pretty high up.

Collins: Army and Navy both, sir.

H.M.Jr: From Army and Navy both. They can detail him. Am I right, Mac, that Admiral Peoples gets his pay still from the Navy?

McR: Oh yes, he's never got a dollar from the Treasury.

H.M.Jr: I mean there's no reason why some high-up officer in the Navy couldn't be detailed.

Collins: Don't want them too high; not above rank of Captain in the Navy.

H.M.Jr: Well, that's a Colonel - Colonel in the Army.

Collins: Yes.

H.M.Jr: Full Colonel - you take up to a full Colonel. Well, would he come out of the Air Corps or would he come out of the regular ...

Collins: Out of Air Corps.

H.M.Jr: Not out of the purchasing unit.

Collins: Air Corps for the Army and Aeronautics for the Navy.

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H.M.Jr: I see a light in Mr. Hanes's eyes. I think what I'm talking about sort of pleases him. What?

Hanes: No question about it, if you can get it.

McR: If you could do that ...

H.M.Jr: Talking confidentially - hold your thought a minute - Mr. Louie Johnson says, "I'm in charge of all production and manufacturing for the Army, see? That's my responsibility." I don't know who gave it to him. Now, where the hell is that order where the President set this thing up, Mac? He set this up this way; we've got the order.

McR: 6166.

Collins: 6166.

McR: 6166.

H.M.Jr: The order's in existence.

McR: Full authority there.

H.M.Jr: Isn't it particularly on aviation?

McR: It covers everything.

Collins: It covers everything. We would have been into it long before this had it not been for this W.P.A. purchase program.

H.M.Jr: What do you mean?

Collins: You know the load that's been put on us. Had to bend our every effort to that for the last two years.

H.M.Jr: You mean I could just step in if I wanted to?

McR: With the President's approval.

H.M.Jr: Is there some particular thing

McR: The only thing is that he as a policy has agreed to its being delegated back.

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H.M.Jr: Did he ever do it in writing?

McR: No, never did. Done by regulations of the Director of Procurement.

H.M.Jr: If I wanted to, I have the authority to do it tomorrow.

McR: You do - you have the legal authority.

Let me say this one thing. If this were done - you take that Allison motor that they say they want; can't get more than 300 a year - if this were done and we had orders from the French and English and the United States that amounted to, say, a hundred million dollars, or fifty million dollars, General Motors would put in enough plant to step that up so you could get five thousand of those things a year. I know the Vice President of General Motors. I saw him the other day, asked him how fast - "If you had the orders ahead and were assured of them so that you could get your amortization of that plant out on an original big order, what delivery could you make on Allison motors?" He said, "Five thousand a year."

H.M.Jr: He could?

McR: Yes. The Vice President of General Motors. I didn't tell him what it was for or what was back of it.

H.M.Jr: Who was he?

McR: I've forgotten his name. Woodside brought him in.

H.M.Jr: Who did?

McR: Woodside, who is their general representative here.

H.M.Jr: You see, if I had the pooling of all that stuff ...

McR: Going to be down here late this week. I have no date ...

H.M.Jr: If the President wants somebody to do a job, we could do it for him.

McR: Sure we could do it.

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- H.M.Jr: For instance, I could send for the English and say, "Now listen, if you're going to buy any more planes, we can get you this Allison motor...." And on the plane business - and then we could look around to the companies that had no business and give them some business.
- Collins: That's right.
- H.M.Jr: And get all these things geared and use the foreign orders to pay for the tooling and the plant expansion; then we come along and get the benefit. But these God-damn people sitting there - with all that jealousy over there in the organization, you can't do it.
- Collins: As an illustration of what can be done
- H.M.Jr: Johnny, you and I are thinking along the same lines? What I'm saying makes sense?
- Hanes: Oh, a hundred percent.
- H.M.Jr: Mac, just so I have it - the authority - I want it in my pocket.
- Collins: He means 6166.
- McR: Oh sure.
- H.M.Jr: Where do you get it from?
- McR: Norman Thompson's got it in his office.
- H.M.Jr: Send for it.
- Collins: I was just citing as an illustration, sir, what can be done with these people. Martin - the best he could possibly do was 50 to 75 166s and 10 167s by September.
- H.M.Jr: What's that?
- Collins: The best that he could possibly do until we got into

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negotiations. So I called the Martin crowd, whom I knew quite well, and said, "This is absolutely unsatisfactory, it's no good. You're going to lose business. So sharpen your pencils."

These people, as you know, are willing to spend some money for plant expansion. They came back and boosted this 75 by September to 60 by the end of June, which is - the French said that would be all they'd want, if they could get some of the 167s, which is a faster ship, and boost the 167s up to a basis of 115 by the end of September, 20 of them by hand. They'd be stepping into tools here, and they'd be on a monthly production of 35, 35, instead of 5, 5, 5 and 10. There's no end of things that can be done, but these people don't - they do know - they don't want to do - they don't see it.

Mr. Secretary, I picked up just a rumor - what there is in it I don't know.

H.M.Jr: Go ahead.

Collins: This very thing you're mentioning is being talked about in the Army now.

H.M.Jr: What's that?

Collins: About turning over to Procurement all purchase of planes. Don't know why they're talking about it unless they've gotten into a jam that they want to wish off on somebody. So I'd say that we should be cut off - we're responsible only from the date of the change, don't have to assume all contracts.

H.M.Jr: No, no, no, be new. I'd only say with money - the new money that Congress appropriates. No, the money that Congress appropriates new. See, Johnny?

Hanes: Yes.

H.M.Jr: What?

Hanes: From this date on.

H.M.Jr: No, not mess up - no - I think that's a good point: not mess up in the old stuff.

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Collins: We don't want any of theirs. They've been taking experimental orders, and that may change all those experimental orders, for one thing.

H.M.Jr: Well, I think that ...

(McR returns from search
for executive order)

We were saying, Mac, in talking, if we did this thing we'd only take Army and Navy stuff on their new appropriations; we wouldn't handle any of this year's money, only stuff starting new, so we wouldn't get mixed up in their old stuff.

McR: Of course, Harry and I have been talking about this Procurement business for the last three months and the absolute necessity... I've come to the conclusion, and he agrees, and he had come to the conclusion separately, that Procurement isn't operating satisfactorily now because of this delegation back; you've got field offices for other departments all over the country that are competing with Treasury's Procurement offices and there's duplication all over the country. And you've got the authority under the order and the responsibility under the order to make the consolidation and do the job. We've either got to get off - we've either got to do it or quit, or else somebody is going to point their finger and say we didn't do a job.

H.M.Jr: All right, old man, whose fault is it that we haven't done it?

McR: Well, of course, Procurement - the Admiral today is still opposed to doing that, because he says that we ought to let the departments run their own stuff, and we - I don't know, I don't think he'd resist it particularly.

Collins: I don't think so now.

McR: I don't think he would. I think he's coming around, but it's been his attitude that the other way was the way to do it - at least do it, take it over slowly.

H.M.Jr: Johnny, just to give you an example, what we did in

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New York City - you check me on this thing - Federal buildings in New York City - we had 150-odd contracts for electricity. Is that right?

McR: That's right.

H.M.Jr: They had 150 separate contracts for electricity, all with the same company but different contracts, and none of them practically the same rate.

Collins: Varying rates for the same service.

H.M.Jr: Out here's the United States Government buying electricity from the New York Edison for 150 different buildings, Federal buildings, and everyone had a different contract, more or less varying rates. We got one contract for the United States Government with the New York Edison for Greater New York. And how much did we save?

Collins: \$288,000 a year, sir.

H.M.Jr: And the Edison was perfectly happy.

Collins: Did the same thing in Philadelphia, sir.

H.M.Jr: I didn't know that. Did the same thing?

Collins: Yes, sir.

H.M.Jr: We just - that's why if we had an Assistant Secretary, a business man, who had his brains on this thing, he could save literally millions. But it's like all of these things. I mean somebody who would be pushing. It's no reflection, except that they've got to be pushed the way everybody else has got to be pushed. And I did it to help out LaGuardia because he wanted - it was part of a plan that he had to - wasn't that part of the thing?

Collins: Yes, sir. That's right. He got the same results we got.

H.M.Jr: That's it. We got it, then we went out and ... We had the authority to do it legally and got it, then he rode on our coattails and got the same thing for the city. That's the way it was. He couldn't get it

unless I did it, and I personally got into the thing. He rode on our coattails, got the same thing for the city, as a result of which he did not buy up the municipal plant.

Collins: And we didn't build a Federal plant.

H.M.Jr: As the result, I didn't build a Federal, he didn't buy a - we didn't buy a Federal. Shows you what can be done. There's no municipal, no Federal. It's just like this thing where they're talking about building - are they still talking about building Federal plants to build airplanes? Well, my theory and my philosophy is to always exhaust what private industry can do first. And the New York City is a swell example: no Federal, no municipal plant. And I'm sure the New York Edison Power must be satisfied, we're satisfied, and LaGuardia is satisfied. It's a nice story.

Hanes: Save so many hundred thousand dollars a year.

H.M.Jr: But so many things happen, you forget about it.
This is the authority?

Mc: Yes, that's the original Executive Order, and you see it's all-inclusive.

H.M.Jr: "The function of determination of policies and methods of procurement, warehousing, and distribution of property, facilities, structures, improvements, machinery, equipment, stores, and supplies exercised by any agency is transferred to a Procurement Division in the Treasury Department, at the head of which shall be a Director of Procurement."

McR: No exclusion there at all.

Collins: Then it cites three ways it can be done - paragraph three.

H.M.Jr: Now let's - I don't want to go off half-cocked, Collins; but you think that, getting a man from the Army and getting a man from the Navy and some civilian over here at this end - you think we could go places.

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Collins: We need one man from the Navy and one from the Army.

H.M.Jr: We need a civilian from my office.

Collins: I could represent you, as far as that's concerned, or if you want somebody else that's perfectly all right.

H.M.Jr: Well, if I was going to do it, I think we ought to have a civilian at this end as well.

McR: Well, it would take too much of Harry's time to follow those things, because if we move in on the rest of that thing, as we've got to do, you ...

Collins: Well, you know what we talked about a few months ago. If we could get the Director of the Budget right now to call for a statement from every procurement activity of every department, that would be the quickest way of getting - and put that down in blocks by states, and we could show you right away what could be done by using these Procurement offices in states to do it.

H.M.Jr: Now, Mac, let's do that. You write a formal letter for me and I'll sign it, asking him to do it. You prepare a letter for my signature to the Director of the Budget.

McR: Harry talked to me about that.

H.M.Jr: You do that, will you?

Collins: Yes, sir.

H.M.Jr: Now let me just ask you this. You talk about this Allison motor. Is that such a wonderful motor?

Collins: Pretty good.

H.M.Jr: What is it?

Collins: Pretty good motor.

H.M.Jr: Is it better than anything we've got?

Collins: I think so, for this reason: it's liquid-cooled,

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placed down in the belly of the ship, and permits the streamlining on the parallel of the plane, where you can't get with an air-cooled motor.

H.M.Jr: Is this the only one of a kind that's a success?

Collins: That is, the horsepower they can use in planes ...

H.M.Jr: How much horsepower is it?

Collins: I think it's about - well, it's supposed to be built - eventually about two thousand.

H.M.Jr: For one engine. And is it owned and controlled by General Motors?

Collins: General Motors.

H.M.Jr: Because if they can build it up to five thousand, then there is no excuse for asking them to give the patent to Curtiss-Wright and Pratt & Whitney, is there?

Collins: Not a bit.

H.M.Jr: What?

Collins: Not a bit, sir.

McR: Well, the way they look at a thing of that kind is that this is something for military purposes. They said there's no market for it, it's a secret, they have no control over it, they can't sell it to anybody else; they build as the United States Government gives them an order to build and deliver as the United States Government tells them to deliver.

H.M.Jr: You don't get me, Mac. I was thinking, supposing we went to General Motors and said, "This is so much better; we want you to license Curtiss-Wright and Pratt & Whitney to build this thing also." I mean it's just a thought.

Collins: Well, I don't know, sir, because they could - they're in a far better position, it seems to me, with all

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the equipment they have, to tool up for high production on that motor, than either Wright or the other.

- H.M.Jr: But, you see, what's going to happen - you've got - Curtiss-Wright and Pratt & Whitney have got an outmoded engine, and you'll have those two plants just collapse. And they've got the mechanics.
- Hanes: This was just for the fighter, it wasn't for the bomber.
- Collins: Not the bomber, although there is one coming out by Lockheed. I don't know what this experimental is going to do out here - this experimental competition. It's Larry Bell out there with an Allison motor job, Curtiss with an Allison motor job; Lockheed is coming in with a two-motor Allison job. Unless somebody steps in and stops production, General Motors
- H.M.Jr: Johnny, you see what I mean? You get something which is so much better. Curtiss-Wright and Pratt & Whitney have the mechanics, they've got the thing. Suddenly they'll find themselves with no orders. They'll be out of business. And the thought I had in mind is, if I'm correct, that the Army helped develop this engine, and the possibility of taking this thing, licensing these people, let them - distribute it around a few places, let them tool up. Then you've got three plants producing. I've been through Pratt & Whitney and they're all at once place, and Curtiss is all at once place, and these mechanics, 45, 50 years old, weekly salary - they're the finest factory mechanics in America. That's the sort of thing ..
- McR: I should think that could be done. I don't know any reason why that couldn't be done.
- H.V.Jr: What?
- McR: I don't know any reason why that couldn't be done. Those fellows recognize that they're entirely under Government control in the production of the ..
- A.S.Jr: Well, we're going over to the White House, and I'm going to ask you (Collins) to go with us and sit in McIntyre's room, in case the President asks us some questions we can't answer.

26

EXECUTIVE ORDER

*6116

—oOo—

ORGANIZATION OF EXECUTIVE AGENCIES

WHEREAS section 16 of the act of March 3, 1933 (Public, No. 428, 47 Stat. 1517), provides for reorganizations within the executive branch of the Government; requires the President to investigate and determine what reorganizations are necessary to effectuate the purposes of the statute; and authorizes the President to make such reorganizations by Executive order; and

WHEREAS I have investigated the organization of all executive and administrative agencies of the Government and have determined that certain regroupings, consolidations, transfers, and abolitions of executive agencies and functions thereof are necessary to accomplish the purposes of section 16;

NOW, THEREFORE, by virtue of the aforesaid authority, I do hereby order that:

Section 1.—Procurement

The function of determination of policies and methods of procurement, warehousing, and distribution of property, facilities, structures, improvements, machinery, equipment, stores, and supplies exercised by any agency is transferred to a Procurement Division in the Treasury Department, at the head of which shall be a Director of Procurement.

The Office of the Supervising Architect of the Treasury Department is transferred to the Procurement Division, except that the buildings of the Treasury Department shall be administered by the Treasury Department and the administration of post office buildings is transferred to the Post Office Department. The General Supply Committee of the Treasury Department is abolished.

In respect of any kind of procurement, warehousing, or distribution for any agency the Procurement Division may, with the approval of the President, (a) undertake the performance of such procurement, warehousing, or distribution itself, or (b) permit such agency to perform such procurement, warehousing, or distribution, or (c) entrust such performance to some other agency, or (d) avail itself in part of any of these recourses, according as it may deem desirable in the interest of economy and efficiency. When the Procurement Division has prescribed the manner of procurement, warehousing, or distribution of any thing, no agency shall thereafter procure, warehouse, or distribute such thing in any manner other than so prescribed.

The execution of work now performed by the Corps of Engineers of the Army shall remain with said corps, subject to the responsibilities herein vested in the Procurement Division.

The Procurement Division shall also have control of all property, facilities, structures, machinery, equipment, stores, and supplies not necessary to the work of any agency; may have custody thereof or entrust custody to any other agency; and shall furnish the same to agencies as need therefor may arise.

The Fuel Yards of the Bureau of Mines of the Department of Commerce are transferred to the Procurement Office.

The Federal Employment Stabilization Board is abolished, and its records are transferred to the Federal Emergency Administration of Public Works if and when said administration is authorized and established.

Section 2.—National Parks, Buildings, and Reservations

All functions of administration of public buildings, reservations, national parks, national monuments, and national cemeteries are consolidated in an Office of National Parks, Buildings, and Reservations in the Department of the Interior, at the head of which shall be a Director of National Parks, Buildings, and Reservations; except that where deemed desirable there may be excluded from this provision any public building or reservation which is chiefly employed as a facility in the work of a particular agency. This transfer and consolidation of functions shall include, among other, those of the National Park Service of the Department of the Interior and the National Cemeteries and Parks of the War Department which are located within the continental limits of the United States. National cemeteries located in foreign countries shall be transferred to the Department of State, and those located in insular possessions under the jurisdiction of the War Department shall be administered by the Bureau of Insular Affairs of the War Department.

The functions of the following agencies are transferred to the Office of National Parks, Buildings, and Reservations of the Department of the Interior, and the agencies are abolished:

Arlington Memorial Bridge Commission
Public Buildings Commission
Public Buildings and Public Parks of the National Capital
National Memorial Commission
Rock Creek and Potomac Parkway Commission

Expenditures by the Federal Government for the purposes of the Commission of Fine Arts, the George Rogers Clark Sesquicentennial Commission, and the Rushmore National Commission shall be administered by the Department of the Interior.

Section 3.—Investigations

All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.

All functions now exercised by the Bureau of Prohibition with respect to investigations and all the functions now performed by the Bureau of Investigation of the Department of Justice are transferred to and consolidated in a Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation.

All other functions now performed by the Bureau of Prohibition are transferred to such divisions in the Department of Justice as in the judgment of the Attorney General may be desirable.

Section 4.—Disbursement

The function of disbursement of moneys of the United States exercised by any agency is transferred to the Treasury Department and, together with the Office of Disbursing Clerk of that Department, is consolidated in a Division of Disbursement, at the head of which shall be a Chief Disbursing Officer.

The Division of Disbursement of the Treasury Department is authorized to establish local offices, or to delegate the exercise of its functions locally to officers or employees of other agencies, according as the interests of efficiency and economy may require.

The Division of Disbursement shall disburse moneys only upon the certification of persons by law duly authorized to incur obligations upon behalf of the United States. The function of accountability for improper certification shall be transferred to such persons, and no disbursing officer shall be held accountable therefor.

Section 5.—Claims by or against the United States.

The functions of prosecuting in the courts of the United States claims and demands by, and offenses against, the Government of the United States, and of defending claims and demands against the Government, and of supervising the work of United States attorneys, marshals, and clerks in connection therewith, now exercised by any agency or officer, are transferred to the Department of Justice.

As to any case referred to the Department of Justice for prosecution or defense in the courts, the function of decision whether and in what manner to prosecute, or to defend, or to compromise, or to appeal, or to abandon prosecution or defense, now exercised by any agency or officer, is transferred to the Department of Justice.

For the exercise of such of his functions as are not transferred to the Department of Justice by the foregoing two paragraphs, the Solicitor of the Treasury is transferred from the Department of Justice to the Treasury Department.

Nothing in this section shall be construed to affect the function of any agency or officer with respect to cases at any stage prior to reference to the Department of Justice for prosecution or defense.

Section 6.—Insular Courts

The United States Court for China, the District Court of the United States for the Panama Canal Zone, and the District Court of the Virgin Islands of the United States are transferred to the Department of Justice.

Section 7.—Solicitors

The Solicitor for the Department of Commerce is transferred from the Department of Justice to the Department of Commerce.

The Solicitor for the Department of Labor is transferred from the Department of Justice to the Department of Labor.

Section 8.—Internal Revenue

The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue.

Section 9.—Assistant Secretary of Commerce

The Assistant Secretary of Commerce for Aeronautics shall be an Assistant Secretary of Commerce and shall perform such functions as the Secretary of Commerce may designate.

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Section 10.—Official Register

The function of preparation of the Official Register is transferred from the Bureau of the Census to the Civil Service Commission.

Section 11.—Statistics of Cities

The function of the Bureau of the Census of the Department of Commerce of compiling statistics of cities under 100,000 population is abolished for the period ending June 30, 1935.

Section 12.—Shipping Board

The functions of the United States Shipping Board including those over and in respect to the United States Shipping Board Merchant Fleet Corporation are transferred to the Department of Commerce, and the United States Shipping Board is abolished.

Section 13.—National Screw Thread Commission

The National Screw Thread Commission is abolished, and its records, property, facilities, equipment, and supplies are transferred to the Department of Commerce.

Section 14.—Immigration and Naturalization

The Bureaus of Immigration and of Naturalization of the Department of Labor are consolidated as an Immigration and Naturalization Service of the Department of Labor, at the head of which shall be a Commissioner of Immigration and Naturalization.

Section 15.—Vocational Education

The functions of the Federal Board for Vocational Education are transferred to the Department of the Interior, and the Board shall act in an advisory capacity without compensation.

Section 16.—Apportionment of Appropriations

The functions of making, waiving, and modifying apportionments of appropriations are transferred to the Director of the Bureau of the Budget.

Section 17.—Coordinating Service

The Federal Coordinating Service is abolished.

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Section 18.

The following functions are abolished in part:

Cooperative vocational education and rehabilitation, 25 percent thereof.
 Payments for agricultural experiment stations, 25 percent thereof.
 Cooperative agricultural extension work, 25 percent thereof.
 Endowment and maintenance of colleges for the benefit of agriculture
 and the mechanic arts, 25 percent thereof.

Section 19.—General Provisions

Each agency, all the functions of which are transferred to or consolidated with another agency, is abolished.

The records pertaining to an abolished agency or a function disposed of, disposition of which is not elsewhere herein provided for, shall be transferred to the successor. If there be no successor agency, and such abolished agency be within a department, said records shall be disposed of as the head of such department may direct.

The property, facilities, equipment, and supplies employed in the work of an abolished agency or the exercise of a function disposed of, disposition of which is not elsewhere herein provided for, shall, to the extent required, be transferred to the successor agency. Other such property, facilities, equipment, and supplies shall be transferred to the Procurement Division.

All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of four months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil service status.

Section 20.—Appropriations

Such portions of the unexpended balances of appropriations for any abolished agency or function disposed of shall be transferred to the successor agency as the Director of the Budget shall deem necessary.

Unexpended balances of appropriations for an abolished agency or function disposed of, not so transferred by the Director of the Budget, shall, in accordance with law, be impounded and returned to the Treasury.

Section 21.—Definitions

As used in this order—

"Agency" means any commission, independent establishment, board, bureau, division, service, or office in the executive branch of the Government.

"Abolished agency" means any agency which is abolished, transferred, or consolidated.

"Successor agency" means any agency to which is transferred some other agency or function, or which results from the consolidation of other agencies or functions.

"Function disposed of" means any function eliminated or transferred.

Section 22.—Effective Date

In accordance with law, this order shall become effective 61 days from its date; Provided, That in case it shall appear to the President that the interests of economy require that any transfer, consolidation, or elimination be delayed beyond the date this order becomes effective, he may, in his discretion, fix a later date therefor, and he may for like cause further defer such date from time to time.

FRANKLIN D. ROOSEVELT.

The White House,

June 10, 1933.

(No. 3166)

January 18, 1939.
3:02 p.m.

32

HMJr: Hello.

Operator: Mr. Rentschler.

HMJr: Hello.

Gordon

Rentschler: Hello, Henry. How are you?

HMJr: Well, I'm fine. I've had ten days of lots of sunshine and --

R: Well, what a wise guy you are.

HMJr: Once in a while.

R: If I had been smart I'd have gotten out before the snow, and done it myself.

HMJr: Well, I'm in shape now at least to take some of the rap.

R: Well, that's -- that's swell. Where were you, down south?

HMJr: We went to Boca Grande.

R: That's a nice place. That's the nicest place in Florida.

HMJr: I think it's a nice place.

R: Didn't you like it?

HMJr: Very much.

R: Yeah. Mary and I are supposed to go out tonight. She got -- I got my throat healed up a little bit and then hers went bad. We are going out to Tucson and sit on the desert until we get it all out.

HMJr: Good. Ah -- I wonder if you could start something for me, very confidentially.

R: Sure.

HMJr: And if you are leaving, you can leave word behind, and somebody can -- I'd like to find out all I can about Jean Monnet in New York and Paris.

R: About what?

HMJr: Jean Monnet.

R: Ah -- Monnet?

HMJr: Yeah. His first name is Jean -- J-E-A-N.

R: Yes, well I'll -- we know something about him and we'll get all the rest of it.

HMJr: Yes, will you keep it, as far as I'm concerned, very confidential?

R: Yes, absolutely.

HMJr: I'd like to know about his reputation -- both here and Paris.

R: Yes.

HMJr: And I'd like it, if I could, fairly fast.

R: Fine.

HMJr: Yes.

R: Well, I'll get at that and entirely out of the way from both your point of view and mine.

HMJr: Yes, I'd appreciate that.

R: Yeah well, fine. We'll do it right away.

HMJr: When are you coming back?

R: We'll be away for probably three weeks, I think.

HMJr: Well, when you come back I want to see you very much.

R: Yeah, well, I tell you what I -- as soon as I come back I'll come down. We'll sit down together.

HMJr: Do that.

R: Did you get a letter from Randolph this morning?

HMJr: I haven't seen my mail today.

R: Well, he sent a letter to Mariner and sent a copy to you.

HMJr: Yeah.

R: On releasing some of this Government portfolio.

HMJr: Oh.

R: In the federal.

HMJr: Oh.

R: And I thought it was very wise for a couple of outsiders just to suggest it again.

HMJr: Well, I haven't --

R: Because sooner or later that control in there that the Federal ought to have that they haven't got now, is a valuable asset.

HMJr: That's right.

R: And the market is entirely too buoyant today in comparison to what it ought to be.

HMJr: Uh-huh.

R: And at any rate, the letter is in your -- in your things Henry, and if you want to talk it over further, why Randolph will come down. He's up at Brown University today, but he'll be back tomorrow morning.

HMJr: All right.

R: But he sent it down there to Mariner and then marked it on Mariner's thing that he mailed a copy to you. It isn't quite entirely as a private person.

HMJr: Fine.

R: But I'm not so sure but what it's worth while stirring it up again.

HMJr: I'll look at it.

R: Fine. Well, Henry, I'll get this started right away. You sound awfully good. Do you feel as rested?

HMJr: Yes, I'm -- right now, I'm riding high.

R: Well, I'm delighted.

HMJr: Yes.

R: No -- and no bad toe?

HMJr: What's that?

R: No bad toe any more?

HMJr: No, no, everything's fine. (Laughter)

R: All right fellow, and good luck, and I'll get at this right away.

HMJr: Thank you.

R: Right.

HMJr: Good bye.

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE January 16, 1939

TO The Secretary

FROM Mr. Hanes

I am attaching a copy of a memorandum which I dictated for the files.

JWH

January 12, 1939

To: The Files

From: Mr. Hanes

Ambassador Bullitt and Mr. Monnet came to see me at 2:30 this afternoon with the following information: The President is going to call a conference at the White House between the Treasury, Army, and Navy, on Monday, January 16th. Ambassador Bullitt said that the object of this conference was for the President to state definitely to the Army and Navy his desire that the French be given every cooperation by our Government in their effort to purchase 1000 airplanes. Ambassador Bullitt said that the President had agreed to the formation of an American corporation by the French Government in order to expedite the purchase of airplane equipment in this country without going through all the red tape necessary if the matter were left in the hands of a French high commission. I told Ambassador Bullitt and Mr. Monnet that the Secretary of the Treasury had certain reservations about dealing through a corporation rather than direct with the French Government. Also, I was unwilling to clear this matter of the corporation setup until I had had an opportunity of discussing it further with him.

Having discussed it with the Secretary on the telephone and learning that he still had reservations about dealing through a corporation, I tried to get in touch with Ambassador Bullitt and Mr. Monnet and found that the former had gone to Harrisburg and the latter to New York, and so I have been unable to communicate further with them. Ambassador Bullitt also told me about the Secretary's conversation concerning lawyers to be employed by the French Government in forming such a corporation. He asked me for a recommendation of a lawyer and I stated that if it were speed they were looking for, I would suggest the name of a lawyer who had recently done a similar job for the Chinese Government in a very satisfactory manner, his name being Mr. Lawrence Morris. I reported this fact to the Secretary on the telephone and he agreed with the suggestion. Ambassador Bullitt also mentioned the name of another lawyer by the name of Wehle. Ambassador Bullitt called Miss Le Hand from my office and asked her to arrange a meeting between the Treasury, Army, and Navy, and was advised that Monday, January 16th, would be a satisfactory time.

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JWH:JRice



TREASURY DEPARTMENT

PROCUREMENT DIVISION

WASHINGTON

January 16, 1939

IN REPLY ADDRESS
BRANCH OF SUPPLY
AND REFER TO FILE NO.

MEMORANDUM

At a meeting at the White House this morning, in addition to the President, the following were present:

The Secretary of the Treasury
~~Under Assistant~~ Secretary of the Treasury Hanes
 The Secretary of War
 Assistant Secretary of War Johnson
 Assistant Secretary of the Navy Edison
 Ambassador Bullitt
 Captain Kraus
 Captain Collins

The President stated, briefly, his consideration of France with reference to the United States and that he desired that every effort be made to give them all available planes, equipment and motors to assist in building up their air forces.

Ambassador Bullitt stated that, after having been in this country several weeks, the French Mission had seen only the new Martin Bomber in which they were very much interested, but that, time being an element, it appeared necessary if any effective aid was to be given France that all available bombers should be made available to them and cited specifically the new Douglas Light Attack Bomber 7-B.

Secretary Woodring stated that this plane has many secret elements, that it had been constructed partially with Government funds and that he feared the release of this plane to France might put the President in an embarrassing position.

A general discussion was then had of different types of planes and their availability, after which Assistant Secretary of War

Johnson categorically asked the President if he desired that the Douglas Light Bomber be released to the French Government, and in reply was informed that the President meant exactly that.

During the course of the discussion the Secretary of the Treasury suggested to the President the possible advisability of concentrating the purchase of all airplanes for the Government Departments in the Procurement Division in order that their interests might be coordinated, as well as those of any other Government who might be in the American market for the purchase of airplanes. On this subject the Secretary is to submit a memorandum to the President.

During the course of the discussion Assistant Secretary of the Navy Edison informed the President that the Navy is willing to cooperate in any way possible and had no objection to the release to the French Government of any planes or types now being constructed for possible future use by the Navy.

The President made it perfectly plain throughout the discussion this morning that it was his wish and desire that every effort be made to expedite the procurement of any types of planes desired by the French Government.

TREASURY DEPARTMENT

41

INTER OFFICE COMMUNICATION

DATE

January 17, 1939

TO Secretary Morgenthau
FROM Mr. Foley, Acting General Counsel

For your information

As you requested, I talked to Jean Monnet this morning for about 45 minutes in the presence of Oscar Cox. He makes two points.

1. Cash. If necessary and required, the French Government is prepared to put up \$65,000,000 in cash in a bank in this country to be disbursed in accordance with the agreement between the manufacturer and the French Government, or its agent in this country. Presumably, disbursements would be made in the form of progress payments, i.e., so much when the contract is entered into, an additional amount as the fabrication of the airplanes proceed and final payment against delivery of the planes. As a matter of budgetary convenience, Mr. Monnet pointed out that the French Government preferred to have about \$15,000,000 disbursed in 1940, but he insisted that his Government was prepared to put up the entire amount in cash as soon as the contract between the manufacturer and the French Government, or its agent, was entered into, if necessary. He indicated that the French Government would be willing to handle the transfer of funds through the Central Bank of France and the Federal Reserve Bank of New York, although he was indefinite as to the exact details of the transfer.

2. Mission. Monnet stated that originally he was responsible for the suggestion of a Canadian corporation. His reasons were twofold. First, he wanted secrecy as to the real principal, and, second, he wanted to avoid conflicting with the Neutrality Act, if possible. After talking with you and others in the Treasury, he urges that he is entirely willing to dispense with the corporate agency idea in favor of an official mission, but that the French Government, in order to avoid red tape, is now anxious to handle the transaction through a corporate agency to be created in this country. Presumably, all of the stock of this corporation would be owned by the French Government and its personnel would consist of the representatives of the French Government sent to this country to handle the plane purchases. Monnet is of the opinion, however, that it would be preferable not to have the corporate agency and states that he may be able to get the French Government to eliminate it. He was very meticulous to point out that the idea is no longer his own, but is favorably entertained by the French Administration for reasons of expediency of operation.

I was very careful to say that I was acting merely in the capacity of a reporter.

E. H. F. H.

January 18, 1939.
4:57 p.m.

42

HMJr: How are you?

Bill
Bullitt: Fine.

HMJr: Bill, I --

B: Yes?

HMJr: Are you where you can talk a minute?

B: Yes, absolutely.

HMJr: What I wanted to say was, I wish you'd be thinking over, see -- I would feel much happier about this thing if there was no corporation, see?

B: You would?

HMJr: Very much happier.

B: All right, O.K. It's out.

HMJr: And -- ah -- I -- I've got lots of reasons, but if you'll just take my word for it.

B: Yeah.

HMJr: See?

B: Yeah.

HMJr: Now --

B: Well now, Henry, may I ask you this one, which is what they keep telegraphing to the gentlemen over here -- they keep telegraphing and saying that they must have some mechanism here which can arrange about the building of this extra floor space, the purchasing of the jigs and machines, the handling of them, the inspecting how it's going along, and so on -- and that they don't want to have that handled directly from the other side without some kind of a something here that doesn't have to telegraph back every two minutes for permission to hire an extra stenographer, and so on.

HMJr: Well now look, here's -- here's what one of the reasons -- another reason --

B: Yeah.

EMJr: Roy Beaulieu, is that the way you pronounce his name?

B: I don't know.

EMJr: Well, the French financial agent of the Treasury here --

B: Yeah.

EMJr: He came in today; he didn't see me, he saw Mr. Lochhead --

B: Yeah.

EMJr: And he's been authorized to handle the financing, the payment of these things.

B: He said he was?

EMJr: Yes he is.

B: Yes?

EMJr: And in the course of conversation he dropped that he couldn't understand why we over here were insisting on a corporation.

B: Yes.

EMJr: And that from their standpoint over there, he felt that they would rather not have one.

B: Yeah, but of course that -- that --

EMJr: Well, I'm giving you this.

B: Yes, but what I mean, that might be two different departments of the government over there.

EMJr: Well, that is the answer to your question.

B: Yes.

EMJr: After sleeping on it we'll send for this fellow and say, "Here's the thing now, the only reason for the corporation is that we want to get planes over there as fast as we can".

B: Yeah.

EMJr: "And will you, if you are to be the paymaster, will you obligate yourself to pay for all of these things within twenty-four hours from the time the documents are presented?"

B: Yes.

HMJr: Now if he will say "yes, I can", or do you have to cable back every time you want to buy a pencil.

B: Yes?

HMJr: How are you going to do it?

B: Yes.

HMJr: Now, I think that that thing can be settled in five minutes depending upon what instructions he's got.

B: Yes. Well now you say he has instructions from the French government?

HMJr: Uh-huh. I got this from Archie. He said he knows all about the mission, and he's to -- he's to do the paying.

B: He's to do the paying. What's his name, Beaulieu?

HMJr: He's the French financial attache. He's very able, and we've found him a very intelligent fellow, and --

B: Yes, well I'll find out what it is because they are perfectly ready to do it by any system possible, and, as I told you, the idea of intervening corporation originally came from God himself.

HMJr: I know, and he also said, this fellow, Beaulieu, said that he felt that on the other side the impression would be better if there was not a corporation.

B: Well, O.K.

HMJr: If he can pay on the dot --

B: Yeah.

HMJr: That's all that you -- you want. You want speed.

B: Oh, sure.

HMJr: And if there is no good reason for -- that they can present for a corporation, I have several why I'd rather not have it.

B: Yeah.

HMJr: Very good ones.

B: Well I tell you, all I know is that -- that the Minister for air keeps insisting that there must be some kind of an organization set up here which can handle all the

details of this, you see?

HMJr: Well, I --

B: Now, as far as -- as far as they're concerned, however, they are perfectly ready to put this in the hands of a mission, or in the hands of anybody at all.

HMJr: Well, evidently they've put it in the hands of this fellow -- their financial attache.

B: Yes.

HMJr: The paying.

B: Ah -- what kind of an authority has he got?

HMJr: I don't -- I don't know, Bill. I didn't --

B: Well, he said -- he said that he's got full authority to attend to all payments.

HMJr: Well, that's -- that's the impression that Archie Lochhead got, but I --

B: Archie who?

HMJr: Lochhead.

B: Who's he?

HMJr: He's the head of our stabilization fund.

B: Oh, yes.

HMJr: And he saw him, see?

B: Uh-huh.

HMJr: And he wanted to see Hanes, and Hanes didn't want to see him because he didn't know just what we wanted to do.

B: Yeah.

HMJr: And so I'm calling you up because that's the way I --

B: Well, I tell you, Henry, I think the simplest thing is this -- I will tell Monnet, who has for weeks been saying that he will set it up in any way that is agreeable to the Treasury -- I'll tell him very definitely you don't want any corporation set up.

HEJr: You can tell him that.

B: And then, in that case, when he comes in to see you with me tomorrow morning at eleven fifteen, there will be no suggestion of a corporation.

HEJr: Well, I appreciate that, and that removes the only --

B: All right.

HEJr: I got left.

B: All right.

HEJr: Now, Collins got a clearance, and the fellows leave at eight o'clock tomorrow morning at Los Angeles for

B: Fine, swell. Thanks very much, Henry. Then I'll see you at eleven fifteen?

HEJr: You bet.

B: Alright, good bye.

CONFIDENTIAL

HEADQUARTERS FIRST WING G. H. Q. AIR FORCE
OFFICE OF THE COMMANDING GENERAL
MARCH FIELD, RIVERSIDE, CALIFORNIA.

PARAPHRASE of confidential radiogram received at Hq. 1st. Wing,
GHQ Air Force 19 January, 1939.

CONFIDENTIAL

In form Major K. B. Wolfe that he is to arrange demonstration of
ATTACK BOMBER Sunday to three members of a French Mission and CAPTAIN
KRAUS, USN, who are expected to arrive at either SANTA MONICA or
MINES FIELD Saturday night. They are authorized to inspect ATTACK
BOMBER secret accessories, fly in it, and negotiate for purchase.
All of these negotiations must be made through Major Wolfe as Army
Representative and Douglas Company. Major Wolfe is to keep this
information confidential and keep the Chief of the Air Corps informed
as to actions taken. Signed by:

Arnold

Phoned Maj. Wolfe at Redondo 7278, 2230 19th. 1623 Nineteenth
by ESM.

Decrypted by: Capt. Ernest S. Moon
Paraphrase by: Capt. Ernest S. Moon.

Literal translation available for inspection at the Communications
Office, Hq. 1st. Wing GHQ Air Force, March Field.

CONFIDENTIAL

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CONFIDENTIAL

MEMORANDUM

January 19, 1939.

A meeting was held at 1:35 PM today in the office of the Assistant Secretary of War. In addition to Assistant Secretary Johnson, General H. H. Arnold, Chief of the Air Corps, Army; Colonel J. E. Byrnes, General Staff of the Army; and Captain H. E. Collins of the Procurement Division were present.

Assistant Secretary Johnson stated that the War Department had received a letter from the President similar to the one received by the Secretary of the Treasury and that they were willing to cooperate 100% with the President's wishes.

He asked what the French Mission wanted and was told that it had been planned for it to leave Washington tomorrow by plane to visit the Douglas Plant for the purpose of inspecting the light bomber now being built by that company. He stated that this inspection and the sale of ships of this type to the French was perfectly agreeable to the War Department.

He was asked concerning the clearance for inspection and possible purchase of this airplane, and General Arnold stated that such a clearance would be forwarded to Major Wolfe who would meet the French Mission upon its arrival and who will be in charge of the visiting party during its stay at the Douglas Plant.

The Assistant Secretary pointed out that the bomb sights were considered secret and were not available for inspection or issuance under any circumstances to the French. He was informed that, inasmuch as the French desired to use exclusively their own bomb site, no reason could be seen why the question of American bomb sights should come up for discussion. The Assistant Secretary reiterated his desire to cooperate in every way, requesting that clearance be had through his office on all matters pertaining to contracts for Army planes. This, he was assured, would be done. He further stated that there would be no further delay, that decisions would be promptly made, and that in his absence Colonel Byrnes of the General Staff would act.

The question was asked of General Arnold as to whether the clearance previously given by him on the Martin 167 still stood, and he stated that it did, and this was confirmed by the Assistant Secretary.

HCC:pe



WF

January 19, 1939

To: The Secretary

From: Mr. Hanes

Captain Collins just called me on the telephone to say that he was still trying to get clearance from the Army for the French Commission to get under way via Navy transport for the Douglas plant in California. Captain Collins finally reached General Arnold who said that he was unfamiliar with the subject, and advised Captain Collins to take the matter up direct with Assistant Secretary of War Johnson. He called Assistant Secretary Johnson to get clearance and was asked to get together with the Army people at a meeting at 1:30 P. M. today. Collins will attend the meeting and will report results to me later this afternoon.

JWH

51

~~Mr. Jones~~
~~Mr. Jones~~

Mr. Jones
Mumford

REPRODUCED FROM THE

January 20, 1939.

Admiral William D. Leahy,
United States Navy.

Dear Admiral Leahy:

Secretary Mergenthau has asked me to acknowledge your letter of January 19th, concerning the inspection and possible purchase of military airplanes, Model EBT-3, by the French High Commission.

Very truly yours,

Wm. H. McRoyolds

Administrative Assistant
to the Secretary

gms

Capt. Collins has photostatic copy

TO: _____

Secretary said to give to you
for acknowledgment.

gmc

53

MR. MOREYNOLDS

CONFIDENTIAL

54

DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON

JAN 19 1939

My dear Mr. Secretary:

I am informed that the French High Commission now visiting the United States with a view to purchasing a quantity of military airplanes desires to inspect U.S. Navy Model XBT-2 and to purchase airplanes of that model if it is found suitable. You are advised that the Navy Department is agreeable to the inspection of the XBT-2 by the Commission. The release of this type airplane for purchase for the account of the French Government is also satisfactory to the Navy Department.

Sincerely yours,

William D. Leahy

WILLIAM D. LEAHY
Admiral, U. S. N.
Assistant Secretary of the Navy

Hon. Henry Morgenthau, Jr.,
Secretary of the Treasury.

January 23, 1939.
12:01 p.m.

55

HMJr: Hello.

Operator: Captain Collins.

HMJr: Hello.

O: Go ahead.

HMJr: Hello.

Captain
Collins: Good morning, sir.

HMJr: How are you?

O: Very well, thank you, sir.

HMJr: What's the latest on the French mission?

O: The -- three of the French officers left by plane Friday morning, and the plane was downed by weather at Kingman, and they left Kingman by train last night to go on with Captain Klaus to see the 7-B, the Douglas light bomber.

HMJr: Yeah.

O: Monnet is coming to Washington. He'll be here by half past one --

HMJr: Yeah.

O: They-- they had a session here Friday night and Friday afternoon with both the Martin and the Curtis people.

HMJr: Yeah.

O: And they have about made up their minds what they want, and I understand that the Martin people are coming over this afternoon with practically a definite contract for them to sign.

HMJr: I see.

O: The Curtis people are stalling until they can get some assurance that they are going to sign a contract for these hundred planes. They've switched the Martin deal entirely, sir, thrown out the one sixty-six, which was a slow bomber, and going now for one hundred and fifteen one sixty-sevens.

HMJr: They are going for what?

- C: A hundred and fifteen one sixty-sevens. That's the new one, and it's not finished yet you know.
- HMJr: Oh, that's not finished yet?
- C: No, sir, that's the three hundred-mile one.
- HMJr: Yeah.
- C: And Martin is -- agreed to step up the deliveries on it for them --
- HMJr: Yeah.
- C: And that's what they are interested in at the moment, sir.
- HMJr: I see.
- C: Since I saw you, Mr. Secretary, I saw the Assistant Secretary of War --
- HMJr: Right.
- C: And he had with him the Chief of the Air Corps, as well as Colonel Byrne of the General Staff --
- HMJr: Yes.
- C: And he opened up his remarks by saying, "I want you to distinctly understand that the War Department is one hundred percent behind this wish of the President's."
- HMJr: Yeah.
- C: And I watched -- watched my step all the way through with him, because I knew he was quite mad, and he said he wanted to be kept in touch with everything that was happening, and I asked if we might have a clearance then for these people to visit the Douglas plant, and he said yes, that that clearance would be sent to their inspector at the Douglas plant -- a Major Wolfe, who would meet the mission upon their arrival there and that he wanted the mission to stay under Major Wolfe's wing the whole time they were there, and I told him that it could not be done otherwise it was his ship and his plant.
- HMJr: Yeah.
- C: And that's just about the whole thing in a nutshell to date, sir.

HMJr: What made you think he was mad?

C: Oh, his attitude was funny.

HMJr: I see.

C: "I walked in, sir, and I stood at attention, and he didn't ask me to sit down for about two minutes and I obviously didn't sit down, and then he was very sarcastic. I think he was trying to draw me into a quarrel but I wouldn't go for it.

HMJr: Good.

C: And I just laughed very pleasantly with him and Byrne followed me out.

HMJr: Yeah.

C: And he said, "Do you think that these French want to buy any planes, or are they on a fishing expedition?"

HMJr: Yeah.

C: And I told him I didn't see how anyone who was cognizant at all of conditions in France could question the fact that they wanted planes and wanted them badly. I said, "I feel this way about it, Colonel, and if there were a thousand of these planes on the shelf the French would buy them tonight." "Well", he said, "that's rather reassuring because there has not been the opinion that has existed in the War Department."

HMJr: I see.

C: On that, of course, I didn't comment.

HMJr: No.

C: Now, there's one little loose end, sir.

HMJr: Only one?

C: I say there is one little loose end.

HMJr: Yes, what's that?

C: I told -- I told the Secretary of War -- Assistant Secretary of War -- that I would keep him advised. Now here is this contract about to be signed and I am wondering whether or not we should not, before these people actually sign the contract, let him know just what's going on and get a clearance from him first.

HMJr: Ah -- yes. Now I tell you before you do that, let me call up Harry Woodring and ask him to whom he wants you to report, see?

C: Yes, sir. Well, the Secretary of War asked me to report to him personally.

HMJr: Yes, I know, but he's Assistant. The Secretary of War?

C: No, I mean the Assistant Secretary.

HMJr: Yes, well let me ask the Secretary what he wants.

C: Yes, sir.

HMJr: Let me call up Secretary Woodring ^{and ask} what he wants and I'll call you back.

C: Thank you, sir.

HMJr: Just a moment.

C: Yes, sir.

HMJr: Hang up and I'll call you back.

C: Thank you, sir.

January 23, 1939.
12:07 p.m.

59

HMJr: Hello.

Operator: Secretary Woodring.

HMJr: Hello.

Harry Woodring: Yes?

HMJr: Harry?

W: Yes.

HMJr: Henry Morgenthau.

W: Yes, Henry.

HMJr: Now, Harry, so that there can be complete understanding between the War Department and the Treasury on these French planes --

W: Yes?

HMJr: Now, the other day we wanted to get a clearance and the Assistant Secretary, Louis Johnson, had Captain Collins of Procurement come to see him and gave him -- told him this French mission could go out to the Douglas plant, and when they arrived there, there would be a clearance from some army officer for the -- a Major Wolfe, for them to see this, you see?

W: Yeah.

HMJr: Now, sometime this afternoon or tomorrow they are about to enter into a contract with Martin --

W: Yes.

HMJr: For fast bombers. Now, I want to know, so that you would be satisfied -- Captain Collins, who is in the employ of the Procurement of the Treasury --

W: Yeah.

HMJr: When he's about to enter a contract for planes, who in the War Department do you want notified in advance?

W: Well, I think go ahead and notify -- ah -- Mr. Johnson, because I've asked him to go ahead and handle that. I -- I don't see any complication there. He's -- he's got an attitude, sort of a little attitude there of -- of wanting to run the thing when they get out to the plant, but I -- I think it's going to work out all right.

HMJr: But if we let Johnson know, then that's all right with you?

W: Yeah.

HMJr: What?

W: Yeah, that's all right.

HMJr: Well, I want you satisfied.

W: Well, that's all right. Now, when do you -- when do you say you think you will sign the contract?

HMJr: Well, we don't sign any, but the French are talking about signing in the next twenty-four hours.

W: That's what I mean. Well, I tell you what you do. Give me a ring on that. I think maybe I'd like to know when that's done and then I'll pass it right down.

HMJr: Well, now, I'm not doing it personally.

W: Well, you'll know about it though.

HMJr: Yes, but I mean. I want to know who should Captain Collins -- should Captain Collins -- who should he contact? I mean -- Johnson told him -- you want him to come to your office?

W: No -- no, let him go right to Johnson's office.

HMJr: Yeah.

W: That's the Procurement end of it, and let him do it.

HMJr: All right.

W: It's all right.

HMJr: Well, then you could tell Johnson to let you know.

W: Yeah. I'll handle that.

HMJr: I just wanted to get the clearance.

W: Yeah, that's quite all right. It's all right, Henry.

HMJr: O.K. Good bye.

W: Good bye.

January 23, 1939
Monday

Mr. Leroy-Beaulieu, French Financial Attache, called on Mr. Morgenthau this afternoon at the request of the French Ambassador. The Secretary was able to correct the report which Mr. Beaulieu had received as to the death of one of the French military mission in an aviation accident in Los Angeles this afternoon. The Secretary informed Mr. Beaulieu that this report was untrue; that the American civilian flyer had been killed, but the French officer had only been injured.

Mr. Beaulieu stated that the French Ambassador understood from a conversation he had had with Mr. Welles that Secretary Morgenthau was insisting on some immediate news release covering the purchase of planes in the United States by the French Government. Mr. Beaulieu stated that they did not wish to give out any release until the contracts with the manufacturers had been signed. Mr. Morgenthau stated that there was apparently some misunderstanding, that when Mr. Welles had referred to the question of publicity, as brought up by the French Ambassador, Mr. Morgenthau had told Mr. Welles that the timing of the publicity to be given out was up to the French and would have to be left in their hands. Mr. Beaulieu stated that it was entirely satisfactory and it cleared up the misunderstanding that the French Ambassador had to the effect that the Secretary was insisting on releasing publicity immediately.

January 23, 1939.
3:44 P.M.

62

Operator: Go ahead.

H.M.Jr: Hello

Louis
Johnson: Mr. Secretary.

H.M.Jr: Yes Louis.

J: On the West Coast with the Douglas Pilot up
and Grindlin - G-r-i-n-d-l-i-n - is that it?

H.M.Jr: I don't know.

J: And the ship trying one engine performance
in that secret ship.

H.M.Jr: What happened?

J: They had their dead engine low; tried a foolish
thing in making a bank and went into a spin at
400 feet - killed the Douglas Pilot and the other
fellow is not expected to live.

H.M.Jr: Killed the Douglas Pilot and who else?

J: Hello.

H.M.Jr: Who else was killed?

J: Killed the Douglas Pilot and the Frenchman -
C-a-g-r-i-n-d-l-i-n - as I have it - not ex-
pected to live - very seriously hurt anyway.

H.M.Jr: Terrible.

J: Newspapers don't have it and we'll do all we
can to keep them from getting it but, of course,
a thing like that you can't. I wanted you to
have it first - just happened - I just got the
word a minute and a half ago.

H.M.Jr: Well I thank you very much for calling me - it's
terrible.

J: All right. Goodbye.

January 23, 1939.
4:27 p.m.

63

Operator: Go ahead.

HJr: Hello.

Captain
Collins: Mr. Secretary?

HJr: Talking.

C: Yes, you know this is Collins.

HJr: Yes.

C: You heard the word from the West Coast?

HJr: Ah -- the Assistant Secretary of War called me himself.

C: I see. Well now -- I just talked with Douglas.

HJr: Douglas?

C: Yes -- Don Douglas, President of the Company.

HJr: Yes.

C: And they are not releasing anything except the story that the pilot and two of their mechanics were in it.

HJr: I see.

C: No identity given about our man.

HJr: I see -- I see. How did it happen?

C: They don't know yet.

HJr: I hear it went into a -- sort of a spin at 400 feet.

C: Well, they -- they -- Collins said that they came into the field -- she spun into the field at about 500 feet -- the pilot jumped. He was killed outright and they -- when she hit, the other two succeeded in getting out.

HJr: There was only one Frenchman that was killed?

C: Yes, and he has a broken arm and a broken leg -- apparently no other bad injuries.

HJr: Were there two Frenchmen in the plane?

C: One only.

HMJr: I thought the Frenchman was killed.

C: No. No -- no, Johnny Cable, the pilot, was killed.

HMJr: Oh, --

C: Johnny Cable.

HMJr: Oh, I got the word that the Frenchman was killed.

C: No. That's the first word that we got here too but that isn't true according to them. Their own pilot was killed.

HMJr: Oh, you spoke to Don Douglas himself.

C: I did just a moment ago, sir.

HMJr: And the Frenchman is not killed?

C: Not killed. He's apparently -- he has a broken leg and a broken arm, but apparently no bad injuries beyond that.

HMJr: But the pilot was killed?

C: The pilot was killed, and the mechanic -- the mechanic who was with him was quite badly hurt too.

HMJr: Well, the plane, I suppose, is destroyed?

C: Burned up.

HMJr: What do you know about that.

C: Well, it seems as though that thing was fated from the very beginning.

HMJr: That plane.

C: Yeah.

HMJr: I see.

C: All the trouble we had to try to get anywhere with it and now here's the end of it.

HMJr: That's right.

C: Was Johnson quite upset over it?

HMJr: I don't think so.

C: I see.

HMJr: Not more than anything -- other -- I wouldn't say he was or he wasn't.

C: Um-hm.

HMJr: All right. Thank you.

C: Well, if I get anything more later on I'll -- shall I tick it in to you?

HMJr: No, not today.

C: All right, sir.

HMJr: Thank you.

C: Thank you, sir.

January 26, 1939.
3:48 p.m.

66

HMJr: Hello.
Captain
Collins: Hello.

HMJr: Captain.

C: Good afternoon, Mr. Secretary.

HMJr: What's new on the French situation?

C: Well now, they have received this morning from the P. W. people a schedule of the motors which will be required on the ships to be furnished by Curtis, Martin and Douglas. We received some prices from the Douglas people this morning which are considerably lower than those received from the Martin people.

HMJr: Yeah.

C: Last night the session went on with the Martin representatives, and they are having a meeting now, that is between Martin's attorney and their attorney, to try to frame up a contract which will be suitable to both sides for the delivery of one hundred and fifteen ships.

HMJr: Yes.

C: On the -- had a meeting this morning with the Douglas people. They went out and they are coming in sometime this afternoon or early evening with their proposed schedules of deliveries, and what it will cover.

HMJr: I see.

C: They were sent out to see whether or not these deliveries that were more or less projected could not be speeded up.

HMJr: Yeah.

C: The P. and W. people --

HMJr: What's P. and W?

C: Pratt and Whitney.

HMJr: Yes.

C: That's on the engines. The French Government is going to make one contract with Pratt and Whitney for all the motors which they will need and furnish them to the

people designing and constructing the ships.

MEMJr: I see.

C: And that -- that is just about what has happened since I talked with you yesterday, sir.

MEMJr: Well, they are going to do Pratt and Whitney rather than Wright, huh?

C: Yes, sir.

MEMJr: Uh-huh.

C: Yes, sir. That is the motor around which all three of these ships have been designed.

MEMJr: I see. Is Pratt and Whitney busy?

C: No, sir, they are not. It -- As a matter of fact, I think Pratt and Whitney let out a very considerable number of men just about two weeks ago, and if this order can be expedited, it will enable them to get these men back and keep the plant going full blast until armament program sets in.

MEMJr: When -- when do you think the French are going to make up their minds?

C: They have made up their minds now, sir.

MEMJr: Well, what do you mean?

C: Well, I mean they know what they want.

MEMJr: They do? Well, what -- what do they want?

C: And -- sir?

MEMJr: What do they want?

C: Well, they want -- if -- if -- they want this hundred and fifteen from Martin.

MEMJr: Yes.

C: They want a hundred pursuits from Curtiss, and they want a hundred at least from Douglas on an expedited delivery.

MEMJr: In other words, they are only going to buy three hundred and fifteen planes?

C: At the moment, yes, sir. But, behind that -- and they are not discussing that with any of the contractors, -- behind that is the desire on their part, with the exception of Curtis, of probably doubling this order. In other words, what they are really after is four hundred bombers, if possible, by the end of the year.

HMJr: I see. The total order would be what?

C: In money?

HMJr: No, no, in planes.

C: About four hundred bombers and one hundred pursuits.

HMJr: Five hundred.

C: Five hundred all toled. That is -- that is what they are discussing now, sir.

HMJr: When they came over they wanted a thousand.

C: Sir?

HMJr: They've cut it in half then.

C: Well, yes. Time being the element only, sir.

HMJr: O.K.

C: If they could get the -- if they could get a thousand in that time, I think they would take a thousand.

HMJr: I see. All right, Captain.

C: Thank you, sir.

January 27, 1939.
9:22 a.m.

HJr: Hello.
Herry
Woodring: Woodring.

HJr: Henry Morgenthau.

W: Oh, hello, Henry.

HJr: Harry --

W: Yeah.

HJr: All the papers carry a statement this morning that General Arnold said that permission to go into this Douglas plane was given by the Treasury.

W: That's what?

HJr: Well, if you'll get either the Washington -- if you'll get the New York Tribune or the Washington Post you'll see.

W: Yeah.

HJr: I'll read it. It says, "Information had been elicited -- elicited from a committee witness made to General Arnold for permission to ride in a new, test plane which embodied military and technical secrets, and not been obtained from any officer of the Army or from the War Department, but from the Treasury."

W: Humpf.

HJr: Now, I'd like to know exactly what Arnold said, because Senator Sheppard is calling me, and I don't know what to tell him. They want me to appear on the hill and testify.

W: Uh-huh.

HJr: And I'd like to know just what Arnold did say.

W: I'll get down -- I'm on my way down to the office right now. Where are you?

HJr: I'm at the Treasury.

W: And I'll -- I'll talk to him --

HJr: I'd like to know exactly what Arnold said.

- W: Yeah. Well, listen -- ah -- you say Senator Sheppard is calling you?
- SMJr: He called me late last night and he asked me to call him this morning.
- W: Uh-huh.
- SMJr: And before I call I'd like to know what -- and -- and the papers say that they are demanding that I come up on the hill and testify.
- W: Well, I think what we'd better do is get ahold of -- we'd better get ahold of Senator Sheppard and ask him to forget that.
- SMJr: Well, I'm not -- oh -- I'm going to -- I'm not going to forget it after Arnold has done this.
- W: Uh-huh.
- SMJr: I'm not going to have it smeared all over the front pages that I did this. I know who signed the order to go out there. We have a copy of it.
- W: Yeah, well, I'll get down to the office -- I'll -- and I'll see him --
- SMJr: We got a copy of the authorization -- who gave permission for these people to go.
- W: Yeah.
- SMJr: I've got the whole business and if the Army thinks that they can put me in a hole like this they don't -- they're just mistaken.
- W: Well, I don't think there is any intention of putting anybody in a hole.
- SMJr: Well, they certainly tried to put me in the hole. Why, Arnold knows who signed that order.
- W: Well --
- SMJr: And Arnold knows who authorized it too.
- W: Well, I'll -- I'll get down there and I'll call -- I'll call him, and then have him -- I'll call him and have him up to my office when I get there -- and --
- SMJr: If you would find out. A day or two ago, the Army gave out a release in which they said they were delighted to

have the French mission here, and how helpful it would be, and I'd like to have a copy of that release, if you don't mind.

W: That we put out a release

WJr: Well, I saw it in the papers.

W: Yeah. Well, I'll -- I'll check on those releases, and I turned it over to Louis, and I haven't heard anything from it since I talked to you that day.

WJr: Well, Harry, I thought that you -- well, after all, you are the head of the War Department.

W: Certainly.

WJr: And I don't want to go to Louis Johnson.

W: You don't want to go where?

WJr: I don't want to call up Johnson.

W: No, no, I'm not asking you to call up Johnson.

WJr: Oh.

W: I said I turned it over to Johnson that day, and I haven't heard or talked to anybody about it since.

WJr: Well --

W: But I'll get hold of Arnold, and I'll call you back as soon as I get to the -- to the War Department.

WJr: And find out about that release.

W: Now, I can't offer to do anything more helpful than that, and that's what I'm saying to you right now, so don't say that I'm trying to turn it over to Johnson.

WJr: All right.

W: O. K.

January 27, 1939.
9:29 a.m.

HMJr: Hello.

Operator: Senator Sheppard.
Senator Sheppard: Hello.

HMJr: Hello, Senator.

S: Yes, Mr. Secretary, how are you?

HMJr: Oh, I'm fine. How are you?

S: Fine, thank you. I wish you a happy year.

HMJr: Thank you, and the same to you, sir.

S: They -- in the course of the hearings -- the executive hearings on the National Defense -- the matter of this plane, the destruction of the plane on the West Coast came up --

HMJr: Yes, sir.

S: And it seems there was a member of the French mission in the plane.

HMJr: Yes.

S: And the aviation officer is testifying he understood the member was in that plane by arrangement with the Treasury Department.

HMJr: Uh-huh.

S: Do you know anything about it?

HMJr: Yes, I know all about it.

S: Well, the committee just wanted to know if you would tell them about it.

HMJr: I'd -- I'd love to.

S: Yeah, well, that's fine.

HMJr: Would you mind telling me, Senator, which Army officers said -- as I understand it -- did they tell you that --

S: I tell you, in confidence --

HMJr: Yes.

S: It was General Arnold.

HJR: And do I understand that General Arnold said that he didn't know anything about this?

S: Well now, listen, I don't quite remember, and I don't want to do him an injustice, but he said he understood that -- as I gather from what he said -- that he understood that -- that the man was there by arrangement with the Treasury Department. Now whether he said he didn't know about it, or just understood that, I don't remember.

HJR: Well now, Senator --

S: I don't want to do him an injustice.

HJR: Well, of course, you know, for your information he knew all about it.

S: I see.

HJR: And --

S: I see.

HJR: And -- nobody could have made that authorization except the War Department.

S: Nobody could make it but the War Department?

HJR: No, of course not. We have no access to the Douglas plant.

S: Yes, well, that's what I -- that was a little mystery to me.

HJR: Well, there's no mystery about it. Somebody just hasn't -- has given you absolutely wrong information.

S: Yeah.

HJR: I mean, we -- we have no authority and -- -- I have a copy of the authorization, a photostat of the authorization which permitted this man to go there.

S: Yes.

HJR: And I've sent for it and it is going to be here at ten o'clock. I -- I want to know who signed it, but it was somebody from the War Department that had to sign it.

S: Yes. Well, that's fine.

HMJr: Now, when would you like me up there, Senator?

S: Well, let's say -- which would -- what would -- would you rather wait a day or two.

HMJr: Well, if you're --

S: I suppose you are pretty busy this morning. I want to accommodate myself to your convenience too.

HMJr: No, I'll drop everything.

S: Uh-huh.

HMJr: I'll drop everything.

S: Well, I'm just trying to get a date that would be suitable all around.

HMJr: I -- I -- I'll drop -- I'll cancel everything that I've got.

S: Well, I didn't expect you to do that, and I didn't expect --

HMJr: Well, I want to because I'm very disturbed about it, because --

S: Oh -- oh, well, then, very good. Suppose we say eleven o'clock?

HMJr: That will be perfect.

S: That's fine.

HMJr: That will --

S: The Senate Military Affairs Committee in the Capitol Building.

HMJr: Military Affairs Committee --

S: In the Capitol.

HMJr: In the Capitol --

S: It's next to the Senate Chamber.

HMJr: I -- I'll be there at eleven o'clock, and -- and -- I wish that -- that Secretary Woodring and General Arnold would be there also.

S: Yes, well now you see, it will be a little difficult to get them all together by eleven; that's why I suggested we take our time.

WJr: Well, I -- I -- no, I don't want this thing to be as though there is any mystery about it. I mean, I -- I'm more than willing to tell my story.

S: Yes.

WJr: Because I -- it's very simple and very straightforward, and -- and all I was doing is acting as a -- as a host, but I can't authorize anybody to go in any plant, and wouldn't.

S: Yes. Well, I tell you, I'll ask them to come up. Of course, I can't know just now that they will be in shape to come, but I'll ask them to be there to.

WJr: Well, I think if you tell them that I'm going to be there, I think you'll find that they won't lose any time to get up there.

S: All right.

WJr: Because, I think -- I don't think they want me to come up.

S: I see.

WJr: So --

S: All right.

WJr: So I think that if you'll tell Senator Woodring -- Woodring -- ah -- and -- and Arnold that I'm going to be there, you'll find they'll be there -- and -- they don't want me to come up.

S: I see. Well, I'll tell them you will be there at eleven o'clock and they are invited.

WJr: All right, sir.

S: Fine.

WJr: Thank you.

UNITED STATES SENATE
COMMITTEE ON MILITARY AFFAIRS

HEARINGS
ON
NATIONAL DEFENSE

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CONFIDENTIAL

UNITED STATES SENATE

Committee on Military Affairs,
Friday, January 27, 1939.

The committee met, pursuant to adjournment, in the committee room, Capitol, at 10:30 a.m., Senator Morris Sheppard (Chairman) presiding.

PRESENT: Senators Sheppard (Chairman), Logan, Reynolds, Minton, Johnson of Colorado, Schwartz, Hill, Clark of Missouri, Downey, Nye, Gurney, and Holman.

There were present before the committee:

Hon. Henry Morgenthau, Jr., Secretary of the Treasury;

Mr. John W. Hanes, Under Secretary of the Treasury;

Mr. Herbert F. Gaston, Special Assistant to the Secretary of the Treasury;

Rear Admiral Christian J. Peoples, U. S. Navy, Director, Procurement Division, Treasury Department;

Mr. H. E. Collins, Assistant Director, Procurement Division, Treasury Department;

Captain Sidney M. Kraus, U. S. Navy, ~~Vice Chairman~~, National Advisory Committee for Aeronautics;

Hon. Harry H. Woodring, Secretary of War;

General Malin Craig, U. S. Army, Chief of Staff;

Colonel James H. Burns, Executive Officer to the Assistant Secretary of War.

The Chairman. The committee will come to order.

Senator Clark, you expressed a desire to interrogate Secretary Morgenthau, who very kindly consented to come and now here.

Senator Clark of Missouri. I appreciate that.

Mr. Secretary, the other day I read in the Washington Star an article as follows:

"Los Angeles, January 23." -- This is by the Associated Press. -- "America's most modern light bomber crashed in flames in a parking lot near the Los Angeles Municipal Airport today and its pilot, John Cable, was killed when his parachute failed to open.

"A passenger, identified as Paul Chemidlin, of Paris, representative of the French air ministry, was dragged from the rear cabin of the all-metal bomber before it burst into flames and escaped with a broken leg, severe back injuries and minor head wounds.

"Ten persons, including four women, seated in cars in the parking lot, were injured slightly by flying pieces of wreckage. Nine automobiles were demolished."

Then the Washington Star of the same afternoon contained also an Associated Press story from Los Angeles, which it is not necessary to read into the record in its entirety because most of it simply has to do with the facts of the crash, but it contained these words:

"Nine automobiles were demolished and 10 persons, including four women, slightly hurt by the flying wreckage. Flames gushed from the crumpled bomber, but Chemidlin, one leg broken, his back wrenched and head battered, was dragged to safety.

"Douglas" -- that is the Douglas Aircraft Corporation -- released his name as 'Smithin - a mechanic.' Secrecy was imposed on him at Santa Monica Hospital, where he was removed for treatment.

"Inquiry Is Started"

"Because of the military nature of the plane, the Civil Aeronautics Authority announced it would make no inquiry, but one was begun by Army officers, who conferred with the Douglas management last night.

"Chemidlin's purpose on the flight was particularly puzzling because of Federal regulations forbidding the export of any military-type plane until it has been in service in this country for a year, or has been rejected for national defense use.

"Douglas, like other American plants, has sold numerous fighting planes to foreign nations in recent years."

In the meeting of the Military Affairs Committee that afternoon, when General Arnold was on the stand, I read the first article from the Washington Post and then asked General Arnold whether he knew what that Frenchman was doing in this plane which was being given tests preparatory to being entered in the spring competition for the American Army. I asked this question:

"Senator Clark. Do you know what this Frenchman was doing in that plane?"

"General Arnold. He was out there under the direction of the Treasury Department, with a view of looking into possible purchase of airplanes by the French Mission.

"Senator Clark. Now, General, as I understand it, these planes for this airplane competition are constructed under the direction of the War Department, are they not? That is, the specifications are certainly made and part of the research is done by the War Department?"

"General Arnold. Up until the time that that plane is actually entered in the competition it is strictly company property, and if they do not desire to enter it in the competition, there is nothing we can do about it."

Now, Mr. Secretary, I would like to ask you what the Treasury Department had to do with putting a French officer, a French air expert, in a plane supposed to embody the very latest development in airplanes for American national defense.

Secretary Morgenthau. Mr. Chairman, may I proceed?

The Chairman. Proceed in your own way.

Secretary Morgenthau. I cannot talk very loud because I have been in bed for two or three days, but I will do the best I can.

For some time -- I do not have the exact date, but about a month ago or thereabouts -- a French mission has been here, sent by the president of France, with an authorization signed by Premier DeLadler, a photostatic copy of which I have here.

Mr. Sumner Welles, Acting Secretary of State, informed me that they were an accredited mission. I mean that they were here and he recognized that they were here officially.

As you gentlemen most likely know, the Procurement Division, which is the central purchasing agency of the Government, is located in the Treasury Department. We bought for the various departments about \$300,000,000 worth of merchandise this last year and constructed around \$175,000,000 worth of buildings.

It was the thought that if the Procurement Division could assist this French mission, which had come here, to meet manufacturers and carry out its mission, it would be helpful to them as a friendly nation. What we have been trying to do is to give them a common meeting ground in the Procurement Division to meet American manufacturers who have something to sell for cash.

As to the particular procedure, inasmuch as the information has gotten out that the Treasury Department authorized this, I think it is important to tell you gentlemen just exactly what the procedure was.

Captain Collins, under Admiral Peoples, has been devoting considerable time to assisting this mission. Captain Kraus, of the Navy, was assigned by the Secretary of the Navy to assist the Procurement Division, and Major Fairchild was assigned by the Army, but was taken ill, and Major ~~Lane~~ ^{Byrd} took his place.

When the French mission decided what kinds of planes they wanted to see, after all, all we could do was furnish the meeting ground and give them whatever help we could. I have a memorandum here from Captain Collins dated January 19th, --

Senator Clark of Missouri. That is Captain Collins of the Army?

Secretary Morgenthau. Of the Procurement Division, a former naval officer, but he is with the Procurement Division.

Senator Clark of Missouri. But not connected with the War Department or the Aviation Department?

Secretary Morgenthau. No, sir.

This is a report of a meeting which took place in the office of the Assistant Secretary of War, which he gave me

P.M.

* A meeting was held at 1:30/1:45 in the office of the Assistant Secretary of War. In addition to the staff secretary

Johnson, General H. H. Arnold, Chief of the Air Corps, Army; Colonel J. H. Byrnes, General Staff of the Army; and Captain H. E. Collins of the Procurement Division were present.

"Assistant Secretary Johnson stated that the War Department had received a letter from the President similar to the one received by the Secretary of the Treasury and that they were willing to cooperate 100 percent with the President's wishes.

"He asked what the French Mission wanted and was told that it had been planned for it to leave Washington tomorrow by plane to visit the Douglas Plant for the purpose of inspecting the light bomber now being built by that company. He stated that this inspection and the sale of ships of this type to the French was perfectly agreeable to the War Department.

"He was asked concerning the clearance for inspection and possible purchase of this airplane, and General Arnold stated that such a clearance would be forwarded to Major Wolfe who would meet the French Mission upon its arrival and who ^{would} ~~will~~ be in charge of the visiting party during its stay at the Douglas Plant.

"The Assistant Secretary pointed out that the bomb sights were considered secret and were not available for inspection or loan under any circumstances to the French. He was informed that, inasmuch as the French desired to use

exclusively their own bomb site, no reason could be seen why the question of American bomb sights should come up for discussion. The Assistant Secretary reiterated his desire to cooperate in every way, requesting that clearance be had through his office on all matters pertaining to contracts for Army planes. This, he was assured, would be done. He further stated that there would be no further delay, that decisions would be promptly made, and that in his absence Colonel Byrnes of the General Staff would act.

"The question was asked of General Arnold as to whether the clearance previously given by him on the Martin 167 still stood, and he stated that it did, and this was confirmed by the Assistant Secretary."

This is signed by H. E. Collins.

May I just --

Senator Clark of Missouri. If you have it before you there is one question I would like to ask you.

Secretary Morgenthau. One thing more, if you do not mind.

Senator Clark of Missouri. Certainly. Go ahead.

Secretary Morgenthau. Just so that there can be no possible misunderstanding, because I realize, ^{as} I always say, ~~of~~ the Treasury backyard is big enough for me, ~~and~~ I am very, very careful not to go over to somebody's else territory, and when I do I only do it on written instructions.

Now, here is a memorandum of January 19th, marked "confidential", to Major Wolfe:

"Inform Major K. B. Wolfe that he is to arrange demonstration of ATTACK BOMBER Sunday to three members of a French Mission and CAPTAIN KRAUS, USN, who are expected to arrive at either SANTA MONICA or MINES FIELD Saturday night. They are authorized to inspect ATTACK BOMBER secret accessories, fly in it, and negotiate for purchase. All of these negotiations must be made through Major Wolfe as Army Representative and Douglas Company. Major Wolfe is to keep this information confidential and keep the Chief of the Air Corps informed as to actions taken. Signed by:

Arnold".

That is my story, gentlemen.

Senator Clark of Missouri. Now, Mr. Secretary, in that memorandum that you read -- and I should like to say this, Mr. Secretary, and I am primarily interested in finding out the extent to which American military secrets have been made available to any foreign power, and I have no interest whatever in assessing the responsibility between the Treasury Department and the War Department and the President or anyone else, except to ascertain the ultimate facts as to to what extent American military secrets have been made available to any foreign power or to what extent that may be contemplated.

In that memorandum you read there is a statement attri-

ated to the Assistant Secretary of War, as I understand it, that there would be no further delay.

Do you understand that there had been delay on the part of the War Department and demurring as to granting the right to inspect these planes?

Secretary Morgenthau. Senator, I was just reading from my record, and I think --

Senator Clark of Missouri. Who would be the man who would be familiar with that, Mr. Secretary?

Secretary Morgenthau. The meeting took place in Assistant Secretary Johnson's office and I would say that he would be the best man to ask.

I just want to make it plain that Senator Shepard asked me if I would come up and I said I was anxious to come up here, because I am always of the opinion that Treasury business is the business of the Congress and anything the Congress wants to know about the Treasury -- our books are open and they have been for five years.

Senator Clark of Missouri. The Treasury Department primarily has no connection whatever with the purchase or construction or plans for military airplanes?

Secretary Morgenthau. None whatsoever.

Senator Clark of Missouri. In other words, as I understand it, the Procurement Division was simply acting in this matter as a matter of courtesy to this French mission.

Now, is it a French military mission or what is the nature of that mission?

Secretary Morgenthau. It is a French ~~military~~ aviation mission. It is an official mission sent over here by Premier Daladier to purchase American planes.

Senator Clark of Missouri. Well, the Procurement Division of the Treasury has nothing to do with American military aviation, has it?

Secretary Morgenthau. It has nothing to do, other than we are, I suppose, the biggest, the largest buyer of merchandise of any Government agency. We are the central purchasing agency, and inasmuch as they were interested in both Army and Navy, in order to be courteous to these people and to facilitate them in meeting Army and Navy officials and American manufacturers we were asked to extend our facilities to them, which we did.

Senator Clark of Missouri. But the Procurement Division of the Treasury has nothing to do with the construction of either military or naval aircraft, or military or naval anything else, has it?

Secretary Morgenthau. No, but we are in daily contact with manufacturers of all kinds of equipment all over the United States, and, if I may say so, I think we enjoy rather an excellent reputation.

Senator Clark of Missouri. I am certain that would be

Is matter of Government

true. But, for instance, the War Department would be in such closer relationship with the Douglas Company, let us say, or the Boeing Company, or any other company devoted exclusively to the manufacture of airplanes, would it not?

Secretary Morgenthau. All I can say is that the thought was that we could render these people a courtesy, a foreign power, and we did that. We did it cheerfully. We thought it would be good business for the American manufacturers, whoever they might be.

Senator Clark of Missouri. Do you not think it is going to the extreme limit, though, beyond the extreme limit, to render the courtesy of permitting them to learn American military secrets? One of those memorandums stated, that last memorandum stated that they would be shown the secret accessories.

Secretary Morgenthau. In the first place, Senator Clark, this particular plane is the property of the Douglas Manufacturing Company. The United States Government has no interest, no proprietary interest, in it.

Senator Clark of Missouri. That was the statement of General Arnold, but nevertheless that was a plane --

Secretary Morgenthau (interposing). And may I point out that, as a matter of fact, this plane was brought down to the municipal airport at Los Angeles, where anybody in the world could see it?

Senator Clark of Missouri. It was brought down there, though, as the result of this request for this inspection trip by this member of the French Mission. That was the way in which it happened to be subjected to inspection by anybody who wanted to inspect it, was it not?

Secretary Morgenthau. I am just pointing out that it was not taken to any secret field or secret place, and anyone -- I do not know how many other people had seen it before. I do not know what secret there was about it.

Senator Clark of Missouri. It was secret enough that members of the United States Senate, for instance, could not go out there and ask to look at it and ask to be shown the plane, to be taken up in it, or a member of the House of Representatives or a member of the Army or Navy, without a specific order from the Secretary of War?

Secretary Morgenthau. Well, I do not know what the custom is, but I simply want -- I have explained what our part of it is.

Senator Clark of Missouri. What I was trying to find out, Mr. Secretary, in this memorandum that you read -- You have no information, I take it from your statement, as to what secret accessories are mentioned in the memorandum and contained on this plane, were shown?

Secretary Morgenthau. I ^{do} not. Major Wolfe was there representing the Army and outside of acting as a reception

Committee I had nothing to do with it.

Senator Clark of Missouri. Mr. Secretary, here is something that might be within the purview of your functions as a reception committee. What does it mean when it says, this memorandum says, that the mission may be sent there -- I have forgotten the exact words -- you have it before you -- with a view to negotiating purchase, so I understand that they were sent out there by the United States Government with a view to negotiating the purchase of a plane which was being prepared to be entered in the spring competition, and which, according to current reports, the Douglas Company has a very excellent chance of winning, and I do not understand that there was any proposition on the part of the United States Government to permit the sale by the Douglas Company, if it could be prevented, to any foreign power, of planes being prepared at that moment for entry in the spring competition of the U. S. Army.

Senator Minton. It seems apparent to me that the Secretary, so far as his position was concerned, was only called in to extend the courtesy of cooperating with the Army and Navy in bringing this mission to meet people that they ought to meet, and the Procurement Division was brought in only because they have wide contacts with manufacturers. Now, all the reasons for doing this do not lie within the knowledge of the Secretary of the Treasury, as I understand it, but they lie some other place, and I do not see why we should not have the post in

formation obtainable.

Senator Clark of Missouri. I want to get all the information I can.

Secretary Morgenthau. You have not it.

Senator Clark of Missouri. If he cannot answer it, let us have someone who can.

Secretary Morgenthau. This is a memorandum which I read from Captain Collins, former naval officer, who ~~was~~^{is} in the employ of the United States Procurement Division, and who attended this conference.

Senator Clark of Missouri. Will you read that statement, Mr. Secretary, about the negotiations for purchase? I understand this to be with reference to this particular plane, the Douglas plane.

Senator Nye. That is the second memorandum. The confidential authorization there makes reference to the same thing.

Senator Clark of Missouri. That is what I am trying to find out. I am not trying to assess responsibility between the Treasury Department and the War Department. I want to know if it is a fact that this French mission was sent out there with a view to negotiating for the purchase of planes which were to be entered in the spring competition of the United States aviation forces. If the Secretary cannot answer it, I will not press the question, but I certainly intend to ask everybody I can learn of.

STATEMENT OF HERBERT E. GASTON

Special Assistant to the Secretary of the Treasury

Mr. Gaston. Mr. Chairman, you will understand I attended the President's press conference this morning. I would not vouch for the complete verbal accuracy of my notes, just taking the notes that I made, but the substance is this: That the President was asked a question about the presence of this French mission in the United States and he said, substantially, that the facts are simple; that the French want to buy airplanes in this country, and the cabinet considered the matter and they considered the fact that most American airplane factories were idle, that six of them were practically closed, that the largest engine plants in the country, or one of the largest engine plants, airplane-engine plants, in the country, recently laid off 1,500 men, and that from the standpoint of our program it was desirable that those plants obtain new orders as quickly as possible, so as to get their plants going, especially if the orders were for planes that could be completed before our program got well under way; that the cabinet had decided there was no reason why they should not place their orders. That is about the size of it. He was asked whether Great Britain was to place similar orders, and he said he did not know.

He was asked if there was to be financial assistance by

the United States Government, and he said, "No."

One of the reporters then said, "It is strictly a cash-on-the-barrelhead proposition?"

And he said, "Yes."

He was asked what was the connection of the Secretary of the Treasury with the transaction -- with the authorization, rather, of this particular flight in which the man was injured, and he said it was his understanding that both the Treasury Department and the War Department had said there was no objection to ordering planes, but he said he wished to make it plain that the plane that crashed had not been accepted by the United States Government, it was purely a manufacturer's plane, and it was flown at a public, municipal airport by a company pilot. The plane was not yet in competition. We do not know yet what type of plane we will buy as a result of that competition. The result of the competition will depend both on the type of plane and the price, and he considered this whole thing a perfectly normal transaction.

When asked specifically why the Treasury Department was in it, he said, "For two very simple reasons: First, the Treasury Department was interested in building up American industry, as were other departments; and second, that the Procurement Division worked in close cooperation with the Army and the Navy in the procurement of many types of

supplies."

That is all.

The Chairman. Are there any further questions?

Senator Reynolds. It appears, Mr. Chairman, that the newspaper world knows all about the very things we are talking about here now. The President has disclosed the facts to the public, as I really -- if you will pardon me, I really cannot see any necessity of making this an executive session.

The Chairman. The President said that this particular plane --

Senator Reynolds (interposing). -- had not been accepted.

The Chairman. -- had not been accepted by the United States Government.

Senator Clark of Missouri. There is no controversy about that.

The Chairman. Senator Clark understands that this plane was being prepared for a competition.

Senator Reynolds. Yes.

The Chairman. And might have been selected by the United States.

Senator Clark of Missouri. And by reason of this demonstration to the French, and by reason of this crash, the Douglas Company, one of the most promising contenders for the award of the competition by the United States Army, will be prevented from entering into the competition.

Senator Minton. You say they will be prevented?

Senator Clark of Missouri. They have not got a line and they cannot get it.

Senator Logan. The President stated that the plane had not been agreed upon or selected, and it may be that the plane would not be accepted.

~~Senator Clark of Missouri.~~ General Arnold's testimony and the testimony of General Craig went into much more detail, and General Arnold's testimony was perfectly specific as to that. The competition had not yet been closed, the entries had not been closed, and this plane was the plane which the Douglas Company proposed to enter in that competition. Nobody claims that the United States had title to the plane until it had been tried out on the line.

Senator Logan. I think your testimony would be absolutely accurate if you said it was a plane that might have been entered in the competition. It had not yet been entered.

Senator Reynolds. Mr. Chairman, the thing that I am particularly interested in is this: I am more vitally interested in this confidential order that was signed by General Arnold, who testified here before us, than anything else concerning this matter. This reads:

"CONFIDENTIAL"

"Inform Major K. B. Wolfe that he is to arrange demonstration of attack bomber Sunday to three members of a French Mission and Captain Kraus, USN., who ^{are} / expected to arrive at either Santa Monica or Mines Field, Saturday night." Emphasize: "They are authorized to inspect attack bomber secret accessories, fly in it, and negotiate for purchase." I have underlined that, Mr. Secretary, "secret accessories." That is the thing I am more vitally interested in than anything else.

Senator Logan. Would not the Commission have to know all of these things if it were buying planes for its government, and is there any law prohibiting manufacturers from selling bombers to a foreign government if it has the money.

Senator Clark. That is the unfortunate part of it. We are charged with the responsibility of writing laws on this subject and appropriating huge sums of public money. That is what I am trying to get at, so that we may write into the law a provision that neither the President of

the United States nor the Secretary of War nor the Secretary of the Treasury, the Secretary of the Navy, or anybody else shall sell to foreign governments, planes or other munitions of war that might be valuable military secrets to the United States.

The Chairman. Why is it necessary for them to have special permission of our Government to look at these planes, if it was a purely private transaction? What is the relation of our Government to the preparation of these planes in the factories?

Senator Clark. General Arnold explained the other day, Mr. Chairman, if you will recall, that the United States Government had no authority of law to control the company in showing what it pleased, although a great deal of their development has been with the money of the United States, but that as a matter of fact they were fearful of disregarding the wishes of the United States Government, because they depend on the Government for their subsistence. Now, what I am interested in is providing by law that nothing like this shall happen.

Senator Minton. I imagine it was just a courtesy extended by this Government to another government that was coming over here to do a thing that was not in any way in violation of any law or practice of our Government.

The Chairman. Here is an order speaking of secret

accessories.

Senator Nye. Why should we authorize foreign missions to come over here and inspect secret accessories?

Senator Minton. Of course, the Secretary of the Treasury would not know about that, but the memorandum that he read preliminary to that seemed to instruct that nothing like that should be done.

Senator Nye. Yes, that it should not be done, that the secret sights should not be made available.

Senator Minton. As I understood General Arnold the other day the only thing that is a military secret on an airplane is the bomb sight.

Senator Nye. Yes.

Senator Minton. If we keep the bomb sights out, there are no other secrets.

Senator Nye. But here are instructions over his own signature to make secrets available.

Senator Minton. What secrets?

Senator Nye. Secret accessories. And he testified before us that there was only one secret accessory.

(1) Senator Reynolds. But, if I may interrupt there, Senator, the Secretary of the Treasury here provided us with information to the effect, a moment ago, that it was understood that they were not to be availed the opportunity of investigating our gun sights or bomb sights. Is not that right?

Senator Clark of Missouri. Yes, but the order authorizes them to investigate secret accessories. The order is what they proceeded by, undoubtedly.

Senator Reynolds. Secret accessories.

Senator Hill. What I do not understand and what I would like to have cleared up is how the Treasury Department and the Secretary of the Treasury ever got into this picture. As I recall, -- I do not want to go back over a lot of material that has been brought out here, but as I recall the act which we passed for the purchase and procurement of airplanes, the War Department is that agency which purchases airplanes and has the say about all these different matters, and how did the Treasury get into this?

Secretary Morgenthau. I will explain that again.

Senator Hill. Just make it brief. I do not want to go over a lot of the same material again.

Secretary Morgenthau. The point was that the Procurement Division, being the central purchasing agency of the Government for all supplies, *as well as the only coordinating agency,* and they wanted somebody to sort of

7.9(01) may host to this mission and facilitate them in their work, and it was felt that the Procurement Division could do that as well as anybody else, and therefore the facilities of the Procurement Division and their technical people were offered as an assistance to this mission to help them accelerate their work.

Senator Hill. But the proposition is, as I understand it, that the Procurement Division, although it is the central purchasing authority for the purchase of ordinary Government supplies, has nothing whatever in the world to do with the purchase of airplanes for the Army, does it?

Secretary Morgenthau. It has nothing to do with the purchase of airplanes for the Army or Navy, but I believe I am correct that there is the authority, if the President so wishes, under the law, that they may do so. But I am just mentioning that. I mean, there is plenty of authority for them to buy anything -- I think Admiral Peoples will bear me out in that.

Can you buy anything that Congress votes the money for?

Admiral Peoples. ^{and} It is a coordinating agency, Senator. Where two or more agencies are interested in the same thing it is a common awarding agency for handling the transaction.

Senator Hill. Do you mean that the Procurement -- that they are a division of the Treasury Department under the law authorized to buy airplanes for the Army?

Admiral Peoples. It has no independent authority of its own.

It undertakes the coordination of effort on the part of the Army and Navy, with them combined. The money is appropriated directly for the Army and the Navy Departments and comes to the Air Corps and the Procurement Division would not take over a thing to which the War Department or the Navy Department objected, particularly in the matter of ~~some~~ airplanes.

Senator Hill. Under the law as you understand and construe the law today, would the Procurement Division of the Navy have power to buy airplanes for the Army?

Admiral Peoples. With the President's approval, with the consent of the War and Navy Departments, yes, sir. They could buy anything.

Senator Hill. Really, when you say "with the consent of the War and Navy Departments", you would really just be acting as the agent of whichever department you bought planes for?

Admiral Peoples. Yes, sir.

Senator Hill. You would be acting as their agent really; certainly if not by appointment then by sufferance?

Admiral Peoples. We would act as their agent in accordance with specifications prepared by them.

Senator Hill. Have you ever acted in that way? Have you bought any planes for the Army?

4) Admiral Peoples. No sir, no, sir.

Senator Hill. This is the first time?

Admiral Peoples. But there are literally thousands of other articles.

Senator Hill. I understand that, my dear Admiral, but you must remember this, that the purchase of airplanes by the War Department is handled on a different basis, is an entirely different matter, is carried out under a special act passed for that particular purpose. It is a different thing from buying shoes or socks or clothing or something of that kind. It is by a special act of Congress. It has been set apart and made a special matter with a special procedure to be followed and not subject to the ordinary rules and limitations and regulations.

Admiral Peoples. We have a technical staff of experts to make purchases.

Senator Hill. Of course, you will do that. It is a different thing from the purchase of ordinary materials. Now, then, the record shows that you have never in the past been called in to purchase any airplanes for the Army.

Admiral Peoples. No, sir.

Senator Hill. This is the first time?

Admiral Peoples. Nor for the Navy.

Senator Hill. This is the first time, then, that the Procurement Division has ever been called in with reference

5) any purchase of an airplane for either the Army or Navy?

Admiral Peoples. It was not making any purchases, Senator.

Senator Hill. But this is the first time you have ever been called in, then, where there was any transaction looking to the purchase of an airplane?

Senator Clark of Missouri. The order says "negotiate the purchase".

Senator Hill. I understand this was a purchase by the French government, but it had to do with a proposed purchase by the War Department.

Senator Clark of Missouri. It was our plane.

Senator Hill. That is where we came into it. The War Department had furnished the specifications, as I take it, for these planes.

Admiral Peoples. ~~Yes, sir.~~ *A. It is not correct.*

Senator Hill. This plane was built under specifications furnished by the War Department?

Admiral Peoples. ~~Yes, sir.~~ *I do not know.*

Senator Hill. And then the Procurement Division was, for the first time, as I understand it, called into this thing, when the French government saw fit to buy this particular plane for which the War Department had furnished the specifications.

Senator Logan. May I make one suggestion? It looks to

2.8(6) as if we are getting somewhat off the subject. Senator
Mark has a definite idea, as I understand it, and that is,
did the War Department authorize the inspection of this
particular plane at this time, and should the Department of
War have authority to give that permission?

2.9(1)

Senator Clark. Or anybody else?

Senator Logan. Or should anybody else have authority to allow foreign governments to learn the secrets of our planes that we have manufactured for the United States? That is the only question. It does not make any difference who is responsible for it now. We have this order given by General Arnold. Why did he have to give it ^{at} all?

Senator Hill. It does make this difference: if we are going to legislate, as the Senator from Missouri evidently contemplates, we have got to know whether --- in our legislation we have got to take into consideration the Procurement Division of the Treasury Department, the War Department, or any other department, so we have got to know what the situation is if we are going to legislate.

Senator Logan. The only department that had anything to do with this, so far as we know, officially, was the Department of War. The Secretary of the Treasury explained, as I understand it, that it was merely a matter of courtesy; that he merely furnished a meeting place where they could all get together, because the Procurement Division was more familiar with those things, and it was the War Department through General Arnold, that gave this authorization for them to inspect the secret accessories and fly the plane in contemplation of purchase.

Now, the question that it seems to me is the only

question that enters into this thing is, why did the War Department authorize this manufacturer to disclose these secrets, and should the War Department be allowed to do that, and what arrangement does it have now to prevent the manufacturer from disclosing all those things? What connection is there between the manufacturer of these planes and the War Department and the Navy Department?

It seems to me that some of these other gentlemen here are in a better position to enlighten us on these questions than the officers of the Treasury.

The Chairman. Specifically, what assistance did you give this French Mission in connection with any steps they took here?

Admiral Peoples. Well, it was a case of putting a man in touch with the War Department and the Navy Department to ascertain what planes they could see, and then calling in the manufacturers and getting in touch with the manufacturers.

Senator Schwartz. It seems to me that this resolves back into this proposition: if the Government calls for bids for planes, is it our position then that all the manufacturers in the United States that may care to compete, that they may not in the meantime contract to sell planes to foreign governments? The only other answer, it seems to me, is that if what they have done is to subject them to criticism, then the result follows that whenever we ask for bids and half a dozen companies indicate that they are going to join in the competition, from that point on those five or six companies must await the action on the bids before they can sell any of the planes that they are manufacturing.

The Chairman. Why would it be necessary for the War Department to give special permission to a prospective buyer to see one of those planes?

Senator Minton. I do not think it was necessary. I think it was in the nature of a courtesy.

Senator Schwartz. I think that was just a matter of comity between the War Department and the manufacturer. The chances are that the manufacturer would not permit the foreign dealer to see the particular plane if the War Department should object.

Senator Hill. On the matter of criticism, is it not a fact that it is not just a matter of courtesy, but the

fact is that a lot of the ideas, perhaps, that went into these specifications for that plane were not the ideas of the plane manufacturing company but were the ideas of our own War Department, and they belonged to us, and therefore, since those ideas that devolved and developed this plane belonged to the Government of the United States, of course, there was an agreement between the Government and the plane manufacturer that those ideas should not be divulged to anyone.

Senator Schwartz. But it might be important to ascertain whether the secret sighting arrangement is the product of the private manufacturer or whether the private manufacturer is developing something that was drafted and blueprinted and sent to them by the Government. If it is the manufacturer's own device, certainly as long as he is permitted to sell planes, he can permit a possible purchaser to make an inspection which will enable that purchaser to either buy or not buy.

Senator Minton. I would like to ask the Secretary where the memorandum came from that he read here a while ago, the second one, the confidential one that you read? Where did the Secretary get that memorandum?

Secretary Morgenthau. You mean the Army one?

Senator Minton. Yes.

Secretary Morgenthau. Captain Kraus, did that come

from Captain Collins?

Captain Kraus. I supplied it. If I may state for the purpose of the record, I obtained this from Major Wolfe on my arrival in Santa Monica.

Senator Clark. Is that the order, Captain, that you refer to?

Captain Kraus. This is the order. I secured that to find out what my own status was in the matter and in order to have clear for the record in the Treasury Department that there was a release to view this airplane. Since I was informed before I left here of the contents of this memorandum of the 19th of January, that the release would be supplied, I therefore needed the information to confirm to me that such a release had been supplied before I proceeded any further, and therefore, in conference with Major Wolfe, I requested that I be supplied with a copy of this order, and that is the process by which it comes into the possession of the Treasury Department.

Senator Minton. That is, the copy that was supplied to you by Major Wolfe? Is that right?

Captain Kraus. This is the copy that was actually supplied me by Major Wolfe.

Secretary Morgenthau. I might point out, Senator, that if I had not been asked to come up here today I never would have seen it. I want to make that clear. I would like to

make clear that if you had not invited me to come up here, the chances are 99 out of 100 that I never would have seen this, but when I came up here I asked Captain Collins and Captain Kraus to give me all the records so that I would be prepared to show what had happened.

Senator Minton. What I wanted to develop, Mr. Chairman, was that there seems to be a mistake in the message that Captain Kraus received a copy of, and the message that the War Department says was sent. In the message that the War Department says was sent, the revelation of the secret accessories was denied. In other words, the authentic message reads: that authority is granted for them to inspect Douglas Attack bomber, "less secret accessories." The word "less" is not in there.

Senator Gurney. Mr. Chairman, Secretary Morgenthau made the statement that he had received permission from the Assistant Secretary of State, Sumner Welles, to give this permission.

Senator Reynolds. No, he did not say that, did he? He said that Sumner Welles advised him it was an official mission.

Secretary Morgenthau. Before I receive any mission from any foreign country they have to be accredited by the State Department, and Mr. Welles, as Acting Secretary of State, said that this was an accredited mission.

Senator Gurney. That it was an accredited mission?
Secretary Morgenthau. Yes. I do not receive any foreign mission unless the State Department authorizes it.

Senator Nye. Captain Kraus, when you came into possession of this authorization were you struck at all by the authorization revealing secret accessories?

Captain Kraus. No, I was not particularly surprised at that feature. And I do not recall my first view of that message or what the paraphrase of the code message was, the paraphrase that Major Wolfe had in his possession. This copy was actually made for me by Major Wolfe and supplied to me about a day later, and I have never compared this copy with the copy that he held in his hand. My interest was that there was in official hands a formal authorization to inspecting the plane. The extent of the inspection or demonstration was a matter, as you will observe, both from the translation of the coded despatch and from the memorandum of January 19th, a matter entirely beyond my control.

Senator Clark. Captain, this is not only an order permitting the inspection of the plane but an order for negotiation for purchase of the plane. Did you expect to have anything to do with the negotiation for purchase?

Captain Kraus. No more than I had been assigned by the Navy Department to assist in coordinating between the

Army and Navy and Treasury what action might be taken or what might be accomplished by the French Mission in the United States.

Senator Clark. The Navy does not have anything to do with the purchase of Army planes?

Captain Kraus. Nothing.

Senator Reynolds. Captain, I want to ask you this: Was that secret bomb sight on the plane that was actually flown?

Captain Kraus. I was advised that it was not.

Senator Clark. It was not?

Captain Kraus. I did not enter the plane and I cannot testify of my own knowledge. I understand it was not.

Senator Clark. Now, what I want to know is this: How did the Treasury Department, the Procurement Division of the Treasury Department, enter into this picture? How did they happen to get into this picture?

Captain Kraus. Mr. Senator, I am only a third party to that transaction, and therefore I cannot say directly.

Senator Clark. All right. Mr. Secretary, how did the Procurement Division of the Treasury Department happen to get into this picture? I cannot understand how you all happened to be brought into it.

Secretary Morgenthau. As I say ---

Senator Holman (interposing). Has not that all been

explained?

Secretary Morgenthau. I thought so, but I will be glad to explain it again.

Senator Reynolds. It has not been explained to my satisfaction.

Secretary Morgenthau. The French Mission had arrived over here. It was felt that the procurement of a large buyer of merchandise of United States manufacturers --- the very fact that we are not buying planes was considered an asset, because we are not in the market, we have no purchases that we are making ourselves, but we are in daily contact with all the manufacturers in the United States, and we felt that in order to do this mission --- incidentally, their authority was signed by the Prime Minister of France, the Minister of Air, and the Minister of Finance. All three signed the authority.

Senator Reynolds. Providing an official capacity for the gentlemen constituting the mission?

Secretary Morgenthau. Premier Daladier, the Minister of Air and the Minister of Finance, all three signed it, and we simply felt that here was a mission ---

Senator Reynolds (interposing). Have you ever been called upon by any/military mission from any other country in the world to enter into this picture?

Secretary Morgenthau. No.

Senator Reynolds. Could you tell me, Mr. Secretary, if you know, how the Procurement Division of the Treasury Department at this time, in view of the fact that you had never been called into it before, happened to be called in at this time?

Senator Holman. May I make a suggestion there?

Senator Reynolds. If you will excuse me, Senator --- if he will just answer that one question, because that is, in my opinion and the opinion of Senator Hill here, extremely important.

Secretary Morgenthau. I thought I made it plain that we did it at the request of the President.

Senator Reynolds. The President himself requested it?

Secretary Morgenthau. The President himself requested it.

Senator Reynolds. The President had never before requested it. All right.

Secretary Morgenthau. The President asked us to do it.

Senator Reynolds. Now, Mr. Chairman, in regard to secrecy as to this meeting, I do not see that we have brought out anything here that has not already been published in the newspapers. Here is the morning Post that really reveals virtually everything that we have

brought out here. It says here — and I wish to direct the attention of Senator Clark to this: "General Arnold replies as result of an inquiry directed by Senator Clark that the Treasury Department had given the permission." Whereas, the evidence shows here that permission was given by General Arnold.

Senator Clark. Mr. Chairman, if I may be permitted, in view of the great conflict that there is here, I would like to read into the record some of the questions and answers of General Arnold as to what his contention was:

"Senator Clark. Do you know what this Frenchman was doing in that plane?

"General Arnold. He was out there under the direction of the Treasury Department, with a view to looking into the possible purchase of airplanes by the French Mission."

That is on Page 162 of the hearings before this committee. Then after some other questions and interchanges this occurred:

"Senator Clark. Do I understand, General, that the War Department did not authorize this Frenchman to be in that plane out there?

"General Arnold. The War Department knew that the French officer was going out there with a view to looking at that airplane.

"Senator Clark. But the authorization was made by

the Treasury Department, as I understood you a moment ago?

"General Arnold. No, sir; under the supervision I said, of the Treasury Department.

"Senator Clark. Does the Treasury Department under the law have any supervision over the construction or purchase of planes for the War Department?

"General Arnold. That is rather afield, because this airplane was ---

"Senator Clark(interposing). It is not afield, General, because we are being asked to appropriate for construction of planes, and I would like to know who does have authority for the construction of the planes and the control of the planes, and the control of American military secrets.

"General Arnold. Well, sir, that plane up to, as I said, up to the time that it was entered into competition, we really have no control over it whatsoever, and Douglas can do as they please with it."

He said, as I understand it, in this record, on two or three different occasions that the permission was given under the direction and under the supervision of the Treasury Department.

Now, Mr. Secretary, just one other question I would like to ask you. As I understood you a moment ago, you said that you asked Sumner Welles, the Assistant Secretary

of State, as to the status of this French Mission, and were advised by him that it was a duly accredited mission. In other words, did the French Mission present itself to you in the first place or did Sumner Welles send them to you? Did they come to you and did you ask clearance from the State Department, or did the State Department ask you to take the matter under consideration?

Secretary Morgenthau. I have not refused to answer anything yet, have I? (Laughter.)

Senator Clark. No.

Secretary Morgenthau. My first information --- I think I am correct in this --- my first knowledge of this mission was through Ambassador Bullard, *Bullitt*.

Senator Clark. Did that ever happen in any other instance, that Ambassador Bullard^{it}, a representative of the State Department, was requesting any foreign mission or any foreigner --- did he come to the Treasury Department and then have the Treasury Department call up the State Department and ask for clearance? Is that customary? We used to have a fellow out in Missouri who spoke of circumstances being "unikew." This was a "unikew" experience in the Treasury Department, was it not, Mr. Secretary? (Laughter.)

Secretary Morgenthau. As I pointed out, Senator, when we get out of Treasury business I keep a very careful

record, and I think my record is clear on every action we have taken. We have a written order directing this to be done.

Senator Clark. Be that as it may, Mr. Secretary, and you have been very frank about these things, ~~and~~ the fact is that this mission was sent out in the first instance by Ambassador Bullard^{itt}? You then called up the State Department and received clearance for you to go ahead, that they were a duly accredited mission?

Secretary Morgenthau. No, sir.

Senator Clark. That is what I understood your testimony to be.

Secretary Morgenthau. Then I am sorry I did not give you the exact facts. The Ambassador first brought it to my attention, and then, following my usual custom, before I will see any mission of any kind I call up the State Department and say, "Is this an authentic mission, and is it all right for me to see them?" I will not see any foreign mission unless the State Department says they are authentic, and Mr. Welles, after a reasonable time, informed me that this was an authentic mission, and on that basis I received them.

Senator Nye. And on that basis, Mr. Secretary, you summoned the others to the meeting?

Secretary Morgenthau. No, as I say, the direction

proceed to put the Procurement Division at the disposal of this mission and to assist them ---- I thought I made it plain that that instruction to me came from the President of the United States.

Senator Nye. But upon whose instruction or whose order did the War Department, in the person of General Arnold, appear?

Secretary Morgenthau. I think the Secretary of War did it. I am only testifying to any action that affects us.

Senator Nye. Might I direct that question to the Secretary of War?

The Chairman. Yes, indeed.

Senator Nye. Mr. Secretary, upon what instruction did General Arnold appear at this meeting? Under what instruction?

Secretary Woodring. Now, what meeting is it you are inquiring about?

Senator Nye. The meeting of the Procurement Authority.

Secretary Woodring. We got our instructions to carry out this procurement by the French Mission under the direction of the Secretary of the Treasury.

Senator Clark. Who did you get the instructions from?

Secretary Woodring. From a meeting of the Secretary of the Treasury, the Under Secretary of State and myself, Senator Clark. You do not consider it an instruction when you go into a meeting and agree to do something, do you? Was there any superior authority telling this meeting what to do?

Secretary Woodring. As a result of the conferences with the Secretary of the Treasury, the Under Secretary of State and myself, there came a directive as Secretary Morgenthau has said, for us to furnish permission for these planes ----- for this mission to inspect certain plants and certain planes. That directive was given to us, as Secretary Morgenthau has said, to each of the three departments. Then in conversation with Secretary Morgenthau, we decided that each would name a representative of the Department to meet and carry out the instructions. Secretary Morgenthau named Captain Collins. I do not know who the other was.

Captain Kraus. Captain Kraus of the Navy.

Secretary Woodring. Yes, Captain Kraus of the Navy. And I named the Assistant Secretary of War, and the three of them then met in the office of the Assistant Secretary of War to carry out the directive.

Senator Clark. Mr. Secretary, I still do not understand when you say you were given instructions. Was it

matter of instruction or order to you, or was it the result of an agreement with the Secretary of the Treasury and the Under Secretary of State?

Secretary Woodring. The Secretary of the Treasury has already testified that he got a letter from the President --- each of the three departments.

Senator Nye. Each of the three departments got such a letter?

Senator Downey. May I address one question to the Secretary, Mr. Chairman? Mr. Secretary, are we not really compelled to draw one conclusion from what we have heard, and that is this, that our own government was cooperating with a foreign government to give that foreign government the prior right to the purchase of military secrets and an airplane here, prior to its use or choice by our own government? Were we not really assisting and placing a foreign government in an advantageous position to purchase an airplane and the secret appliances developed by our own military forces with our own government's money? Is not that the only implication we can draw from these facts here?

Secretary Woodring. Well, I could not testify as to your implication.

Senator Downey. I am not asking you to testify. I am asking you if there is any other conclusion that can be drawn from the statements that have been made here, ex-

cept that the French Government was being given the prior right above our own Government to purchase this particular type of plane, with its secret appliances? I am not discussing the merits of that sort of policy, giving the French Government a prior right in military secrets, but it does seem to me that this discussion has very plainly revealed that one conclusion. As a matter of statecraft and military policy that is what I do not want to do, give the French Government or any other government that right, but we ought to face the situation as Senator Clark has here developed.

Senator Nye. Mr. Chairman, would it be improper --- does the committee think it would be improper to ask for a copy of the President's request of the Secretary for this consideration.

The Chairman. I think not.

Senator Reynolds. In connection with that, Mr. Chairman, was the request made in person or in writing?

Senator Nye. In writing.

Senator Reynolds. It was a letter?

Senator Nye. Yes.

Senator Logan. May I ask the Secretary of War, General Arnold did not sign that confidential communication there without direction from someone above him. Who prepared that order or directed it?

Secretary Woodring. That came up at the meeting of the three, and I have got Colonel Burns here, who is Administrative Assistant to the Assistant Secretary of War, who was in the meeting with Captain Collins and Captain Kraus. The three of them sat in that meeting that gave the directive to the Douglas people.

Captain Kraus. Mr. Secretary and Mr. Chairman, I do not like to interrupt, but for the purpose of keeping the record correct, I was not present at that meeting.

Secretary Woodring. I beg pardon, then. I will stand corrected. It was Colonel Burns. I think you ought to ask Colonel Burns, because he is here, as to who was in the meeting and how the directive was given.

Senator Logan. It seems to me, Mr. Secretary, that there must have been disagreement among the Department, to have so many of them sitting in the matter before the order was prepared.

Senator Nye. Mr. Chairman, I would request that the letter of the President be furnished, if not for the record, then to the Chairman of the committee.

The Chairman. Very well, that request will be made.

Senator Minton. Mr. Chairman, I do not want the record to show that everyone here consents to the proposition suggested by the Senator from California, Mr. Downey. I do not get the idea that we were trying to put the French Government in possession of our military secrets by this exhibition. As I said a while ago, General Arnold testified, as I understood him, that the only military secrets about the airplane was the bomb sight. Captain Kraus says the bomb sight was not on there, and the message that the War Department furnishes us shows that the order limited the exhibition to the revelation of those things that were not secret, and the secret things were left out.

Senator Clark. It says "secret accessories."

Senator Minton. I just submitted --- the Senator did not pay any attention to what I was doing, which is probably my fault --- what I put into the record, Senator Clark, was a statement from the War Department that the paraphrase copy which the Secretary of the Treasury put into the record was not the message that went out to California.

Senator Clark. What I am referring to is the order.

Senator Minton. I am talking about the same thing, the same order. The War Department contends that the order that went out there had the word "less" in it, which would mean that their authority was to reveal everything

less military secrets. So I do not get the impression that we were doing what the Senator from California said we were doing.

Senator Gurney. In other words, there was an incorrect message received?

Senator Minton. There was an incorrect copy or paraphrasing of the code message. There has been an error somewhere in one of the places in the paraphrasing of this code message, and what the War Department really did was to limit the inspection to everything except the secret accessories.

Senator Downey. May I ask the Senator if he believes that then it was contemplated that the French Government would purchase this airplane without its complete accessories? That is a difficult conclusion to me.

Senator Minton. As I say, I get back to the proposition that the General testified to the other day, that the only secret accessory about the airplane was the bomb sight, the sight that is on the bombers, and this bomb sight was not revealed; they were expressly directed not to exhibit it. Therefore, I think there was no revelation of any War Department secrets.

Senator Schwartz. It has just been testified that the sights were not on the plane at the time the Frenchman went on it.

Senator Downey. May I suggest this to the Senator from Indiana: the fact that not any part of this is secret is a rather subordinate question, because here was the most modern, presumably the most efficient, bomber that could be developed in the United States. American money was being used in its development, and at least the French Government was going to be given just as early or a prior right to purchase that as our own Government, with the cooperation of our own Government. And let me say to the Senator from Indiana that I am not criticising that as a policy, but I do think it is important for this committee to know whether that is the policy of the American Government to give equal rights in military appliances that we are defending, with our own Government. I think we are entitled to a frank statement on that. Is that the present policy of the Government?

Senator Minton. The only thing I was trying to do was to limit it to what I understood the record shows, namely, that we were not making a real revelation to foreign governments of our military secrets on bombing planes, because the only military secret on a bombing plane is the bomb sight. That was not authorized to be exhibited by the correct order, neither was it on the plane that was exhibited.

Senator Nye. But, Mr. Chairman, for the purpose of

...ing that record clear, the fact remains that the officer who was to make this order finally effective was authorized to reveal the secret.

Senator Minton. I do not think that follows at all. I think there was an error in the paraphrasing of that document which the Senator has in his hand, and it left out the word "less."

Senator Nye. But the officer who was to put this order into effect had this order given to him to reveal, if need be, "secret accessories."

Senator Minton. I do not think he did, Senator. I think that order there omits the word "less" from the order that he actually had.

Senator Nye. Captain Kraus, did you have any other order than this one that is in evidence here today?

Captain Kraus. I will explain in detail how that piece of paper came into my possession.

When I first contacted Major Wolfe, he explained to me --- displayed to me an order very similar to that. I had not checked it word for word against that, having no means of doing that, and I told him that before I left I would like to have a copy of that order to retain for the record, to show that there was a release. I left Los Angeles by airplane at 1:10 p.m., as I remember it, on Tuesday. The last thing I received, and the reason for my late de-

erture was awaiting that piece of paper which was being typed at that moment. Whether it was typed hurriedly and the word "less" was left out inadvertently or not, I have no means of knowing. I read in a cursory manner what we might call the original transcription in Major Wolfe's hands, and I do not recall whether it said "less secret accessories," or not, and what Major Wolfe actually received can only be confirmed from his records, but I do know that that letter, that copy, was made hurriedly as I was waiting to take off after seeing the Douglas plant.

Senator Nye. It was you and not Major Wolfe who arranged for this demonstration, was it not?

Captain Kraus. I was what might be called a courier, to keep the French Mission in hand.

Senator Hill. Did the Navy contemplate the purchase of any of those planes?

Captain Kraus. No, sir; we did not.

Senator Hill. What I do not understand is why the Navy comes into the picture.

Captain Kraus. We were in the picture, as has been explained here before, because I was designated to sit in on this matter to coordinate any activities that concerned naval planes, some of which were involved at different periods of the discussion.

Senator Schwartz. Could you tell us why the bomb

sighting device, the secret sighting device, was not on the plane at the time?

Captain Kraus. Major Wolfe advised me that it had been removed. It was a secret article.

Senator Schwartz. Prior to the time the trip was made, there was a secret sighting device on the plane, and that was removed before the trip was made?

Captain Kraus. When I said it was removed ~~and~~ I will put it this way: I was informed that the bomb sight was not installed. Whether it had ever been installed or whether merely provision for its installation has been made from drawings or dummy, I do not know. As I have explained to the committee before, it was not a naval airplane. I have never entered the airplane, have never seen its interior, and there was no occasion for my doing so. The order that was issued to Major Wolfe, the memorandum signed by Captain Collins under date of the 19th of January, indicates clearly that the mission would be entirely in the hands, so far as inspection of the airplane or the visit to the Douglas plant, the physical limits of the plant, would be entirely in Major Wolfe's hands, which was a perfectly satisfactory method, so far as I was concerned.

Senator Nye. Mr. Chairman, I would like to ask the Secretary of War if, prior to this request by the

President for the meeting of the three officers, three departments, if any approach had been made to the War Department inviting the War Department's cooperation in affording such a demonstration as was wished by the French Mission?

Secretary Woodring. I think the sequence of all this from the time the French Mission arrived here ought to be told by the Secretary of the Treasury, because we were only brought into the picture at a certain point. I think the sequence of this thing should come from the Treasury.

Senator Nye. Had there been no approach to the War Department prior to this one that we do have of record now?

Secretary Woodring. Oh, yes.

Senator Nye. Did the Secretary of the Treasury know of it?

Secretary Woodring. Yes.

Senator Nye. Then if the Secretary of the Treasury is better able to answer that question, I would direct it to him.

Was the War Department asked for cooperation with this French Mission by any Authority, prior to the time that the three departments were brought together on it?

Secretary Morgenthau. As I remember it now from memory -- I have no record here -- if I am not correct you can check me -- as I remember it, after the cabinet was stayed behind, and I do not know whether you were there

Johnson was there --- you were there --- we stayed behind after cabinet, Mr. Welles, Mr. Woodring and myself, and discussed this thing with the President. I think that is the first time that we all discussed it, and we were told --- the policy was decided, I believe, at that meeting which took place after cabinet that we would go ahead and cooperate with the French Mission.

Secretary Woodring. That was the first I had heard of the French Mission being here. How early had you heard of it prior to this?

Secretary Morgenthau. Well, I do not have the record, but as I explained here, my first record is when Ambassador Bullard ^{JK} told me about it, and I would not receive them until I had clearance.

Secretary Woodring. Did you know it a month before?

Secretary Morgenthau. I do not know. I have not got it written down. But certainly, to answer the question of the Senator from North Dakota, as I remember it, the first approach to the War Department --- the Secretary of the Navy stayed behind that day too --- yes, he stayed behind that day --- Secretary Swanson was there --- the first approach to the department was perfectly official, was at the cabinet, and the President was present, and the Secretary of War, Mr. Welles, Secretary Swanson and myself, and the policy was discussed there at that time.

Secretary Woodring. Was the French Mission here at last time?

Secretary Morgenthau. I would have to look up my records. I do not know, but I think --- you wanted to know when was the War Department first approached, and I would say that was the first approach.

Senator Nye. I am going to be very direct about this, because I think that is the only fair way to do it. I am somehow caused to believe that the War Department had been requested to afford the cooperation that was finally made available, but had declined or had discouraged the plan at all, and I want to satisfy myself whether that is true.

Secretary Morgenthau. Well, Mr. Woodring is head of the War Department.

Secretary Woodring. At the conference that has just been mentioned, we were all in accord that it would not only help the development and lower the cost of the plane to the American Government if it were decided to give a French order for the plane.

Senator Clark. Now, Mr. Chairman, may I ask the Secretary one question? I think it will clear this matter up somewhat. This plane, as I understand it, was a plane which was to be entered in the spring competition, to be tried out on the line by the Douglas Company. Is that correct?

Secretary Woodring. Yes.

Senator Clark. Is it also correct that in preparing plans for these competitions, each company will only have one model of the plane? They do not go out and build half a dozen planes for the competition. They have one plane that they enter in that competition?

Secretary Woodring. That is correct.

Senator Clark. So that the result of this crash out there will be that the Douglas Company will not have any plane to enter in the spring competition? Is that correct?

Secretary Woodring. That is correct.

Senator Clark. The Douglas Company is recognized as one of the best constructors of airplanes in the United States, is it not?

Secretary Woodring. Yes.

Senator Clark. They have a very high reputation in the airplane business. Now, if the Douglas Company had sold --- I understood from General Arnold's testimony, and I believe from General Craig here the other day that the Douglas Company, prior to entering this plane in the competition, under the existing law, in spite of the fact that a great deal of the development of the plane came about by reason of the research and development work done at public expense, nevertheless, in the existing state of the law, the Douglas Company, prior to entering in the competi-

ties, could turn around and sell the plane to somebody else, except for the moral influence of the United States Government? Is not that correct?

Secretary Woodring. They had the right to sell it.

Senator Clark. There was nothing to hinder them except the moral influence of the Government, and in fact, all of these airplane companies are largely dependent on Government orders to stay in operation?

Secretary Woodring. Although the specifications were written, laid down by the War Department, they had the right legally.

Senator Clark. I understand. What I am getting at is, if the Douglas Company had seen fit -- if this plane had not crashed and the Douglas Company had seen fit to turn around and sell the plane to the French Government, in spite of the fact that that might have been the plane that the Government of the United States, the War Department, would have chosen as the winner of the competition, they would have deprived the United States Government, as a matter of priority, of that plane entirely, would they not?

Secretary Woodring. Yes, I do not think we would have purchased -- well, if they had sold it to the French Government, I doubt very much whether they would have entered in the competition.

Senator Clark. That is what I say. If they had

... sold it to the French Government as a necessary matter of production?

Secretary Woodring. Although we would rather that they would have sold it to the French Government than enter it in the competition. We would want them to do that, because in the manufacturing of the French order it would lower --- if we gave them an order it would lower the unit cost to the United States Government.

Senator Clark. General Arnold testified here the other day that as far as the completion of this program was concerned, it would take all of the airplane productivity of the United States to complete the program within two years. Now, if you give the French the cream of the crop, or what might be the cream of the crop, so to speak, it would certainly slow up American production, would it not?

Secretary Woodring. That is a question, because it depends on when the money would become available, the American money would become available. If the French had put their order in, say, the first of January, they could have gotten started, tooled up, ~~xxx~~ and gotten into production, and by the time they reached the peak of the French order --- I do not know what the number would have been --- when they got to the peak of their order, and say ours was given about that time, it might not have slowed up the production.

Senator Clark. Do I understand, Mr. Secretary, that this estimate as to the time for completion of this program, the time within which the proposed program can be completed, contemplates joint effort by the United States and France? Does the length of time in which the program can be completed, the facilities be completed, contemplate joint effort by the United States and France?

Secretary Morgenthau. Mr. Chairman, could I just add something as to why the President and the four secretaries of the cabinet involved thought that this was good business? The French Government were prepared, or are prepared, to spend \$65,000,000 if only they can get these planes, as I understand it, within six months. Furthermore, they only want planes which are as good or better than there are planes at present in Europe. ~~Now, when they look over the field to see what we have got, it gets down to two companies, just two companies, two models which could stand in the air for one second against the German plane and naturally they are not going to come over there,~~

Senator Clark (interposing): If we are going to defend the United States we might want those planes ourselves.

Secretary Morgenthau. If I could finish. You want to know what the thought was, and the thought was that this money, these people being here, that these orders would be placed at once, and they would pay for the develop-

(25) ~~most cost and their orders would be out of the way and be delivered before Congress voted the money, and the Army would have a chance to have that competition later, and that all of the development costs will be paid for by the French, and we would get plants into production that are idle now.~~ ~~Here is Pratt and Whitney, one of the two finest engine plants, just laid off 1500 men. They do not have an order. I have got a list here of the people that have no future orders, Bell, Consolidated, Brewster, Sparsman, Douglas, Boeing, and Siversky.~~

Now, the thought, as I say, that the President had, with these other cabinet officers, was that here was this money, \$85,000,000, good hard cash, to go into the pockets of American workmen, and that these orders could be placed immediately and gotten out of the way before our American business was ready. (25)

~~The French Mission was under a pledge that none of these planes should leave France, and that none of them should be shown to anybody; and I believe, from the discussion that took place, that the balk of these orders, if they had been placed, could have gotten out of the way much before the United States Government would have benefited, because, the entire development, of course, would have been paid for by the French.~~ It looked like good business. That is what motivated us, and instead of being (25)

named I think it is something to be proud of. \$65,000,000 for American workmen's pockets is good stuff, and I do not see why there is anything particularly secret about it or anything particularly to apologize for. The fact remains, if I am correctly informed, that with the exception of the bomb sights we have not got anything secret. ~~It is all a matter of production anyway, and with the exception of, as I understand it, two models of two bombers, there is nothing we have got that is as good as the Germans have got, and naturally the French are not going to spend \$65,000,000 for something that is two or three years out of date. That is the whole story. And, as a matter of fact, if they cannot get something which is at least as good or better, they are not going to spend the money. They want something which is better than what the Germans have got. If they get something better and get it within six months, --- the original date of delivery was the first of July --- they insisted that every plane they buy be delivered by the first of July, and if they cannot get that delivery, and if they cannot get something as good or better than the Germans have, they do not want it.~~

~~Secretary Woodring. I told you this before and I will tell you again, if they want them by the first of July they will never buy an airplane in this country. They cannot be delivered in that time.~~

Secretary Morgenthau. That is what they wanted,
delivery by the first of July.

Secretary Woodring. There is no use continuing say-
ing that, because I told you before they could not have a
plane delivered by the first ^{of} July.

Senator Nye. Mr. Secretary of War, was the Douglas
Manufacturing Company approached prior to any consideration
by your joint meeting with respect to the desire of the
French Mission?

Secretary Woodring. I could not answer that. I did
not know anything about the French mission up to this meet-
ing.

The Chairman. Does the Committee desire to continue
now or recess till this afternoon or go ahead in the morning?
We have General Craig here, who can throw some light on this
situation.

Senator Nye. Mr. Chairman, in the light of what is pend-
ing ~~in~~ in the Senate this afternoon, would it not be better
to wait till morning?

The Chairman. Very well, we will recess till 10:30
tomorrow morning and we will hear General Craig at that time.

Senator Holman. Mr. Chairman, may I put my question in
the record, just to expedite matters?

The Chairman. Just a minute, gentlemen. We have a
request here for the total cost of this plan, and we will get

at figure.

Senator Holman. Thank you very much.

(Whereupon, at 12:30 p.m., the committee adjourned until 10:30 a.m. Saturday, January 28, 1939.)

RE FRENCH AIRPLANE PURCHASES

January 27, 1939.
9:35 a.m.

Present: Mr. Hanes
Mr. Gaston
Mr. McReynolds
Mr. Foley
Mr. H. E. Collins
Captain Kreis (Navy)
Mr. Peoples
Miss Chauncey

H.M.Jr: Miss Chauncey, if you'll take this standing, please - I want a letter from the President of the United States to me on the airplane business, the French mission.

(Chauncey hands letter to H.M.Jr)

You think you're good.

Chauncey: I think that's it.

H.M.Jr: You are good.

What about the Sumner Welles one?

Chauncey: Can't find it.

H.M.Jr: No reference, no date?

Chauncey: The only thing I find is a reference where he's coming in after Monnet was here. And then here's a carbon of Mr. Hanes' memo on December 13, about clearing with State Department; so it was after that when Monnet and Bullitt came in.

H.M.Jr: Well, all I've got to do - just a matter - Johnny, you better cancel everything.

Hanes: That's just what I was going to do.

H.M.Jr: No, all - I'll just - it's just a matter of the record, that's all.

You (Chauncey) feel fairly well?

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Chauncey: Fairly well. How are you?

H.H.Jr: I'm better.

This is my story. Sit down, gentlemen.

First, to get a clearance from the War - Sumner - what do you call it - to receive the mission, from State Department, then, to get this authorization from the President. And all we've done is to help these fellows because Procurement is in the business of buying planes. And then when these French wanted to go over, Captain Collins took them over to Louis Johnson's office, and he's got a copy of the minutes that took place at that meeting.

Well, see, what they said at that meeting - Louis Johnson said, "All right, let them go out to the Coast and Major Douglas, so-and-so, in charge of the plant, will give them a clearance when they get there."

George: That's the chief inspector at that plant.

H.H.Jr: (On phone) Miss Chauncey. - Miss Chauncey, there's a letter from Admiral Leahy to me, in which he authorizes the clearance of the French mission to see some Navy planes. Admiral Leahy wrote me a letter. Get it.

George: It's there.

H.H.Jr: What?

George: I say it's there.

H.H.Jr: (On phone) Wait a minute.

Sit down, Johnny.

(On phone) Dig for it. It's there somewhere - a letter from Admiral Leahy.

George: You had it photostated and gave Harry Collins a copy of it.

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H.S. Jr: Now, what I want - should I call up the President?
Why not?

Gaston: well, it's just this question that he gave the governing authorization for the French to have the latest models of planes, and of course that's got to come out in the Committee hearing. Almost certain to come out.

H.S. Jr: well, I suppose - do you think I ought to call him up and tell him I'm going on the Hill?

Gaston: I think he should know you've been called up on the Hill.

H.S. Jr: all right. O.K.

(On White House phone) President of the United States, please.

(Treasury phone rings)

(On W.H. phone) Hold this a minute. Delay it a minute.

(On Treasury phone) Hello. (Conversation with Senator Cneppera follows:)

January 27, 1939.
9:44 a.m.

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EMr: Hello.

Operator: All right. Go ahead.

EMr: Hello.

Senator
Sheppard: Mr. Secretary?

EMr: Yes, Senator.

S: General Arnold has gone to New York.

EMr: Yeah.

S: Would you wish to come on anyway?

EMr: Well, I think that -- the way --

S: Woodring is not down yet. I'm watching him. I'm trying to get him.

EMr: Well, I think the way the story reads, I don't want -- I don't want the sun to set on this story without your hearing me.

S: Oh, sure. We are going to hear you. You know that.

EMr: Yeah.

S: And I'm just trying to -- you stated you wanted both of those gentlemen present.

EMr: Well, you --

S: But I can say that you asked that they be present.

EMr: Yes.

S: Yes.

EMr: You know -- you heard General Arnold, you know what he said.

S: Well, I -- I have a dim -- just a hazy -- you know in the rush and hurry of those things -- he was down at one end of the table and I was at the other and he said something about the Treasury Department, and then one or two of the Senators said they would like to hear you.

EMr: Well, now, did you have a stenographer present?

- S: Oh, yes, he's there, and the -- and the proof is at the printing office.
- WJr: I see.
- S: You see, up here, everything is in -- is -- is in quite a and rush. It's hard to keep in line with it. Right now -- of course, the best proof would be the -- the stenographic report.
- WJr: Yeah.
- S: That might be up this morning.
- WJr: Well, if that could -- if that could be there and could be read out loud just as what General Arnold did or didn't say, I think it would be helpful.
- S: Yes. Well, I don't know whether that's back yet from the printing office.
- WJr: Well, I'll be ready -- I -- I've got a copy of who signed the order.
- S: Yes.
- WJr: And it's an Army officer.
- S: Well, I think then you'd better come on up anyway at eleven o'clock.
- WJr: All right.
- S: All right.

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(Chauncey hands H.M.Jr letter from Leany)

H.M.Jr: Here's the Leany letter.

"I am informed that the French high commission now visiting the United States with a view to purchasing a quantity of military airplanes desires to inspect United States Navy Model XBT-2 and to purchase airplanes of that model if it is found suitable.

"You are advised that the Navy Department is agreeable to the inspection of the XBT-2 by the commission. The release of this type airplane for purchase for the account of the French Government is also satisfactory to the Navy Department."

O.K. Better have it ...

Chauncey: ...photostated.

H.M.Jr: ...photostated.

Chauncey: I will, sir.

H.M.Jr: (On W.H. phone) The President, please.

No, this thing will grow and grow, and they'll have it all over the thing.

Chauncey: I wouldn't let this thing go for a minute.

H.M.Jr: This is what I told Sandy Klein when he called me this morning. I told him of course the Treasury Department had known for some time this French mission was in the country; it was officially announced by the Air Attache the other day; beyond that there was nothing I could tell him; that I would suppose that if permission were given for a man to ride in a plane, it would be given by the Army or Navy.

H.M.Jr: Joanny, how many times did I tell you that the Army would try to get me because they want to cover up the mess that they're in?

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Hanes: Cover up what?

H...Jr: The mess they're in. How often did I tell you?

Hanes: Every time you talked to me.

H...Jr: Didn't I say they'd try to get me?

Hanes: Sure.

Gaston: I think Johnny's right, this comes from the Army.

H...Jr: Well, I don't - well, I'll put it this way: I'm sure that General Craig wouldn't do this.

Gaston: No.

H...Jr: I think it comes from Louis Johnson and whoever his little cohorts are. See? But you fellows are so insistent that we kill this story fast?

Gaston: Yes, I think so.

Hanes: I think it would be a tremendous mistake to let this thing hang fire and let everyone be harraged with questions and everybody have to say, "I don't know." I think it's a terrible thing. I think we ought to get it right out

H...Jr: (On white House phone) Good morning, sir. I don't know whether you had time to read the morning Tribune story about General Arnold saying he didn't know anything about this.

H...Jr: Yes.

H...Jr: Well, Senator Sheppard's had me on the phone twice, and I'm going up on the Hill at 11 o'clock. Now, I asked him please to have Secretary Woodring and General Arnold also. The fact is - I've got hold of Captain Collins - the order to see this plane was signed by General Arnold. So I don't know why he should give the Committee the impression that he knew nothing about it. He actually signed the order himself.

Now, if they press me, how far can I go?

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- F.D.R: Well, what I'd say would be this. I think it's a simple thing and these people came in to buy planes, and we naturally And you can say quite frankly that the President told you that France was
- H.C.Jr: And I, for instance, have figures to show that Pratt & Whitney laid off a lot of men this month.
- F.D.R: And if they took planes and put in money at this time, it would help our program after the first of July.
- H.C.Jr: Well, I'm completely ...
- F.D.R: Of course you believe in this whole thing.
- H.C.Jr: But I didn't want to go up there and reveal my authority unless it was agreeable to you.
- F.D.R: Yes, it's all right. If the press asks me about it, I'll say the same thing.
- H.C.Jr: And I don't know if this is an accident. I knew that this was coming - I told the people in the office that - sooner or later. And I'm delighted to go up there.
- F.D.R: Yes. and this is part of getting ready for our home preparedness
- H.C.Jr: Right. Well, I'm drilled in it. But I just couldn't go and not report to you first.
- F.D.R: Yes.
- H.C.Jr: And I called up Woodring and of course he said, "I turned the whole thing over to Louis Johnson." So I said, "Well, do you want me to call up Louis Johnson and talk to him?" He said, "No, no, no."
- F.D.R: Yeh, yeh, yeh.
- H.C.Jr: Yeh, yeh, yeh.
- It's a matter of fact, to be very honest, I enjoy going up there, because I knew that that Air Corps,

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to try to cover up their own deficiencies, would try to sooner or later put it on me.

A.S.Jr: All right.

H.S.Jr: and I'm taking Captain Collins and Captain Kraus with me. I'll ask the Navy to let him go.

G.D.S: Right.

A.S.Jr: Thank you so much. (Conversation ended)

Gaston: That's the stuff.

H.S.Jr: He put it right on me. He said, "Tell them two things. We're doing it, first, because we believe that there are certain countries we want to help; and then, also, we're doing it to help our own production."

Gaston: Yes.

A.S.Jr: (On Treasury phone) Ask the White House who it is. If it's Woodring, make it come through this wire, will you?

Gaston: also jobs for American workmen.

A.S.Jr: I'm going to get this thing. I mean we've got a swell story.

H.S.Jr: Be very much easier for you to go up there now that you've talked to the President.

(Collins and Kraus come in)

A.S.Jr: Sit down, gentlemen.

(On phone) Hello. (Conversation with Woodring follows:)

January 27, 1939.
8:53 a.m.

Mr: Hello.

operator: Secretary Woodring.

Mr: Thank you.

Q: Go ahead.

Mr: Hello.

Harry
Woodring: Hello. Say, Henry.

Mr: Yes?

Q: Arnold is out of the city, and as near as I can get from General Craig is that they asked him up there -- he called up this morning and said that they asked him this question -- ah -- of -- no, they didn't ask him who did it. They told him who did it.

Mr: Yeah.

Q: They told him that the Treasury Department -- wasn't it true that the Treasury Department had made this arrangement, and as near as we can understand from him -- he telephoned in here-- that he said "yes". Now -- ah -- Senator Sheppard just called me and I'm going up there at eleven o'clock with copies of the orders.

Mr: Yeah.

Q: Now, of course, when it comes down to the question of who issued the orders, why we did.

Mr: Of course.

Q: Yes.

Mr: And I just talked to the President --

Q: Yeah.

Mr: And I told him I was going up, and I wanted to know how far I could go and he said that -- tell the whole story and say that I got my -- that if they ask where I got my authority, I got it from him.

Q: Well, I see.

Mr: But the order -- I've got it before me.

W: Yes, they tell me that --

EMJr: Signed by Arnold.

W: That's right.

EMJr: And, of course, you can't convince me that somebody who is connected with the War Department didn't fix it so that -- that I'm on the spot.

W: Well, of course, I -- I don't know about that, Henry.

EMJr: Well, I say that's what I --

W: Yes.

EMJr: That's what my intuition tells me.

W: Yes.

EMJr: And --

W: Well --

EMJr: And I'll be up there, and I told Senator Sheppard that I'd be delighted to come up there.

W: Yes, of course.

EMJr: Are you bringing Craig with you?

W: What do you think? Do you think I better?

EMJr: I -- I think it would be fine.

W: All right.

EMJr: I think it would be fine.

W: And -- of course, Arnold is in New York -- in New York, you see?

EMJr: Well, I got his order right here.

W: Yes, well we've got a copy of that.

EMJr: Sure.

W: And, now, Burns, they tell me, called Arnold, and gave him the instructions on the order.

EMJr: Who is Burns?

W: Well Burns is -- is Administrative Assistant of the Assistant Secretary of War.

HJR: Well, where would he get his authority?

W: He walked -- well, that came from the letter, you know, that came to all of us.

HJR: Well -- ah -- Harry --

W: Yes?

HJR: I'm -- I'm -- when I go on the hill, I always tell the story from beginning to end.

W: Yes?

HJR: And that's what I'm going to do this time.

W: Well, now, you think that we ought to bring Burns along too?

HJR: I don't -- I don't know how your organization works --

W: Yeah.

HJR: But --

W: Well --

HJR: I don't know -- I don't know -- I'm prepared to answer any and all questions of the Treasury's participation. I -- I don't know how to answer the War Department's.

W: Well, all right. I'll bring General Craig with me.

HJR: Thank you so much.

W: At eleven o'clock.

HJR: Thank you.

W: Good bye.

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H.M.Jr: I'm just going to get you (Kraus) cleared so you can go with me.

(On phone) Secretary of the Navy, and if he's not there, Assistant Secretary of Navy, please.

Just wait a second. I got a clearance from the President. I can go the limit on this.

Collins: Here's the memorandum I referred to.

H.M.Jr: Just a minute. I want to do this thing in the order which it came.

Number one. State Department gave me clearance on French mission. I'll get the date on that. You don't know the date that they gave me the clearance? The State Department. What was the date? It was a Friday night, I think.

Collins: State Department, sir?

H.M.Jr: You don't even know about it.

Wells: That was before Harry got in it.

H.M.Jr: and after that

(On phone) Mr. Sumner Welles, please.

and the first thing happened - the State Department gave me a clearance, see, to receive a mission. Gave me a clearance to receive French mission.

and then two: President authorized me to proceed.

and three: verbal instructions to you (Collins) that you should cooperate. What?

Collins: Yes, sir.

H.M.Jr: (On phone) Hello. (Conversation with Assistant Secretary of Navy Edison follows:)

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9:57 a.m.

WJr: Hello.

Operator: I have Mr. Edison.

WJr: Thank you. Hello.

Charles Edison: Good morning, Mr. Morgenthau.

WJr: Hello, Edison. How are you?

E: Glad to hear from you.

WJr: Edison, with the President's knowledge and approval I'm going to testify on the hill at eleven o'clock before Senator Sheppard on this French mission.--

E: Yes?

WJr: And I'd like to have your approval to take Captain Klaus with me.

E: Oh, sure, go ahead.

WJr: Is that all right?

E: Absolutely.

WJr: He's sitting here now, and I -- but I didn't want to take him up unless it was all right with you.

E: No, sir. Any other -- anything else you want?

WJr: No, that's all. I just want your approval.

E: All right, fine. Well, have they bought them yet?

WJr: Just a minute, I'll have to ask Collins.

(Pause)

Collins says they increased their order of Curtiss pursuit by one hundred and signed that last night.

E: I see, well, that's two hundred altogether?

WJr: That's two hundred of that. Now, they are going to order how many Martins? (Said to Collins aside) They are planning today or tomorrow to order the -- the hundred and fifteen of the so-called "improved Martin".

E: Well, that will be three hundred and fifteen planes?

WJr: Well, the -- no, that other order was placed not by this mission. Now you've got two fifteen, you see?

E: Yeah.

WJr: The hundred -- that other hundred was placed some time ago.

E: Yeah.

WJr: Just two fifteen -- (talks aside) - and a hundred of this new B-7 Douglas, so that will make a total of three hundred and seventeen planes.

E: Three hundred and seventeen? All right, thank you very much.

WJr: But that's -- that's what their plans are, but they shift all the time.

E: Yeah.

WJr: Thank you.

E: All right, sir. Good' bye.

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H.E.Jr: Hope I don't pass out before I go up there. I don't want to miss this show.

Let me get this thing straight. State Department gave me clearance, President authorized me to proceed, and I authorized Procurement to cooperate. Right?

Collins: Yes, sir.

H.E.Jr: Now, have you got a copy of this meeting that took place in that office?

Collins: That's it, sir.

H.E.Jr: Do you mind reading it, to save my throat?

Collins: It's dated January 17 - a memorandum which I prepared for our files.

"A meeting was held at 1:35 p.m. today in the office of the Assistant Secretary of War. In addition to the "

H.E.Jr: Wait a minute, please.

(On phone) Hello. (Conversation with Sumner Welles' secretary follows:)

January 27, 1939.
10:00 a.m.

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HMJr: Hello.

Operator: Mr. Welles is with Secretary Hull. Do you want me to try to get him there?

HMJr: Yes, it's -- let me -- or let me talk to his secretary.

S: All right.

HMJr: Let me talk to his secretary.

S: His secretary.

HMJr: Hello.

Secretary: Good morning, Mr. Secretary.

HMJr: Good morning. I'd like Mr. Welles to tell me -- if you could look it up and then let me know -- I've got to appear before Senator Sheppard at eleven o'clock on this French mission, and I -- I can't find it in my files. The day that Mr. Welles called me up and said that the State Department approved the Treasury receiving this mission, you see? Hello?

S: Yes?

HMJr: He called me up, I think -- I know it was on a Friday night around six o'clock. I'd like to know what day, if it's in his records, you see?

S: I'll look and see.

HMJr: And then -- you'll most likely want to clear with him, but I -- I've got to have it before I go on the hill at eleven.

S: All right, sir.

HMJr: There will be another -- the State Department gave a clearance on this French aviation mission and I'd like to know what day it was.

S: Yes.

HMJr: My records are incomplete.

S: Let me look it up.

HMJr: Thank you.

S: Yes.

Collins: "In addition to Assistant Secretary Johnson, there were present General H. H. Arnold, Chief of the Army Air Corps, Colonel James H. Burns, and Captain H. A. Collins."

H. H. Jr: Who was present?

Collins: Assistant Secretary of

H. H. Jr: Where did the meeting take place?

Collins: In the office of the Assistant Secretary of War. Present were Assistant Secretary Johnson, General Arnold, Colonel Burns, and myself, sir.

"Assistant Secretary Johnson stated that the War Department had received a letter from the President similar to one received by the Secretary of the Treasury and that they were willing to cooperate one hundred percent with the President's wishes. He asked what the French mission wanted and was told that it had been planned for it to leave Washington tomorrow by plane to visit the Douglas plant for the purpose of inspecting the light bomber now being built by that company. He stated that this inspection and the sale of ships of this type to the French was perfectly agreeable to the War Department.

He was asked concerning the clearance for inspection and possible purchase of this airplane, and General Arnold stated that such a clearance would be forwarded to Major Wolf, who would meet the French mission upon its arrival and who would be in charge of the visiting party during its stay at the Douglas plant.

"The Assistant Secretary pointed out that the bombsights were considered secret and were not available for inspection under any circumstances by the French. He was informed that inasmuch as they were satisfied with their own bombsights, it was not likely this would come up for discussion.

"The Assistant Secretary reiterated his desire to cooperate in every way, requesting that clearance be had through his office on all matters. This he

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was assured would be done. (Et cetera)

- H.A.Jr: Beautiful.
- Would the Admiral like to be in on this?
- Collins: I don't know. He might like to go along.
- H.A.Jr: Mac, step out in the other room and ask Admiral Peoples - tell him we'll be delighted to have him come if he wants to.
- Mac: At 11 o'clock, in Sheppard's office.
- Genes: No, Senate Military Affairs Committee.
- H.A.Jr: Tell Admiral Peoples if he wants to go we'd be delighted to have him.
- Mac: Yes, sir.
- H.A.Jr: Now, you (Kraus) accompanied this mission, didn't you?
- Genes: Yes, sir.
- H.A.Jr: Now, will you take up the story from there and tell me what happened, please?
- Kraus: We arrived at the Douglas plant at about 9 o'clock, 9:15, and were met by Major Wolf, who is the Army Inspector or Army representative at that plant; made a short tour of the plant in his company - the mission did - came back into Mr. Douglas's own suite of offices and discussed the possibilities of the airplane.
- H.A.Jr: You were met by Major Wolf?
- Kraus: Met by Major Wolf.
- H.A.Jr: Did you go out in a Navy transport?
- Kraus: Went out in a Navy transport, were grounded by the weather at Kingman, Arizona, and finished the trip out by night by Santa Fe Railroad. We were met by Mr. Douglas at the train, met at his office as soon

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as we arrived by Major Wolf, made this short trip around the plant and saw certain of the supposedly interesting features. Then we went some seven or eight miles over to the municipal airport, where the airplanes were located. That's where the L. C. Gunn Company, division of the Douglas Airplane Company, operates.

H. W. Jr.: Do they have complete control over it?

Kraus: The public has access to the municipal airport. The airplane is sitting on the line, ready for examination.

H. W. Jr.: Isn't that the place that I'd land if I came by United Air?

Kraus: No, you'd land at Burbank. But it's a public airport. It's a municipal airport. It's the Los Angeles municipal airport.

H. W. Jr.: There was the plane on the line?

Kraus: Yes, sir.

H. W. Jr.: O.K.

Kraus: And the airplane was examined at that point on the ground by the members of the French mission, and then was flown for demonstration by the Douglas Company's pilot, with one member of the French mission riding in it, and they ultimately crashed the airplane; but the Douglas pilot was doing all the flying.

Major Wolf was present throughout that time, and of course after the accident, why, the mission split up somewhat, but Major Wolf remained in that area where at least two members of the mission were that I remained with, I know. And subsequently we returned to the Douglas plant, again in Mr. Douglas's offices, where the specifications of the airplane were discussed and the possibilities of production - the output possibilities were discussed, Major Wolf again participating in the discussion. And we all had dinner together that evening after that day's work, Major Wolf being present again.

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Next morning we arrived at the plant at about 8:15, I think, and there was further discussion as to production possibilities and the possibilities of working into the planes certain adjustments for the accommodation of certain French equipment. That continued through the morning.

Two members of the mission visited the member of the mission who had been injured, at the hospital.

We returned there, had lunch, embarked in an airplane, a Navy airplane, at 1:10 for the return trip to Washington. At that point we parted company with Major Wolf, and I escorted the mission back. The two members who returned I escorted back to Washington, one member being left in the Santa Monica Hospital injured, and another man to more or less attend him, look out for his wants until they could substitute some other person for that duty.

A...Jr: How did you get a copy of this thing? (Order of authorization signed by General Arnold)

Kreus: I asked Major Wolf for that in accordance with Collins' request. I asked Major Wolf for that as soon as I got out there, on the ground that Collins would want that to complete the file and have a complete, clear record on the release of all these airplanes.

A...Jr: That's nice work.

Now let me ask you this. I want you two gentlemen to start in and give me a picture, first, of what is the condition of the American plane situation as far as private manufacturers go - how many orders they've got, how many plants are idle, so forth and so on. Which one of you men know that best? You've been living with this thing.

Collins: Have to work jointly. You (Kreus) want to ...

A...Jr: What I'm getting at - I want to be able to go up and say, "Here's a picture of the industry." And you (Collins), for instance, told me Pratt & Whitney laid so many people off and that certain plants have

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no business. I want to know, from your knowledge, what plants, for instance, have no business.

Collins: You mean you want that right this moment, sir?

H.L.Jr: Yes, as you can give it.

Collins: All right. There is practically no business at the moment - check on this - at Bell Aeronautical Company.

Collins: Has experimental, but no production.

H.L.Jr: No production yet. The same thing is applicable to Doversky; Brewster.....

Arms: ... has moderate, small production.

H.L.Jr: (On White House phone) Hello. - Right. - Hello. Who are you?

Stephen T.
Wry:

H.L.Jr: Please.

Wry:

H.L.Jr: Check.

Wry:

H.L.Jr: Right.

Wry: So there is nothing at all irregular about this plane not having been entered in competition.

H.L.Jr: Right, right. Now let me

Wry: So I confirmed that with your

H.L.Jr: Yes.

Wry: Am I correct?

H.L.Jr: Yes, you are. Now let me tell you something. To show you how secret this thing was, this plane was brought

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up to the regular position on the municipal airport at Los Angeles, where anybody in the world could see it, and all of the demonstration was done over the municipal airport at Los Angeles. And we have idle plants.

Early: I think that's so.

H.S.Jr: Pratt & Whitney just laid off a lot of men. You know - I cleared with the President, you know.

Early: I think it's going to work out all right.

H.S.Jr: Grand. It's very helpful.

Early: It was still the private property of the manufacturer.

H.S.Jr: That's very good. Now look, I've got Captain Collins here from Procurement and Captain Kraus of the Navy; they're both drilling me.

Early:

H.S.Jr: Well, no, I know what you say is right. But I just want you to know, see, that this thing never would have happened if somebody hadn't done some meddling.

Early: I suspect so.

H.S.Jr: I know it - somebody. And I told Harry Woodring ten minutes ago - I said, "Harry, somebody" - I didn't mention any names - "in the War Department has brought this thing about," and I said, "You'll never convince me that somebody connected with the War Department didn't do this." I think I can name the person, too. There are people here now But thanks for that, and that's very helpful.

We're - listen, the Army itself gave out a release three days ago saying how helpful this would be. Did you know that? I'm trying to get a copy of it. Two or three days ago after the crash the Army gave out that it was delighted to have them here.

Early:

H.S.Jr: Colonel Searles. Herbert - he's here and I'll get a copy and take it with me.

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Early:

W.C. Jr: all right, and I'll get a copy. They gave out a release saying that the War Department was delighted to have them here, it would be helpful to the industry.

Early: That's right.

W.C. Jr: Yes, I'll get it. Thank you. (Conversation ended)

W.C. Jr: That was Mr. Early simply saying I should point out at my testimony that this plane was the private property of the Douglas Company, and that until the Douglas Company submitted this for competition and won the competition, the United States Government had no control whatsoever over this plane.

W.C. Jr: Senator Connally is over here. Can I excuse myself?

W.C. Jr: It's all right. We're coming along fine.

Just a second.

(On white house phone) Hello. - Fine. - Hello.
- right. - Hello. - Yes. - Neither
have I. Well, I'll simply say that the State Department gave the mission the clearance, that's all.

W.C. Jr: Yes.

W.C. Jr: Yes, but I mean if I'm questioned as to how they came, I'm going to say before I'd see them I cleared with the State Department as to their authenticity, that's all. Usually I'm very careful, and I know you are, so I'm sure that you know.....
I know the approximate time.

Want a good laugh? Did you read the story in the paper today about Arnold saying he didn't know anything about it, and all that? Hello?
- well, General Arnold was sick. - You want to know who signed the order for the French mission to go out there? General Arnold. And I have a copy of it. I thought that would give you a laugh. So I shouldn't worry. - -

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You know what Woodring said? He said, "Let me call up Smeppard." He said, "I'm sure they can kill this thing, they won't want you."

I said, "Listen, Harry, it will spread all over the United States that I'm doing something I'm not supposed to. I'm going up there." I cleared it with the President.

Welles:

H. W. Jr: well, I'm not feeling - got a terrible sore throat and head cold, but I'm certainly going to clear this one. - Thank you. - Well, that's all - I mean your records and mine are the same; I didn't make any written record of it either. - Thank you.

(Conversation ended.)

H. W. Jr: He said that he didn't make any written record but he said he told me that this was an official mission and that there was no question about the authenticity.

Reporter: That's Welles?

H. W. Jr: Welles.

Go ahead with the airplane industry.

Collins: Consolidated aircraft

Kraus: They're dragging out a Navy order.

H. W. Jr: The plants that have no orders.

Collins: Start with Consolidated.

H. W. Jr: This is no orders of any kind.

Kraus: finishing up, which means obviously a hiatus is going to occur. No future orders ahead.

H. W. Jr: No future orders. Consolidated.

Collins: Seeking work at the moment, sir.

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H. J. Jr: Seeking work.
All right, now we'll start with Bell?

Collins: Bell Aircraft, Buffalo. He's finishing up the pursuit.

Kraus: He has an order for thirteen that are semi-experimental, which he's so far been unable to finish.

H. J. Jr: but no future orders?

Collins: as far as we know now, he's going to fly a suit in this 17th of March test - experimental.

Kraus: but evidence of the state of his work, Mr. Secretary, is to be found in the fact that he was quite willing - I thought he appeared to be anxious ...

H. J. Jr: Did you (Gaston) get that release?

Gaston: I didn't get it. I sent for it.

H. J. Jr: Can you get it in time?

Gaston: I think so. Told him to make all time possible.

H. J. Jr: who'd you send?

Gaston: Frank King is working on it in my office. He's calling up.

H. J. Jr: want to send a messenger?

Gaston: I told him as soon as the release was ready to send a messenger over and get it.

Kraus: The state of Bell's work is indicated by his complete willingness to combine with another manufacturer to speed up production. He had spare capacity.

H. J. Jr: I can say that Bell, Consolidated

Collins: Consolidated, Bell, Brewster

H. J. Jr: ... Brewster ...

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Collins: Stearman - S-t-e-a-r-m-a-n - is without work.

Arust: Douglas plant is working below capacity itself.

H...Jr: Douglas. What about Boeing?

Collins: He's way down.

Arust: Their situation, I've been told, is they have to have work or else. United hasn't any plane orders.

Arust: and Sikorsky?

Arust: The Sikorsky division has no work.

H...Jr: Now, the engine - you told me Pratt & Whitney are laying off

Collins: Laid off about fifteen hundred men. I think, sir, they're very anxious for an order now.

H...Jr: Pratt & Whitney laid off men.

Collins: Anxious for work.

H...Jr: What about the famous engine?

Collins: Wright?

Arust: Allison.

H...Jr: Yes, Allison.

Collins: They're not in production yet, sir, to any great extent.

H...Jr: Have they any orders?

Arust: Yes, they have some orders - experimental - they have 31 orders from the Army and four from the Navy.

Collins: That's right.

H...Jr: You mentioned Martin. How about Martin?

Collins: Martin ...

H...Jr: Future orders. Has he

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Collins: He has future work, some future work, but not in the same category as Douglas.

H.A.Jr: I got the story all right.

Collins: Has some vacant capacity.

H.A.Jr: This is too bad. Herbert says already the Treasury Department is referring all questions to the State Department or to the White House. Did you do that?

Gaston: I referred him to the State Department, yes.

H.A.Jr: Did you?

"The Senate Military Affairs Committee decided today to 'invite' Secretary of the Treasury Henry Morgenthau, Jr., to tell it what, if any, permission his Department granted Paul Chemidlin, representative of the French Air Ministry, to ride in an experimental bombing plane that crashed near Los Angeles Monday.

"Members of the Committee said that Major General A. H. Arnold, Chief of Army Air Corps, told them in executive session yesterday that the Treasury Department had given Chemidlin permission to accompany a Douglas Aircraft Corporation pilot on a test flight. He denied, they said, that the Air Corps or the Army Chief of Staff had granted it.

"Treasury Department officials declined to comment on the incident, referring all questions to the State Department or White House.

"Members of the Senate Committee said that they did not know what jurisdiction the Treasury would have in such a case, but said that they would try to elicit that information from Morgenthau. They emphasized that Morgenthau would be 'invited' to testify at his convenience."

Ganes: May I see that?

H.A.Jr: Well, I think we're all right. I think it's going to be good fun. The answer is that the Treasury has

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has no authority, can't issue any orders to anybody, and didn't issue any orders to anybody. Is that right?

Collins: Yes, sir.

H. S. Jr: But that the President of the United States, wanting to be friendly and cooperative to the French people and wanting to get work for American manufacturers, felt that Procurement, which was a central purchasing agency of the United States Government, should offer their facilities to assist the French mission in meeting American manufacturers.

Collins: and coordinating the efforts.

H. S. Jr: Coordinating the efforts. And that's what we've done.

Collins: That's all.

H. S. Jr: And that Captain Kraus of the Navy was assigned by the Navy to assist - and who was assigned from the Army?

Collins: They had two people. Fairchild was first

(Peoples comes in)

H. S. Jr: Hello, Admiral.

Peoples: Good morning, Mr. Secretary.

Huges: How are you?

Collins: Major Fairchild and Major Lyon.

H. S. Jr: Didn't think you wanted to miss a good show.

Peoples: Didn't want to miss it, Mr. Secretary. Anything I can help with I want to do.

H. S. Jr: The Navy assigned Captain Kraus, and Army assigned who?

Collins: Major Fairchild first, sir.

H. S. Jr: Fairchild.

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(White House phone light flashes)

H.A.Jr: Don't - let it go. We'll see who it is.

(On Treasury phone) Find out who it is on the White House phone.

Major Fairchild, and then who?

Collins: He was then succeeded by Major Lyon.

H.A.Jr: How do you spell that?

Collins: L-y-o-n.

H.A.Jr: L-y-

Collins: L-y-o-n, sir.

H.A.Jr: They were assigned to whom? To the French mission?

Collins: (Nods no)

H.A.Jr: Think that one over.

(On phone) Hello. - Hello, who is it? - She doesn't know? My phone - the lights went on twice here. - Says they're not on there. - Well, I won't talk to them then.

Peoples: Arnold's representatives, they were.

H.A.Jr: But I mean to whom were they assigned?

Collins: Assigned to us, sir, to work with us.

H.A.Jr: Procurement. This is my story, Admiral. See if it sounds - try it out on you. You're Senator Sheppard, God help you.

The State Department gave me a clearance as to the authenticity of the French mission. Then the President - I've talked to him - authorized me to proceed. The Procurement Division, as a central purchasing agency of the Government, was asked by the President to coordinate this, assist the French

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Government so that they could proceed rapidly and make it easy for them to meet the American manufacturers on neutral ground.

Peoples: Yes, sir.

H.L.Jr: That we have done, believing, first, that it was good business for the American manufacturer to get these orders, where there are plants - and I've got a list of the plants - who have no future orders. In the case of Pratt & Whitney they've had to lay off a thousand or more men. In the second place, we believed that this was a friendly nation and we should offer them everything

Peoples: Exactly.

H.L.Jr: (On phone) Hello. - The President?

President's calling.

(On phone) Hello. - Yes. - Thank you. Hello.

H.L.R: Hello, Henry.

H.L.Jr: Yes, sir.

H.L.R: Have you a moment?

H.L.Jr: Yes, sir.

H.L.R: I've asked

H.L.Jr: Yes, sir.

H.L.R: the American manufacturers
He has nothing to do with it.

H.L.Jr: That's right.

H.L.R: And the company made no arrangements

H.L.Jr: That's right.

H.L.R:

H.L.Jr: That's right.

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W...:

W...Jr: Yes, that's right. And you might know that the French mission have given us a pledge and word of honor that that plane would never leave France for one year, and that nobody - no other government would have access to it. We have that understanding with them.

W...: All right. Now ...

W...Jr: Another thing, sir. This plane was brought down at the municipal airport at Los Angeles, which is a public airport, and the demonstration took place over the municipal airport. Not only the French mission, but as many hundreds of people as were there, could see it. Anybody could photograph it. It was done right out in the open at the municipal airport. There was nothing secret about it.

and the only thing, as a matter of fact, for your information, that the Army didn't want to be seen was the bombsights, because that was secret. The French said, "We don't want your damn old bombsights. We think we've got a better one." That's the only restriction the Army made. And the order to go out there was signed by General Arnold.

W...:

W...Jr: Well, I've got it here. He went much further than that, sir. I can read it to you.

W...:

W...Jr: Of course, this meeting up there is supposed to be an executive session, but I think - I mean I think we're on more than safe grounds.

Now, one other second. The following plants have no future orders.

W...: Yes.

W...Jr: Bell Aircraft, Consolidated, Brewster, Stearman, Douglas, Boeing, Seversky.

Now, the engines for these planes are going to be bought from Pratt & Whitney, who laid off fifteen hundred men.

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Foley: Fine, Henry. Thank you.

H.H.Jr: Goodbye. (Conversation ended)

H.H.Jr: His press conference comes ahead of mine. He's having a press conference now. So he went through a rehearsal with me, you see? He says, "I go on before you do."

Jack: He's stealing your stuff.

H.H.Jr: Well, it's - what could be better? Good guy to work with.

Inspector: Fine, sir. Teamwork.

H.H.Jr: Yes, he's going to stress the point - the point that he's stressing is that this is the property of Douglas, that the Government has nothing to do with it, we don't own this.

(Gaston notes H.H.Jr yells remark about
clip)

Ernest: He's trying to get the newspapermen to see this.

H.H.Jr: Why is?

Gaston: Frank is getting hold of the newspapermen. I don't remember the story.

H.H.Jr: Get the story. It broke within the last two or three days - definite statement right after the crash. What date did the crash take place?

Ernest: On Sunday.

H.H.Jr: It's this week, Herbert - that the Army was delighted to have this French mission here.

Now, you (Foley) got this authorization?

Foley: Uh-huh. Here's the translation.

H.H.Jr: Why all this stuff?

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Foley: That's the translation.

H.M.Jr: Why do you need five pages of translation?

Foley: These pages - supposed to have two: the memorandum and the contract.

McR: Let me have a copy of this made while you wait. Harry has only one.

H.M.Jr: Have three or four made.

Foley: I've got everything he had.

H.M.Jr: Where's the signature? Oh swell....

Let me just I got this, and that's your - have you (Collins) got a copy of that?

Collins: Yes, sir. Mac's taken the other one out, sir.

H.M.Jr: Here's the President's order and here's this.

Foley: Do you have this?

H.M.Jr: That's the one I don't want.

Herbert, who's going to cover the White House for us?

Gaston: Chick Swartz has gone over.

H.M.Jr: What I think you better do - has he gone?

Gaston: Yes, he's there.

H.M.Jr: I think you better go yourself, cover it, and then either try to catch me here or get me on the Hill, so you can tell me what the President said.

Gaston: Yes. Yes. Yes.

H.M.Jr: Certainly somebody gave this story out. (Army release)

Gaston: Apparently verbal interview with somebody over in the War Department.

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H...Jr: I don't think you (Foley) need to - I think you better cover the

Foley: Justice?

H...Jr: Justice.

Foley: 11 o'clock.

H...Jr: (To Hanes) And I'd let him take Cy with him.

Hanes: (Looks approval)

H...Jr: Did you tell Cy?

Foley: No.

H...Jr: I think it would be good to let Cy go with him. I'll call up Douglas and explain to him why you (Hanes) and I can't be there. You don't want to miss this show, do you?

Hanes: No, I want to go with you.

H...Jr: (On phone) Bill Douglas, S.S.C.
I'd say you don't want to miss this. This is good. I think it's terribly funny, you know, that the President goes on, so to speak, before me and he tells me, "Now, you tell Henry what to say," and then he isn't satisfied, so he calls me up and tells me exactly the same thing, that this plane didn't belong to us.
And oh boy, is our friend Louis Johnson scratching the back of his head.

Fogel: I should say so, Mr. Secretary; very much so.

H...Jr: info just makes him look silly.

Hanes: The fellow that seems to me out on the end of a limb is Arnold. I don't understand why Arnold

Collins: I'd like to have a photostat of that conversation.

H...Jr: (On phone) Hello. (Holds conversation with Bill Douglas)

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H.M.Jr: If you people will all be ready at quarter of, we'll go up. Mac, have a couple cars downstairs, will you please?

McR: Yes, sir.

H.M.Jr: Mac, you better go along. Don't you think so, or not?

McR: I don't think it's necessary.

H.M.Jr: You've got enough ...

McR: After all, I've got to either work today or tonight.

January 27, 1939.
9:36 a.m.

WJr: Ah -- Senator Sheppard has asked me to come on the Hill at eleven o'clock.

Captain Collins: Yes, sir.

WJr: Now, could you speed this thing up?

C: Yes, sir. I'll be over inn-- I'll be over there inside of ten or fifteen minutes, sir.

WJr: Who signed the order?

C: Arnold.

WJr: You got a photostat of it?

C: Oh, no, we have a copy of it.

WJr: You've got a copy of it?

C: Yes, sir. There was a copy from his inspector on the West Coast.

WJr: And Ar -- where's Klaus?

C: He's right with me this moment, sir.

WJr: Well, as soon as -- have you got a copy of the meeting that took place at Louis Johnson's office?

C: I have that.

WJr: What?

C: I have that myself.

WJr: You've got that your --

C: I wrote that up myself after the --

WJr: All right. Well, get that -- and Arnold signed this thing?

C: He did, sir.

WJr: Wonderful!

C: Yes, sir.

EMJr: Wonderful!
C: Yes, sir.
EMJr: Right, thank you.
C: I'll be right over, sir.

MEMORANDUM

TO: Secretary Morgenthau

January 27, 1939.

FROM: Mr. Gaston

After your testimony before the Senate Military Affairs Committee this morning Chairman Sheppard of the Committee submitted to questioning by newspapermen. He told them, first, the names of some of the persons who appeared including yourself, Secretary Woodring, Admiral Peoples and Captain Kraus. He was all wrong about Captain Kraus, identifying him as Admiral Kraus, Retired, and saying he was attached to the Procurement Division. I took the liberty of correcting him, explaining that he was Captain Kraus of the Navy and was on a temporary assignment to cooperate with the Procurement Division. The reporters questioned Senator Sheppard as to what the project was on which Kraus was cooperating with the Procurement Division and after some parley Sheppard admitted that it was in connection with the purchase of planes by the French Government.

He was asked directly whether it had been established who gave the order permitting the inspection of the Douglas bomber by the French. In reply he said "That's what we are looking into." One of the reporters said "Well, didn't General Arnold tell you yesterday that it was Secretary Morgenthau who gave the instructions?" The Senator said that was not quite right, that as he recalled the testimony General Arnold said only that the trip of the French mission to the Douglas plant was under the supervision of the Treasury Department. One of the reporters then asked whether if the Secretary of the Treasury could give such an order for the inspection of a plane being built by the War Department any other member of the Cabinet could give a similar order. Another reporter volunteered "or Harry Bridges". The Senator merely repeated "That's what we are looking into," and added that General Craig was to testify tomorrow.

Other reporters asked whether it was not true that the Douglas plane that the French saw had a good deal of secret new equipment. They mentioned altimeter, radio and bomb sights. The Senator replied that he thought it was pretty well established in the session this morning that the bomb sights were not on the plane when the French saw it. Professing ignorance himself about these devices, he took down radio and altimeter as being matters worth asking about.

He told the reporters that questions the Committee was interested in looking into include the important question whether there was any omission or defect in the law which would permit foreign governments to obtain access to American Military secrets.

- 2 -

The reporter for Transradio Press, an ex-newspaperman, walked down the hall with me to see if I could add anything. I told him that I could not. I repeated to him the substance of the President's remarks this morning and he said that he could not see what all the shooting was about. It seemed to him pretty plain from what the President had said that proper authority must have been given for the inspection of the Douglas plane.

The general impression among the reporters up-to-date however seems to be that on the authority of the President the War Department was over ridden on the matter. I note that the Evening Star says that a fellow officer in the Army attributed to Arnold the statement that he had been "grossly misquoted".

VBS

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MEMORANDUM

TO: Secretary Morgenthau

FROM: Mr. Gaston (Reported by Mr. Schwarz) (C)

SUBJECT: President's Press Conference, Friday, January 27, 1939,
10:30 A. M.

PLANE - Asked if this Government had taken any steps to assist or facilitate the Government of France in the purchase of military airplanes here, the President said, "As you put the question, no. But the obvious facts are simple ones. Most of the plants here are idle. The six major factories are practically closed. One of the largest engine companies recently laid off 1,500 men. For the sake of our own program it is desirable to get our plants going." The President explained that what the Government had done was to facilitate the efforts of American aircraft manufacturers in getting orders, especially, as he pointed out, "before our program is ready to get under way."

Asked if the same policy would be pursued with respect to Great Britain, the President said he did not think that nation actually is after any planes here. To a question as to whether the United States had provided any financial assistance for France in the deal under discussion, the President said "No". Asked how the War and Treasury Departments figured in the proceedings, the President explained that the whole subject had been discussed in Cabinet and that the War and Treasury Departments had no objection to the French ordering planes from a private American company. He pointed out that the ship that had cracked up was one that had not been accepted by this Government. "It was a manufacturer's plane", he said, "being flown from a public municipal airport." He said that he does not know whether we will order this particular type of plane. "Our decision, he said, will depend on competition both as to type and price, with no decision likely for another six weeks or two months."

Pressed further as to the Treasury's participation in the negotiations, the President said that this Department was included for two simple reasons--its interest in building up American export trade and the fact that the Procurement Division of the Treasury works in close cooperation with Army and Navy Procurement.

GUAM - Asked at the outset of the Conference whether he thought that "the strategic potentiality of Guam" with relation to the Orient ought to be considered in the defense program, the President said simply, "I don't know."

MISCELLANY - Asked for comment on yesterday's Conference on the Civil Service Executive Order (Bell, MacReynolds, Murphy, Hopkins, etc.), the President said that there will be a story on that, but probably not before Monday..... Perlmeter asked if there had been any report on the meetings of the Business Advisory Council. The President said he had seen two or

- 2 -

three of the members yesterday. Pete Brandt wanted to know "what was their attitude?" And the President said, it was "very nice". He answered in the affirmative when asked if they would cooperate..... Asked if he was yet ready to provide a story on aircraft mechanics, the President said, "not yet"..... He said he was not considering a possible successor to McNutt in the Philippines because he doesn't even know when Mr. McNutt is coming home.... He said, in response to a question, that he knew nothing of a proposed visit to him by the Maine Congressional delegation with respect to the Passamaquoddy project..... He said he had no comment to make on the Amlie appointment.... Asked if Judge Manton of New York had submitted his resignation, the President said, "No", and he also said he knew nothing of a report that the name of Ben Smith was being considered for the Russian ambassadorship.

-c00-

January 27, 1939.
4:00 p.m.

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Operator: Operator.

HMJr: Captain Collins.

O: Right.

(Pause)

HMJr: Hello.

O: Captain Collins.

HMJr: Hello.

O: Go ahead.

Captain
Collins: Yes, Mr. Secretary?

HMJr: Captain --

O: Yes, sir.

HMJr: I reported at Cabinet what happened.

O: Yes, sir.

HMJr: And the President said to proceed as before.

O: Yes, sir.

HMJr: To go right ahead with the French.

O: Yes, sir.

HMJr: And let them buy what they want.

O: Yes, sir.

HMJr: And that's what he said.

O: Yes, sir.

HMJr: So will you please proceed?

O: Aye, aye, sir. Now, Mr. Secretary --

HMJr: Yeah.

O: Do you think it's advisable that I should see you before this meeting tomorrow in case I should be pulled on to the stand?

WJr: Ah -- let me see -- have you been called?

C: No, sir. Well, they said for all of us to come back at ten thirty -- ah -- and I just have a feeling that I may get it up there tomorrow, because Clark was giving us a pretty close up and down there all during your -- your testimony.

WJr: He was doing what?

C: I say he was giving us a pretty good looking over all during your testimony.

WJr: Well, let me think it over.

C: Aye, aye, sir.

WJr: Please.

C: Aye, aye, sir.

WJr: Thank you.

January 27, 1939.
4:12 p.m.

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EWJr: Hello.

Operator: General Craig.

EWJr: Hello -- hello.

General
Craig: This is General Craig, Mr. Secretary.

EWJr: Morgenthau.

C: Yes, sir.

EWJr: General, you were kind enough to say about a month ago that you believed in me and that I was a friend --

C: Yes, sir.

EWJr: I believe in you and I like to think I'm -- you're my friend.

C:

EWJr: Do you suppose we could have a -- just a man-to-man talk between now and ten o'clock tomorrow morning -- strictly personal?

C: Yes, sir, although I am going to have a very difficult time tomorrow morning, sir. I am engaged -- they are going to call me back before that miserable committee --

EWJr: I know.

C: And -- my morning up to -- my morning is awfully full.

EWJr: Well, when do you leave your office tonight?

C: Sir?

EWJr: When do you leave your office?

C: I'll leave here along about -- I expect to be going out about five.

EWJr: Uh-huh. You couldn't stop by the Treasury or stop by my house?

C: I can, sir, and will be glad to.

EWJr: Which would you prefer?

C: Whichever you prefer, sir. Will you -- do -- when are you going home?

HMJr: Well, I'll be leaving here about a quarter of five.

C: Very good, sir. Suppose I try -- I'll look up -- I -- I don't remember where your house is.

HMJr: I'll tell you just where I live. I live at 2211 -- Thirtieth.

C: 2211 - Thirtieth?

HMJr: It's just -- and it's off Massachusetts. It's a hundred feet off Massachusetts.

C: 2211 -- Thirtieth Street.

HMJr: If you go up Massachusetts, and it's -- it's on -- going up-hill it's on the right-hand side.

C: Very good, sir.

HMJr: Do you know where Tydings used to live last year?

C: No, sir.

HMJr: Well --

C: Don't worry about that.

HMJr: Well, anyway --

C: Suppose I get there between five and a quarter past?

HMJr: I tell you, do you know where the Brazilian Embassy is?

C: No, Mr. Secretary, I seldom go there.

HMJr: Well, do you know where the British --

C: Yes, I know where the British is.

HMJr: Well, it's just -- we're -- we're below the British Embassy on the right-hand side.

C: Going up from Connecticut --

HMJr: Yeah.

C: Up Massachusetts and Thirtieth Streets on the -- up to the right.

HMJr: That's right.

Q: Well --

WJr: The reason I say that is because there is a Thirtieth Street over in Georgetown.

Q: Oh, yes, well, I won't go into that.

WJr: No, I -- I'd like very much to see you, because I -- it's surprising how little I know what's going on outside of my own office.

Q: Yes, sir.

WJr: Thank you.

Q: I'll be very glad to, between five and a quarter past, sir.

WJr: Thank you.

Q: Good bye.

January 28, 1939

FROM: MR. GASTON'S OFFICE

190

TO: _____

Mr. Gaston:

Cpl. Searle's office denies that
such a release or statement has
been issued by the War Department.
Maj. Ewerdt gave me this denial.

Frank

*Which suggests I check
with all of the correspondents.
L. G. S. S.*

Frank

FROM: MR. GASTON'S OFFICE

TO:

Mr. Thompson

Transcript checked
by Peckles, Collins,
Draus & H.E.G. in
addition to H.M.J.
Reviewed personally
by H.E.G. to Smalley,
Clerk of Committee
1 p.m. Feb 1, who
said all corrections
appeared to be proper
and he had no doubt
would be accepted 1/29

~~FROM: MR. [unclear] [unclear]~~

TO: Mr. Wm. Reynolds

memo. slips

changes

and observations

WJF

FROM: MR. McREYNOLDS' OFFICE

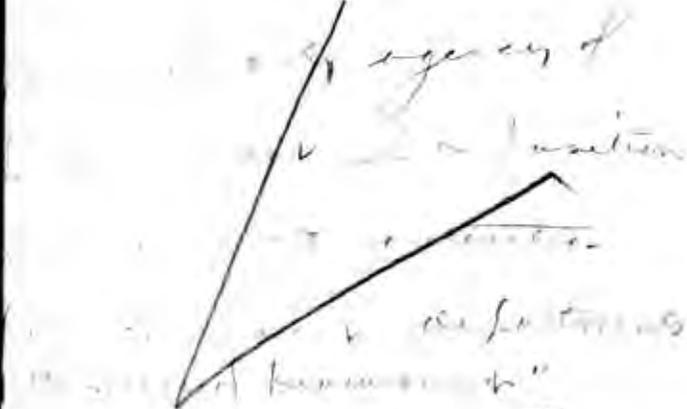
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TO:

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FROM: MR. McREYNOLDS' OFFICE

(V)

194

TO:

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yourself # ~~1~~

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the same procedure etc."

MORRIS SHEPPARD, TEX., CHAIRMAN
 J. HAMILTON LEWIS, ILL.
 W. M. LAMAR, KY.
 ROBERT H. BYRNES, N. C.
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VICTOR RUSSELL, CLERK
 W. L. SMALLEY, ASST. CLERK

United States Senate
 COMMITTEE ON MILITARY AFFAIRS

January 30, 1939.

Dear Mr. Secretary:

I send you herewith original copy of the hearings on National Defense before the Senate Military Affairs Committee on January 27, 1939.

I would appreciate early return of these hearings with such corrections of your testimony as you find necessary.

Very sincerely yours,

Morris Sheppard

Honorable Henry Morgenthau, Jr.,
 Secretary of the Treasury,
 Washington, D.C.

January 31, 1939.
2:44 p.m.

Operator: Go ahead.

Mr. Collins: Hello.

Mr. Collins: Good afternoon, sir.

Mr. Wright: Hello, Captain.

Mr. Wright: Yes, sir.

Mr. Wright: Anything new on the French planes?

Mr. Wright: No, sir. They -- the -- the French mission and their attorneys are working now with the attorneys of the Martin Company in an effort to try to get a contract that we may submit probably tomorrow or the next day to Louis Johnson, and the -- the Wright -- the Pratt & Whitney people are back, and they have a proposed contract with them which will have to be taken up, of course, after they work up the Martin deal.

Mr. Wright: Yeah. You don't know anything about --

Mr. Wright: I understand -- sir?

Mr. Wright: You don't know anything about the method of payment, do you?

Mr. Wright: About the method of payment?

Mr. Wright: Yeah.

Mr. Wright: They are going to make partial payments, yes, sir.

Mr. Wright: You don't know how it's going to be done?

Mr. Wright: Well, they will pay on the basis of -- of labor performed during any one period, plus the cost of material that has been purchased during that same period, and there is some talk of the possibility, particularly in connection with the engine contract, of making advance payment which to all intensive purposes, would operate as a revolving fund.

Mr. Wright: Yes, but -- but, I mean, who is going to act as paymaster, do you know that?

Mr. Wright: Why, the -- the Federal Reserve Bank of New York will pay on the basis of invoices certified by an American who will be employed by the French mission in each of the plants where a contract is finally concluded.

- Q: The reason I'm asking these questions is Senator Nye told me they are going to have me up on the hill to testify whether the Stabilization Fund has anything to do with it, see? And I just wanted to know how they are going to pay it.
- A: Yes, sir. Well, it will be on a partial-payment basis, so it will only be for -- be a partial reimbursement of money actually expended by the contractors.
- Q: Yeah, but the Federal Reserve is going to do the paying?
- A: That's what they plan now, yes, sir. The Federal Reserve Bank of New York will be the paymaster.
- Q: Now, another thing -- has Douglas indicated whether he can speed up any on that?
- A: Why that's coming through. I ran into the Douglas man today and he said that they can speed up after the first hundred, but no -- no speed-up can be done at all on that first hundred planes, sir.
- Q: On the what?
- A: No speed-up at all can be given them on the first hundred planes.
- Q: I see.
- A: That's the schedule that you have, sir.
- Q: I see. All right.
- Q: How do you feel today, sir?
- A: A little better.
- Q: Well, that's nice.
- Q: You haven't heard any gossip from the hill that I ought to know, have you?
- A: No, sir, I haven't heard a thing.
- Q: Uh-h?
- A: No, sir, I haven't heard a thing.
- Q: You haven't heard a thing?
- A: The only thing that I know is what I read in the papers and of course you have seen all of that.

HMJr: Yeah. All right. That's all, thank you.

C: All right, thank you, sir. Good bye.

January 31, 1939.
2:55 p.m.

WJr: Hello.

Gerald P.
Nye: Hello.

WJr: Bill Nye?

N: Yes.

WJr: Henry Morgenthau.

N: Yes.

WJr: How are you?

N: All right.

WJr: Look, I read on the ticker that you were supposed to have said that you were worried about the Stabilization Fund being involved in this deal with France to buy planes from our manufacturers.

N: Well, I don't know that I said it, but there's been a lot of talk around in the committee about the probability of the Stabilization Fund being involved.

WJr: Yeah.

N: And that led to a request that -- that you be invited to come on back so that that could be cleared up.

WJr: Well, if they invite me, of course I'll come, but I want to tell you, who have known me now for six years -- I don't think I've lied to you yet, have I?

N: No, no, sir.

WJr: That the Stabilization Fund or the Treasury proper, or anything that's in the Treasury -- that we are not in any way involved one bit in the

N: You see what the -- what the consideration, Henry, is -- it's this --

WJr: But, I mean, we are not in any way -- I mean, assisting the French in this purchase.

N: Yeah. Well, now the whole thing comes down to this -- and you'll find yourself running right into it until it is cleared up.

WJr: Right.

W: Ah -- what in the world was this matter doing in the Treasury at all? if the Stabilization Fund wasn't involved?

EWJr: I see.

W: Now I give you that line and you can prepare for it.

EWJr: I see.

W: You better --

EWJr: Well, because I wasn't present when the committee saw the President today, and what he told them I don't know, but --

W: Well, that -- that phase of it wasn't involved at all today.

EWJr: Well, I want you to know on a man-to-man basis that we are not in any way, through any funds, or anything that we've got in the Treasury, assisting the French to do this purchasing.

W: Good.

EWJr: I mean, they are using their own money, --

W: Good.

EWJr: And their own cash.

W: Well, I -- I'm glad to hear that.

EWJr: And you've got my word.

W: I assumed that that was the case.

EWJr: That there isn't any way are we assisting them.

W: Good.

EWJr: See?

W: Good.

EWJr: So I want you to know that from me personally.

W: Well, I'm glad -- I'm glad to hear it. I'm awfully glad.

EWJr: And if anybody else wants to know it, as I said that day our books are open and they are available to Congress --

W: Yeah.

SEN: And they can see any time what we've got.

W: Swell. Well, we'll -- we'll see you and there will be a chance to clear that up definitely in the record too.

SEN: It's all right with me.

W: Yeah. You'd want it that way.

SEN: Oh, yes.

W: You bet.

SEN: I -- I don't want anybody to have any doubts about what the Treasury is doing.

W: No.

SEN: And any committee on the hill can send for me any time and I'll tell them exactly what we're doing, always.

W: Sure. Sure. Well, we'll -- we'll see you there.

SEN: Well, I haven't received any invitation yet, but if I --

W: Well, I -- I think -- I think that was kind of left in the state of flux there without any determination as to time yesterday. I couldn't get to the committee myself yesterday.

SEN: Well, if that's what they want to know, that's the answer.

W: Well, you -- you get ready to meet that straight, because --

SEN: Well, --

W: It's coming sure.

SEN: I -- I'm ready now.

W: Well, then I shall -- when we meet this afternoon, tell them that I'm sure you will be ready any time.

SEN: Sure, that's easiest.

W: Yeah, all right.

SEN: Tell me, did you think my story the other day was all right?

- 4 -

N: Yes, I thought -- I thought you got by in good shape.
HMLJr: It didn't leave any doubts in your mind as to that part,
did it?
N: No, no -- none at all.
HMLJr: O.K.
N: You bet.
HMLJr: Thank you.

January 31, 1939

4:15 p. m.

Present:

Mr. Hanes
Mr. Monnet

HM, Jr.: It's all right. I did not want to disturb you. I am going to be sent for again to appear before the Committee and this time they want to know in what manner the United States Stabilization Fund is assisting you.

Mr. Monnet: Assisting us?

HM, Jr.: So what I want to be able to tell them was the method of how the French Government is paying for them. I had not heard whether it's coming through the Bank of France, Federal Reserve. If that's the way I did not know. In other words, who is going to pay the American manufacturer on presentation of his documents?

Mr. Monnet: The arrangements now being made are that the contractors will receive payment on monthly basis of progress of manufacture. The arrangement which is now in the process of being made through Leroy-Beaulieu, French Financial Attache, is that this monthly payment will be made through the instrumentality of the Federal Reserve Bank. Arrangements have not yet been technically completed between the Bank of France, and so on, but the arrangements that I, at the moment, am making with the manufacturer is monthly progress payment on some bills o. k'd by the Financial Attache presented to the Federal Reserve for payment from the French account.

HM, Jr.: I don't want to know what happens on the other side of the Ocean. What I want to say is I understand, I am advised that the American manufacturers will present a certificate

Mr. Monnet: ... will present a monthly statement of the money they require for their manufacture,

-2-

which monthly statement will be visa-ed by the French Financial Attache and presented to the Federal Reserve for payment. Understand, technical arrangements have not been worked, but ...

HM, Jr: ... but that's not -- what happens in France, sometime you can tell me. What I want to know, what the American manufacturer does. The American manufacturer goes to the French Financial Attache to get his o. k. and he takes that certificate, goes to the Federal Reserve in New York and they sign it.

Mr. Monnet: That's the arrangement we are making at the moment.

(Miss Chauncey was excused by the Secretary at this point. He said the rest of the meeting would be merely gossip.)

February 1, 1939

11:15 a. m.

Present:

Mr. Leroy-Beaulieu, French Financial Attache

HM,Jr: The reason I asked you to come in was I wanted to make sure that I understood perfectly what procedure the French Government was going to follow in connection with paying for these planes. That's what I wanted to know.

Mr. Beaulieu: Well, we thought, as you know, as it was settled in the draft which was given to you about two months ago, that we would use the Federal Reserve to make our payments.

HM,Jr: I have had no written

Mr. Beaulieu: No? I thought we sent it to you that we would try to make some sort of arrangement with the Federal Reserve. But, nevertheless....

HM,Jr: There are so many different suggestions. I want to know how it is today.

Mr. Beaulieu: Our intention is, we obtain from the constructors an agreement that they would not ask from us an irrevocable arrangement to pay.

HM,Jr: They would not.

Mr. Beaulieu: They are satisfied with the promise that we shall pay them progressive payments every month. They have to use some money for their materials, labor, etc., and each month they will reckon what they have spent in the month; give that to the French man in the factory who sees the work going on; it will come to my office in New York; I will stamp it, send it to the Federal Reserve and

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the Federal Reserve will pay it. Meanwhile we shall have put some money, open an account, in the Federal Reserve, put some money in there and have always the money to pay it, but what we don't do is what we did in the first contracts, the Curtiss people asked us to put all the money beforehand

HM, Jr: Who did?

Mr. Beaulieu: The Curtiss people, when we made the first purchase of 100 planes, in July, they asked the Bank to give them an irrevocable obligation to pay and the Bank -- the Morgans in those days -- the Morgans thought they could not handle this irrevocable obligation to pay without having the cash in the bank, so we put all the cash, we put \$4,000,000,000 in the bank and then the Morgans sent the Curtiss people an irrevocable obligation to pay. So in these contracts, as it was a larger sum, we thought we would not make a contract with the American constructor, without putting the whole money there as we do for all commercial contracts and that we are not the Chinese or the Turkish Government and they could be quite sure we would pay them even without having the money beforehand, so they agreed, the Curtiss and the Glenn-Martin

HM, Jr: But you are not doing business with Curtiss.

Mr. Beaulieu: Yes. We ordered 100 more planes.

HM, Jr: Oh, I see! So Curtiss has agreed?

Mr. Beaulieu: Curtiss and Glenn Martin has agreed. They don't ask us for an irrevocable obligation to pay and they are satisfied with progressive payments. Progressive payments every month. Progressive payments will amount to 60% of the value of the plane and the 40% remaining will be made when delivery is made.

HM, Jr: Say it again.

Mr. Beaulieu: Progressive amounts will amount

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to 60% of the value of the plane. That is, before delivery they will have received 60%, and the remaining 40% will be paid on the delivery of the plane, on the shipping of the plane when they give us the shipping documents.

HM, Jr: On board, at the wharf.

Mr. Beaulieu: Yes, at the wharf.

HM, Jr: When they deliver at the wharves?

Mr. Beaulieu: Yes. So they will send me -- the airplane corporation will send the invoice, which will be stamped by the French man in the factory, with the landing document. I will stamp that, send it to the Federal Reserve and the Federal Reserve will pay it.

HM, Jr: Did the first 100 planes that you bought from Grutias -- did the Morgans represent the French Government on that?

Mr. Beaulieu: Yes, on the first 100.

HM, Jr: Last July?

Mr. Beaulieu: Last July.

HM, Jr: The Morgans negotiated that?

Mr. Beaulieu: Yes, sir.

HM, Jr: Did the Morgans have anything to do with this?

Mr. Beaulieu: Nothing.

HM, Jr: Nothing?

Mr. Beaulieu: Nothing. No. Then it was different. Those people asked an irrevocable obligation to pay from an American bank, so we had to go to our usual bank which did the business for us; that is, Morgan, which handles our external loans, so they subscribed -- they sent this letter to the

-4-

Curtiss people and they received the cash, but in this case now it is completely different. We have no irrevocable obligation so we do it directly like that.

HM, Jr: I wanted to make sure. That's the way I understood it, but I wanted to make sure because they tell me I may have to go up on the Hill again and testify -- they say they are now being -- that the French Government finances through the Stabilization Fund.

Mr. Beaulieu: Ridiculous!

HM, Jr: Of course, it's ridiculous! So I may have to go up and testify on that.

Mr. Beaulieu: You don't see any inconvenience in us using the Federal Reserve?

HM, Jr: I suggested that.

Mr. Beaulieu: I know you suggested that.

HM, Jr: Because that's the way the British handled it, and it seems to me that the Federal Reserve, as fiscal agent of the United States Treasury, would be the proper people to act as paymaster, bank for disbursing the French Government funds.

Mr. Beaulieu: Yes. Yes. And we thought exactly the same way.

HM, Jr: They are the fiscal agents of the United States Treasury, so they would be the proper people for the French Government, and I hoped you would use them.

Mr. Beaulieu: And we are very glad to do it.

HM, Jr: So there would be no criticism.

Mr. Beaulieu: We are very glad to also. So I think we will be able to decide the Glenn Martin contract today or tomorrow morning.

HM, Jr: Good!

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Mr. Beaulieu: We had a long meeting yesterday and we settled this payment business. Well now I must talk to the Federal Reserve. I go to New York tomorrow.

HM, Jr.: I wanted to make sure. And the sooner they clean up all these orders, the better, because it seems to me -- I don't know why there is so much delay.

Mr. Beaulieu: There was delay only because our Air Minister had expected, I think first, that he should have the planes ready in July. When he heard it was only September there was a little row in the French Parliament because we have constructors too, so they thought what's the use of having planes if they come only in September or October. So the French mission here had to cable and there were all sorts of cables and tell them even if those planes don't come before September they are practicable and we are not able in France to make the same speed so we think it is quite worth while in ordering them. I must say I think we ought to take full opportunity and place the largest possible orders before you come in because otherwise you will come in and the factories will be utilized by you. But your orders come and it enables you when you place the orders to find the factories even with enlarged plants.

HM, Jr.: I understand all that. I haven't got any doubts, but I wanted to make sure about the payments. Thank you so much.

oOo-oOo

February 1, 1939.
2:57 p.m.

EWJr: Hello.

Operator: Colonel Halsey. Go ahead.

EWJr: Hello.

Colonel Halsey: Yes.

EWJr: Colonel Halsey.

H: How are you, sir?

EWJr: Fine. This is Morgenthau talking.

H: Yes, sir. I -- I understand.

EWJr: I hear that they are having a great debate up there about the Stabilization Fund, see?

H: They -- they've had something up in the Senate on -- yes -- on the --

EWJr: I thought you might tell Senator Berkley that the Stabilization Fund is in no way whatsoever involved in any deal on this French plane business, see?

H: Uh-huh.

EWJr: That they're paying cash on delivery for those planes -

H: Yeah.

EWJr: And we have absolutely nothing to do with the financing.

H: I see. Well, let me -- it may be now and it may not. I think mostly they're through, but I'll give them that message.

EWJr: Well, he might have it in his vest pocket.

H: I understand.

EWJr: See?

H: Not in any way whatsoever, from any angle involved.

EWJr: Any angle --

H: It's cash on delivery -- cash on delivery.

EWJr: It's cash on the barrel head.

H: Right. O. K.

HMJr: Thank you.

February 6, 1939

11:15 am

Present:

Mr. Hanes
Mr. Gaston
Mr. McReynolds
Mrs. Klotz

Mr. Gaston: I went up to Senator Sheppard's office. At 10:20 Senator Sheppard came in. He took me right into his office. There were three Army officers waiting to see him and the two clerks, Smalley and Major Somebody, the military adviser of the Committee. And he was very much disturbed at the excisions we had made from the transcript. He said, "You know we can't do that. We have to have a complete record available to the Committee because Senator Clark and Senator Nye are insisting on having this complete record," and he wanted to know what our idea was in cutting out those portions.

Well, I told him we had merely treated the thing as we would other transcripts from Committees and I told him that of course we were not attempting to dictate action of the Committee; anything we did in the transcript was purely a matter of suggestion to the Committee. I told him I explained that to Mr. Smalley when I brought it up there and Smalley confirmed that. He said well that put it on a quite different basis. He had first said that if we wanted to omit anything from the record we should have asked in writing to do so, but when he found that I had told Smalley that this was merely our suggestions or request and that he should take it up with the Chairman, Senator Sheppard himself, whether they should be omitted, he said that was all right, but, he said, of course, they will have to explain to the Committee what these pencil marks mean and that they are not attempts by the Treasury Department to suppress the record, which Senators Clark and Nye will attempt to make out.

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And as to my testimony, I explained why it was desirable to take it out and he said, well the mistake was that when I went before the Committee we should have asked the Committee to consider the testimony as off the record. He said none of these things can be considered off the record now because they are on the record and in view of all the heat there is on this thing, we can't cut out anything without the consent of the Committee. "What," he said, "I shall have to do is show the Committee this and tell them it was explained to us that these were merely requests and suggestions on your part and let the Committee do as it sees fit about including them in the record." I told him again we had followed the usual procedure in transcripts. He said, "This is marked confidential. Even if we do have it printed, it will only be a confidential Committee print." But, of course, a confidential committee print will get into many hands.

HM, Jr: Sheppard told me, "Now don't worry. We will send this report down to you and you can fix it up to suit yourself."

In view of what they said, I make the suggestion that we withdraw any suggestions that we changed at all and let it stand 100%.

Mr. Gaston: I think that would be a very good idea. Let it stand just as the stenographer got it. If the Committee wants to change it, that's their business, but I should like to withdraw the suggestions made through Mr. Gaston to the Clerk of the Committee that certain parts of the record be omitted.'

HM, Jr: I would.

Mr. Hanes: You did not ask for omission from the record of anything except that which would have an international aspect.

HM, Jr: Two things: Herbert's entire thing, and a place at the end where we talk about Germany.

Mr. Gaston: At the finish, a reference to German planes. The other thing was colloquy between you and

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Woodring and he made a point of the fact that Woodring did not

Mr. McReynolds: I would not withdraw the request you made. You have not made any insistent request. You have merely made a suggestion of what, in your opinion, would be a good recommendation and Herbert has explained to the Chairman of the Committee that it was merely a suggestion; that we did not make a formal request. I think it was a good suggestion and I don't see any reason why it should be withdrawn. I think it would be quite different if you were insisting.

Mr. Gaston: I made it perfectly clear to Smalley when I took the record up that, of course, you will want to take these up with the Senator, but they are our suggestions of what might be omitted, and Smalley confirmed that flatly with the Committee today.

Mr. McReynolds: And Smalley understood from your conversation this morning that that was the status of the record and the whole thing was before them -- naturally a matter for their own determination.

Mr. Gaston: He said he put it before the Committee on that basis. He said it would be a little difficult to explain how certain portions were left out, but he would explain.

HM, Jr: When does the Committee meet?

Mr. Gaston: I don't know.

HM, Jr: What do you think, John?

Mr. Hanes: I agree with Mac.

HM, Jr: You wouldn't change it?

Mr. Hanes: I think you have a perfectly reasonable right on both grounds: Herbert's testimony and on the international aspect of the last remarks and I would let it stand just like it was. Of course you are in the clear. They don't want to delete the testimony. That's up to them entirely.

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Mr. McReynolds: The responsibility is there and there was no effort made here to hide anything. The whole testimony went back to them just as it came, but with your suggestions. I think your suggestions are reasonable.

HM, Jr: But supposing they say, "Morgenthau wanted a lot of stuff deleted (and they don't say what) and we would not let him delete anything." See?

Mrs. Klotz: They are not going to be as honorable about it.

HM, Jr: That's what they are going to say. "Morgenthau tried to suppress part of the testimony. Woodring was willing to let it all stand.

Mrs. Klotz: They will turn you down anyway.

HM, Jr: They will turn me down. I think that this fellow, Chairman Sheppard, has behaved very peculiarly.

Mr. Gaston: He's pretty weak-kneed.

HM, Jr: The chances are 5 to 4 they will overrule me and I think it is better to withdraw the request and since there is some doubt in his mind I will let the record stand as it is. I don't want a word changed.

Mrs. Klotz: How important is it to take it out?

HM, Jr: The only part is about Herbert and I will tell the President it was my fault and in all this excitement I don't think they will pay any attention. But I think, if you don't mind

Mr. Hanes: Everything Herbert said was published in the papers and came out on the ticker, so I don't think there is anything there. The only place I do think you would be subject to real criticism for letting the thing stand would be in the testimony about the French and the Germans and so on. That's a matter of international complications and I don't think you ought to let that be published if you can help it.

HM, Jr: One of the Senators will undoubtedly say,

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"Well, Morgenthau made a request to delete it, but, by God! we wouldn't let him change it. We fixed it!" This is politics, Johnnie.

Mr. Hanes: As you say, that's politics and that's something you probably are right on. They will take any advantage they can of you, but the right thing to do, I think, is what Mac suggests.

Mr. McReynolds: If they want, they will make any statement. Any statements that they could make, if you let it stand as it is, they would still make. If you call the Chairman and say you withdraw your suggestions for modification of testimony; you have no objection to printing as it was originally recorded, I don't think it will make a particle of difference.

Mrs. Klotz: Only Sheppard know about making the change or do others know?

Mr. McReynolds: The others have already made the public charge that the Treasury has deleted the most of the testimony.

Mr. Hanes: That came out of Germany, didn't it?

Mr. McReynolds: Members of the Committee have given foreign correspondents the whole story. I don't see that there is anything to be gained

HM, Jr: I think, simply call him up and say Mr. Gaston has come back and there seems to be some question up there. I thought this was the same as any other testimony, but if it isn't, as far as I am concerned I don't want to change a word.

Mr. McReynolds: I have no objection to your doing that. I would call Sheppard and tell him just that.

Mr. Gaston: "Your requests were made not in your own interest, but in the public interest."

Mr. Hanes: That was the point I was making.

Mr. Gaston: "I don't make any request or suggestion, except to direct attention of the Committee to those par-

ticular paragraphs which they wish to consider very carefully as to whether it is in the public interest at any stage to make them public."

Mr. Hanes: I would go along on that.

Mr. McReynolds: All you need to do is call Sheppard.

Mr. Gaston: He made one other request. He wants a reply, some sort of reply, by you to his letter asking for a copy of the President's letter. They are demanding it. They have not had any sort of reply. I told him confidentially just what happened to the letter.

H.H. Jr.: What's that?

Mr. Gaston: I told him the letter from him was referred to the White House and the White House said they would take care of it.

H.H. Jr.: But they want some sort of reply?

Mr. Gaston: They want some sort of reply and he suggested that your reply be that the matter had been taken up with the President and the President did not consider it in the public interest to furnish it.

Mr. McReynolds: I would do that. I would tell him in the letter -- perfectly good reply would be that on receipt of this request, since it was a request for a letter written by the President, presumably by the President -- the request was for a letter written by the President of the United States, it had been sent there. It was something for the President to give out if he wanted to.

Mr. Gaston: That's what I suggested and he did not like the idea. He thought that would merely force him to insist that the President say something about it, do something about it. He does not want that. He wants to have it killed.

(At this point, the Secretary tried to reach Senator Sheppard by phone, but his line was busy.)

Mr. Gaston: He probably still has those three Army officers in there, 2 colonels and a major.

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HM, Jr: Herbert, go over to the White House and see Steve and between the two of you draft a letter and I will show it to the President at one o'clock. You and Steve draft a reply and then say that I will ask the President at one o'clock what his wishes are. The last thing Steve said to me was, "Anybody putting pressure on you for a reply?" and I said no.

(At this point, the Secretary spoke to Senator Sheppard on the phone and attached is a transcript of their conversation.)

HM, Jr: This all puts people to work!

(At this point, over the White House phone, HM, Jr, phoned to Steve Early and the following is the Secretary's side of the conversation:

"Hello, Steve.

Steve, Gaston was asked to come up on the Hill by Mr. Sheppard and among other things his question about my testimony. I wanted him to tell you about it. And the other thing, he nows says he is insisting on a reply to his letter. Now, if you got time, I would like Herbert to go over with the letter and then the two of you draft a reply and then we can show it to the President and see what he thinks.

Is that all right with you?

Well, Herbert will be right over."

oOo-oOo

February 6, 1939.
11:37 a.m.

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H.Mr: Hello.

Operator: Senator Sheppard.

H.Mr: Thank you.

O: Go ahead.

H.Mr: Hello. Hello.

Senator
Sheppard: Hello.

H.Mr: Senator?

S: Yes, sir.

H.Mr: Henry Morgenthau, Jr.

S: Yes, sir.

H.Mr: Mr. Gaston is just back and he has reported his conversation with you.

S: Yes.

H.Mr: And I'd like to let you know how I feel about this question of my testimony.

S: Yes.

H.Mr: As far as I'm concerned I don't want a word changed.

S: Well, that's fine.

H.Mr: And I did want to call your attention to that part which -- where we got into about the French wanting planes which were as good as Germany, and I thought the French might object to that.

S: Yes, I see your point now. I just wanted to get it clear. We were -- we don't want to get to working at cross purposes.

H.Mr: Look, would you handle it this way for me if you don't mind -- as man to man, I've let you know what I think. It might be better left out, but as far as I'm concerned personally, every word can stand.

S: Yes.

Mr: And I'm not making any requests of you or the committee to leave one word out.

S: The -- the marks out were just suggestions.

Mr: Were simply suggestions.

S: Yes, well, that's the way I get it.

Mr: But that -- that there is no request on my part that one word be left out.

S: That's right, and you said you don't care whom I tell that.

Mr: And I don't care who you tell it.

S: That's it.

Mr: Is that all right?

S: Yes, sir. But it was necessary for us to get together on it.

Mr: Right. Well, I don't -- there isn't one word that I personally -- as far as I'm personally concerned -- that I want left out.

S: All right. Thanks.

Mr: Thank you.

February 6, 1939.
11:37 a.m.

WJr: Hello.

Operator: Senator Sheppard

WJr: Thank you.

O: Go ahead.

WJr: Hello. Hello.

Senator
Sheppard: Hello.

WJr: Senator?

S: Yes, sir.

WJr: Henry Morgenthau, Jr.

S: Yes, sir.

WJr: Mr. Geston is just back and he has reported his conversation with you.

S: Yes.

WJr: And I'd like to let you know how I feel about this question of my testimony.

S: Yes.

WJr: As far as I'm concerned I don't want a word changed.

S: Well, that's fine.

WJr: And I did want to call your attention to that part which -- where we got into about the French wanting planes which were as good as Germany, and I thought the French might object to that.

S: Yes, I see your point now. I just wanted to get it clear. We were -- we don't want to get to working at cross purposes.

WJr: Look, would you handle it this way for me if you don't mind -- as men to men, I've let you know what I think. It might be better left out, but as far as I'm concerned personally, every word can stand.

S: Yes.

HJR: And I'm not making any requests of you or the committee to leave one word out.

S: The -- the marks out were just suggestions.

HJR: Were simply suggestions.

S: Yes, well, that's the way I get it.

HJR: But that -- that there is no request on my part that one word be left out.

S: That's right, and you said you don't care whom I tell that.

HJR: And I don't care who you tell it.

S: That's it.

HJR: Is that all right?

S: Yes, sir. But it was necessary for us to get together on it.

HJR: Right. Well, I don't -- there isn't one word that I personally -- as far as I'm personally concerned -- that I want left out.

S: All right. Thanks.

HJR: Thank you.

February 6, 1939.
4:47 p.m.

Operator: Go ahead.

Bennett

Clark: Hello.

WJR: Hello.

C: Henry?

WJR: Yes.

C: This is Bennett Clark.

WJR: Hello, Bennett.

C: Say, Henry, I don't want to hurry you about that business at all, but when are you going to get back those revisions of your testimony up there?

WJR: They were returned at one o'clock on February 1st.

C: February 1st.

WJR: One o'clock.

C: Thank you very much, Henry. That's all I want to know and don't think I was trying to hurry you about it.

WJR: No, well, I don't know what they've -- it was -- let's see, that's last Wednesday.

C: How's that?

WJR: That's last Wednesday. Hello?

C: Hello.

WJR: They were returned on February 1st at one o'clock.

C: Yeah, well, that's all I wanted to know, Henry.

WJR: I had reason to look it up.

C: Well, I certainly didn't want to embarrass you about it, but -- but I did want to know when we might have a hearing in the Committee, I mean a meeting of the Committee on the question of -- that -- of the motion I made.

WJR: You mean as to publicity?

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Q: Yeah.

RMJr: Yeah. Well, as I told -- I hope that they are made public.

Q: Oh, I saw that in the paper, Henry, and I don't think there's anything for anybody to discuss.

RMJr: No. There were a couple of things there which I thought might have a little international importance which I made as suggestions, but I made it very plain and then confirmed it in writing that it was not a request, it was just a suggestion. I thought a couple things I said might better be left out.

Q: Well, I don't think there will be any dispute about any of those things, Henry.

RMJr: But I want you to know I was terrifically disturbed when I saw this dispatch out of Berlin saying that there had been pages that disappeared.

Q: What's that?

RMJr: A dispatch out of Berlin saying that the pages of this testimony had disappeared, and why Berlin should get in on this thing, I don't know, but --

Q: Well, Henry, I'd like very much to talk to you about that.

RMJr: Yeah, well, I was terrifically disturbed when I saw that.

Q: Are you going to be in Washington the rest of the week?

RMJr: Yes, sir.

Q: Could I come down and talk to you?

RMJr: Any time would be --

Q: All right. I'm in --

RMJr: But there are things, Bennett, after all, that are going on that I just don't understand, and everything that I've got here you can take a look at. I just don't understand some of these things.

Q: Well, I don't either.

WJr: Well, now, for instance the fact that you don't know that I returned this thing at one o'clock on February 1st.

Q: I -- I didn't know that, Henry, and -- and, I mean, there are some other things that I don't understand. I --- Henry, I'll come down tomorrow, if I may, and talk to you.

WJr: Well, I wish you would. I wish -- any time at all.

Q: That'll be fine. Can I phone you in the morning.

WJr: Yeah, I'm going to come up to testify on silver before Key Pittman at ten thirty tomorrow.

Q: Sure.

WJr: I'll be up at his --

Q: Well, well -- I'll make it ~~tomorrow~~ at your convenience, Henry.

WJr: Well, you let me know, but I'm up at ten thirty--

Q: All right.

WJr: Tomorrow.

Q: That's fine.

February 8, 1939.
9:08 a.m.

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HJr: Hello.

Operator: The Vice President.

HJr: Hello.

Garner: Hello, Henry.

HJr: How are you?

G: I'm fine. A little weak, that's all. How are you, boy?

HJr: Well, I'm coming along. Mr. Vice President, I read in the paper, I don't know whether it's right or not, that the Military Affairs Committee is going to meet this morning.

G: Yes.

HJr: And I wanted you to know that I do hope that they are going to make my testimony before the public.

G: Well, I don't know a thing about it, Henry, I don't know whether they are going to meet or not. I -- All I know is what you saw in the papers and what I see in the papers. If they were going to meet though, I couldn't tell you.

HJr: Well, I don't know whether you wanted to do anything--

G: Well, I -- I -- no I don't want to -- unless they ask me about it I won't take any interest in it.

HJr: Well--

G: But I -- I say this much, Henry--

HJr: Yeah.

G: The quicker we get out of this idea of trying to keep everything a secret the better we are going to be of

HJr: Well, you and me both.

G: You bet your life.

HJr: And I just wanted you to know that I don't know why they -- my testimony has been in the hands of the Clerk of the Committee since February 1.

G: Yeah.

HJr: I returned it on February first.

G: Well, I hope to God they will make the whole damn business public.

HJr: Well, I hope so to, and I just wanted you to know how I felt.

G: Whenever they asked me about it that's what I've told them and that's what I'm going to continue to tell them. I told the Boss that.

HJr: Yeah.

G: It was last Monday that I talked with them again to let these -- these are public affairs.

HJr: Right.

G: And by God the quicker the public gets them why the quicker we'll have this crimination and recrimination stopped.

HJr: That's right.

G: All right, Henry.

HJr: Thank you.

G: God bless you.

February 6, 1939

12:30 p. m.

Present:

Mr. Gaston
Mr. Foley
Mr. Taylor
Mr. McReynolds
Mrs. Herbert (for part of meeting)

HM, Jr: Ed, I am going to ask your advice on a most difficult thing. I don't know how much of the background you have got.

Herbert, dictate the letters to Mrs. Herbert.

Mr. Gaston: (Dictating)

"My dear Senator:

I have given consideration to your letter of January 30th, in which you request that I furnish you a copy of a letter or other authority from the President instructing me to proceed, in cooperation with the War and Navy Departments, to assist the French Aviation Commission in the purchase of airplanes in the United States.

Since your request relates to correspondence by the President, I regret that I cannot comply with it."

"My dear Senator:

Confirming my telephone conversation with you this morning, I

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should like to repeat that certain suggested corrections made by me in the transcript of the hearings before the Military Affairs Committee on Tuesday, January 31, were intended merely as suggestions and not as requests to your Committee.

I suggested the elimination from the printed record of the Committee of certain passages which, I believe, should be eliminated in the public interest. I realize perfectly that my responsibility with respect to the record is solely to make suggestions and that the Committee's authority covers final decision as to what shall be included. If this testimony only affected me personally, I should be delighted to have you make public every single word, but I still believe, however, that it would be in the public interest to make the excisions which I suggested."

HM, Jr.: All right, Mrs. Herbert. Please write these up and bring them back.

Mr. Foley: On the first one, I think that's a little rough, abrupt.

HM, Jr.: Christ! Tell him! I have to swear you to secrecy. I am between the Senate and the White House. What happened -- you have been in on the French plane -- we first got an original memorandum from Collins where the President wrote across the top in his own handwriting, Go ahead and proceed, provided it does not interfere with our own planes.

Then at a subsequent meeting, which took place about a month later, we all sat around in his room, Woodring, Johnson, and the President ordered that we go ahead with these planes. When the meeting broke up, I said, Mr. President, I want this in writing, whereupon we came back and -- I reminded Johnnie Hanes -- he wrote the

letter in his office with your assistance. Did you assist him?

Mr. Foley: Oh, yes! Sure! We wrote three letters.

HM, Jr: Sure! I didn't put anything in it about secrecy. You and Johnnie Hanes wrote those letters, but I have not told anybody. When I told Johnnie he said, Shall I go back home and pack my bags? We gave them to Mac and he took them over and left them on Forster's desk and they came back unsigned and Bill Bullitt took the letter and it took him three days to get them signed. Right? You remember writing them?

Mr. Foley: Yes. Mac was there and so was I.

HM, Jr: Now, triple confidential, on Friday the President withdrew these letters and -- in order to get the whole picture -- we drew his attention to the Tribune's story that said that he had said to the Senator that no letter existed, but that he had given us a chit in his own handwriting and would be glad to furnish them. I showed him this Friday and the testimony is going up and the testimony said letter. He shrugged his shoulders and he said, "It's made out of whole cloth; never said what the Tribune said. Let the testimony go."

But there has been on my desk for a week a letter from Senator Sheppard. He wants a copy of that letter. Why doesn't Morgenthau answer? Gaston goes over to Early and tells him what has happened and he goes in to see the President and comes back -- with what word?

Mr. Gaston: As to the reply to the letter to Senator Sheppard, the President said just flatly refuse to send it. So Gaston answers it this way, that it is the President's letter, so forth and so on. But the President said "flatly refuse it".

Mr. Foley: If we could say it the other way, that it involves a confidential communication from the President to you and you can't release it. If they want it, they will have to get it from the President.

Mr. Gaston: The President does not authorize us to do that.

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HM, Jr: What the President said last week, if my memory serves me correctly, he said, If they ask you for it, this is Presidential correspondence and it's none of their blankety-blank business. But he does not say that today. He says "flatly refuse".

Mr. Foley: Well, you can say it involves a confidential communication and without direction from the President you don't feel free to divulge it.

HM, Jr: He did not say that.

What I want to ask you, as a lawyer, let's say I do it as the President says and I say I flatly refuse. What can the Committee do legally to get me up there. Are you familiar with that part of the law? They can subpoena.

Mr. Foley: Yes. They can subpoena you. There is a great deal of law on the subject as to how far the Legislative branch can invade the Executive side. Lot of cases where requests have been made for

HM, Jr: I don't like to compare myself with -- what was his name? The Assistant Secretary of Commerce?

Mr. Taylor: MacCormack.

HM, Jr: In his case it was quite different.

Mr. Foley: It involved him personally.

HM, Jr: But he refused.

Mr. Foley: That's right, but only to shield himself rather than to shield the Executive.

HM, Jr: As I told each person in turn -- you were in on part of this thing -- I have nothing to hide. I have written authorization, step by step. I was directed to do this. Now the President of the United States tells me to tell the Chairman of the Military Committee flatly to refuse, so I don't know whether to do it that way. Personally, I think it is better to flatly refuse than it is to send up this first one -- the first memorandum, which

is a letter Collins wrote out, a statement of what he wanted, and then across it, in writing, the President put his authorization.

Now, what I am telling Herbert, and Herbert agrees with me, we send that up -- and I think that Woodring has told the Committee about the real letter -- and I send this one and the Committee says that isn't the one we want. We want the letter.

Mr. McReynolds: It wouldn't do any good to send that up. That first memorandum. It would just involve the thing further, in my opinion.

Mr. Foley: I think that's right. If you are going to refuse to produce the letter, then I don't think we ought to produce anything that bears on the letter. It all falls in the same category. How the refusal should be couched and what is involved, in so far as you personally are concerned if the Committee takes the bit in its teeth and follows this thing to its logical conclusions, I would like to have a little time on it before I advise you.

H.H. Jr.: I am seeing the President in 20 minutes and I haven't got much time.

Mr. Taylor: What is all the mystery about the letter?

H.H. Jr.: I don't have any copy any more of the letter because they called them all in, but the only thing, it seems to me, that bothers them is that in this thing they say let them have everything. Isn't that right? Mentioned the word secretive. I don't know, Wayne. Christ! If I was in the President's shoes, this whole thing, from the day he had Sheppard down alone -- as a matter of fact, the testimony shows that Senator Nye was the most aggressive. I would be satisfied to show the Chairman and the Chairman only. I would be satisfied if the President would show it to the Chairman and the Chairman only, and the President had Sheppard down and I thought that was what he was going to do. I was with the President 45 minutes after he had Sheppard

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and then the next move he makes he has the whole Committee down and, as you know, the whole world is trying to get what he told them, but all he would have to do is to say to Sheppard, "As Commander-in-Chief of the Army and Navy I directed three Secretaries to make these planes available, and so what!" Does that answer you? As Commander-in-Chief he has authority. As Secretary of the Treasury, I have nothing, and I don't want, frankly, to be in the position that I ordered the Army to make available secret planes to the French, sell secrets

Mr. Foley: I don't blame you a bit. A very unreasonable position to put you in.

Mr. Taylor: God knows they are going to find it out, so what's the point of quibbling about it.

Mr. Foley: I don't get the President at all. It seems to me he's overboard on this one. He has had these people down here and nobody knows what he said to them, but the chances are that he took enough on himself as he told you, before you went down to Sheppard, to put it right square on him so that he can't duck it. He might as well take it.

HM, Jr.: He told me when I went up in the morning to testify

Mr. Foley: I heard him. He said "Put it right on me. You held the phone out this way and I heard him "Put it right on me."

HM, Jr.: That's what I thought he said.

Mr. Foley: Your remark was "He's a fine fellow to work for. You can't beat that for cooperation, getting backed up when you are in trouble."

HM, Jr.: I like to look one jump ahead. And I carry out his instructions and flatly refuse and if I were Chairman of the Committee I would subpoena me to appear and I will not lie. I will not lie.

Mr. Foley: You can't lie.

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HM, Jr: I am not going to lie. I won't lie for anybody.

Mr. Foley: That's absolutely right. I won't lie for you and no reason why you should lie for the President and he should not expect you to.

HM, Jr: Would you send this letter flatly refusing?

Mr. Foley: No, I don't think I would flatly refuse. I would couch it in more diplomatic words and leave the next move up to Sheppard. He will get your meaning just as well and it won't be so offensive to him.

HM, Jr: I think the situation could be saved by telling Sheppard everything; tell him the whole story.

Mr. Taylor: Absolutely! It's just in as bad shape as it could be right at the minute and each step that is made to pretend something didn't happen that probably everybody knows, in town, knows happened, it just makes it so much worse.

HM, Jr: The Treasury crowd naturally is not going to tell anybody anything that affects the Treasury, but you can't guarantee that Woodring hasn't or Johnson or somebody in the Navy. They all had copies of it.

Mr. Foley: Too many copies to withdraw it and say it never existed.

HM, Jr: Dozen different places. And we know that Clark had all the answers when I testified.

Mr. Foley: I think it's extremely poor tactics to flatly refuse and I think if you have a chance to talk to the President, he will agree.

HM, Jr: He's very unreasonable about this whole thing and I think he makes this ditch deeper.

Mr. Taylor: That's what I have been trying to say. It could not be in worse shape, but one way to get it in worse shape is to keep on with this business.

Mr. Foley: I would not send that letter to

-B-

Sheppard, flatly refusing in so many words to produce, unless the President ordered me to do it, because I think it's an offensive letter and will aggravate the situation more

HM, Jr: Here's the thing. I refuse. All right. Then the Committee sends for me. I tell the President I am going to tell the truth. Who's in bad, him or me? And why put myself in the position where I refuse and the next thing is they will subpoena me and it will look terrible -- "the Military Affairs Committee of the United States Senate subpoenas the Secretary of the Treasury."

Mr. Foley: "Defies the Executive and Subpoenas the Secretary of the Treasury."

HM, Jr: I am not going to be made hamburger on this thing.

(Mrs. Herbert returned with the two letters.)

(Mr. Gaston read the two letters, as they were dictated on page one of this transcript.)

Mr. Foley: I made no objection to the second letter.

HM, Jr: I think that's all right. But what about this other one?

Mr. Gaston: Of course, the only way you could clarify this is to say "I regret that without direct instructions on the subject from the President, I am not at liberty to comply with your request."

HM, Jr: Yes. Put it on him. Let them say if the President won't give it

Mr. Foley: That can't get it from him.

HM, Jr: The President said, last week, tell them to ask the President.

Mr. Taylor: They can get it from him if they want it.

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Mr. Foley: "Lacking specific authorization from him." I think you are in the clear there.

HM, Jr: I will say, "Mr. President, you have just got to send by me. You can't answer a subpoena, but I do. What do you think, Wayne?"

Mr. Taylor: I would take that over with you for lunch.

HM, Jr: Yes.

Mr. Taylor: "The only thing I can say is if they do subpoena me, I have to say my piece."

Mr. Foley: "I regret that lacking specific authorization from him, I am not at liberty to comply with it."

HM, Jr: What do you think, Mac?

Mr. McKeynolds: That's satisfactory to me.

Mr. Foley: I don't think he will think this is objectionable. I think he will say it's all right.

(Mrs. Herbert left the office to re-write the letter to Sheppard.)

HM, Jr: I think something is happening that none of us know about, because I have never seen him act like this, in six years. It's -- I don't like to be personal, but any time anything disagreeable happens in the Treasury every single person knows I will take the gaff. Best example is what happened with Senator Tydings and the question of O. Kay-ing that speech. I was on the water when it was O. K'd. Did I say I was on the water when it was O. K'd? I took the whole gaff.

Mr. Foley: That's the way to run an organization.

HM, Jr: On that basis, I think my gang sees me through things because they know when somebody makes a slip -- we all make slips -- I will see them through. Don't like to put it on that basis, but that's the thing. Have to keep this thing awfully secret, so many people

about it, and the fact that a despatch comes from Germany that Morgenthau appeared before the Committee and part of his testimony has been destroyed shows that. And then the other story which is around town, coming from Nye and Clark, that I had a stenographer down there and was bribing him.

Mr. Gaston: I told Sheppard that too.

HM, Jr: Did you tell him? Did you tell him the German one?

Mr. Gaston: I showed him the dispatch and he said "yes; he knew about it." He suspects that someone has a dictograph planted in the office. I asked him if he wanted somebody from the Treasury to try to find it and Major Rapp said "Yes, that will be fine" and the Senator said, "Oh, no. That wouldn't do. They would say the Treasury Department was spying on the Committee."

Mr. Foley: I don't know how much Sheppard is holding against you because of the correspondence on the Magruder thing last year.

HM, Jr: Plenty!

Mr. Foley: He has not been very candid as far as his press relations are concerned. He didn't give you any kind of a break after you had been down there.

HM, Jr: All we had to say was "Morgenthau is up here. We are satisfied, ourselves, that he's all right." He did not say it.

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February 8, 1939

3:05 pm

Present:

Mr. Hanes
Mr. Taylor
Mr. Gaston
Mr. McReynolds
Mr. Foley
Mrs. Klotz

Since you have been gone, Johnnie, the thing that happened, I got an answer from Steve Early as to what I should do, whether I should confirm my conversation this morning. The letter has been written and the President approved that letter as written. Just bring you up to date.

"Confirming my telephone conversation with you this morning, I should like to repeat that certain suggested corrections made by me in the transcript of the hearings before the Military Affairs Committee on Friday, January 27, were intended merely as suggestions and not as requests to your Committee. This information was also, I think, conveyed to the Clerk of your Committee at the time the manuscript was returned.

"I suggested the elimination from the printed record of the Committee of certain passages which, I believe, should be eliminated in the public interest. I realize perfectly well that the Committee's authority covers final decision as to what shall be included in its record. If this testimony only affected me personally, I should be delighted to have you make public every single word, but I still believe, however, that it would be in the public interest to make the excisions which I suggested, if the record is to be made public."

-2-

The President took that as is.

Then, what was the message that Early told you that the President said how I should answer Sheppard?

Mr. Gaston: I have written it down. As to the reply to Senator Sheppard's letter of January 30th, flatly refuse to send it.

HM, Jr: Then these people, we met and discussed the thing and this is the letter that I took over to the President:

"My dear Senator:

I have given consideration to your letter of January 30th, in which you request that I furnish you a copy of a letter or other authority from the President instructing me to proceed, in cooperation with the War and Navy Departments, to assist the French Aviation Commission in the purchase of airplanes in the United States.

Since your request relates to a confidential communication from the President, I regret that lacking specific authorization from him, I am not at liberty to comply with it."

If you follow this, this is intensely interesting because the President has written it in in his own handwriting. He took the first paragraph as it was written.

"Since your request relates not to one but to many confidential communications, written and oral, between the President and Departments of the Government, I regret that lacking specific authorization from him, I am not at liberty to comply with it."

Mr. Foley: Better!

HM, Jr: All the difference in the world!

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Mr. McReynolds: Lets him out of the hole by identifying one letter.

HM, Jr: (Read the second paragraph as revised by the President.)

Mr. McReynolds: So long as he left the last clause. "I regret that lacking specific authorization from the President".

HM, Jr: He left it and it is in his own handwriting.

Mr. Gaston: You still think it is all right not to have that first paragraph to conform exactly to Sheppard's letter. I did not have the letter back from Sheppard.

Mr. Foley: I should think that was all right because the guts of this is the last paragraph.

Mr. McReynolds: I wouldn't change it at all. The implication is all here.

HM, Jr: I would rather not change it at all. The President saw it. Steve Early saw it. He sent for Steve and he said first, I want Steve to see this because I have one from Senator Sheppard that I have got to answer and I want the two to be the same. So Mac said, I don't know of any you have got. So the President said, Yes, I have one. It turned out he did not, but it was this -- the one I got, but the fact that he thought he had one and he had to answer it influenced him to doing this one.

But this is all right. Herbert, I wouldn't change it for a million dollars.

Mr. Gaston: Two slight differences. First is letter or communication. We say letter or authority, but I don't think it makes any difference.

Mr. Foley: The second paragraph ties in with the first paragraph.

HM, Jr: The President, after all, read that. I just won't change it.

Mr. McReynolds: I wouldn't change it.

HM, Jr: The President then could say, I went over it and you had no right to change it.

So I said, Mr. President, I want you to help me. Let's look ahead to the next jump. After all, they can subpoena me. They can't subpoena you.

He said, Sure they can. And all you keep saying is without specific instructions from the President of the United States you can't deliver a single thing and, he said, if they ask him -- just too many, I can't collect them all and to give them one without giving them all is useless.

He said, I can't remember. Did I give oral instructions.

I said, Yes, you did.

He said, I don't know where they all are. All you keep saying is without specific instructions from the President of the United States that you can't do it.

That certainly is all I can ask from my Chief. Is that right, Ed?

Mr. Foley: Yes.

HM, Jr: And thank God! Steve Early was out to lunch because the President wrote this by himself.

We have passed another crisis!

Mr. Foley: I didn't see how this one could help come out any other way than that way.

Would you want to read that to Frank Murphy before it goes down?

HM, Jr: No. For your confidential information, the other day I asked the President to refer this whole matter to Frank Murphy and he evidently did not want to do it.

Herbert, what I thought -- we let this go up today

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and the other one can go up tomorrow.

Mr. Gaston: Very good idea.

HM, Jr: Who will take that up?

Mr. Gaston: I will get a messenger right away.

Mr. Hanes: I would send them both.

Mr. Taylor: Get it out of here just as fast as you can.

HM, Jr: Then we will do both.

The other thing, which I think will interest you, John, very much. We got to talking -- I said, You know, Mr. President, I have a suggestion I have wanted to make for a long time and never got around to it. I wish you would let me get out a statement, or you authorize me and you get out a statement directing the Secretary of the Treasury to appoint a special committee who will audit income taxes of all Federal employees of \$10,000 or over. And the President loves it and Steve thinks it's marvelous. And Steve says he wants to handle it at a press conference. And then he said, Show it to Frank Murphy because this will include judges. I said, Steve, this will also include the President of the United States. So he says, This is wonderful; this is just what we want.

This idea, incidentally, is not mine. It happens to be Ros Marill's, but I have never had a chance to put it over before. Same as the committee to audit the stabilization fund, a group who will audit all Federal salaries of \$10,000 or over. You don't like it?

Mr. Hanes: I don't know whether I like it or not. The implication is that the Bureau has not been auditing properly.

HM, Jr: They don't reach \$25,000 or less. They haven't got the man power. Ask Guy. Get him over. Tell him what's on. They don't -- am I right, Mac?

Mr. McReynolds: Yes. That's true. Nothing but mechanical check made in the Collector's office.

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HM, Jr: You could sleep on it, but this is good stuff.

Mr. McReynolds: Got a perfectly good defense. No implication of the incompetence of the Bureau of Internal Revenue.

HM, Jr: Mind you, this includes the President of the United States; audit of his return as well.

Mr. Foley: That would be done by people in the Bureau?

HM, Jr: People in the Bureau. Of all Cabinet officers, all judges.

Mr. Hanes: A special committee?

HM, Jr: No committee. Government employees, specially picked, like the people who do the Stabilization Fund.

Mr. Foley: On the payroll now.

HM, Jr: Oh, yes. Now you sparking?

Mr. Hanes: I thought you would bring somebody in from the outside?

HM, Jr: Oh, you mean like Price Waterhouse? Q, no.

Did you think I would get out of this as good?

Mr. Foley: Who, me? Sure, I did

Mr. McReynolds: What do you mean, get out of it?

Mrs. Klotz: It's not over yet!

HM, Jr: I got my answer. I am subpoenaed. "Gentlemen, until the President directs me to do this, so forth and so on." Being in a pessimistic frame of mind, please look up if and when any Cabinet officer was ever subpoenaed or the President; whether he was held in contempt and what they did to him.

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Mr. Foley: Where he went!

HM, Jr: And can he sign Miss Chauncey's mail while he's there!

As far as I am concerned, I lost three pounds.

The President reached for his basket and he said, let me reach for that testimony. I said, You haven't got it. He said, Oh, yes, I got a copy from the War Department.

Mr. Gaston: When the clerk went into Sheppard's office he had two copies of this confidential transcript in his hand, one was ours and the other was somebody else's.

HM, Jr: The other was the President's. Only one I was worrying about was the White House. He has evidently read it, because I took it over to him Friday and asked him to read it and he wouldn't. Because I said, Mr. President, I have a photostat copy of that. He said, All right, I got a copy too. I got one from the War Department.

oOo-oOo

February 6, 1939

My dear Senator:

I have given consideration to your letter of January 30th, in which you request that I furnish you a copy of a letter or other authority from the President instructing me to proceed, in cooperation with the War and Navy Departments, to assist the French Aviation Commission in the purchase of airplanes in the United States.

Since your request relates not to one, but to many confidential communications, written and oral, between the President and Departments of the Government, I regret that lacking specific authorization from him, I am not at liberty to comply with it.

Sincerely yours,

(signed) Wm. C. Clegg

Secretary of the Treasury

Honorable Morris Sheppard,
Chairman, Military Affairs Committee,
United States Senate.

February 8, 1939

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draft

247

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350

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orig of this is in
President's chit
folder.

251

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The Honorable Morris Sheppard,
Chairman, Military Affairs Committee,
United States Senate.

THE WHITE HOUSE
WASHINGTON

February 1, 1939

MEMORANDUM FOR SECRETARY MORGENTHAU

Returned for your files.

M H M

M. H. McINTYRE
Secretary to the President

Enclosure

MORRIS SHEPPARD, TEX., CHAIRMAN
 HAMILTON LEWIS, ILL.
 M. M. LOGAN, KY.
 ROBERT H. REYNOLDS, N. C.
 ROBERT O. THOMAS, UTAH
 HERMAN MURTON, IND.
 JOHN C. JOHNSON, COLO.
 JOHN LEE, DELA.
 HENRY H. SCHWARTZ, WYO.
 ROBERT LORING, MINN.
 WYLER HILL, ALA.
 MERVIN CHAMP CLARK, MD.
 MORGAN DOWNEY, CALIF.

WARREN R. Austin, VT.
 GERALD P. NYE, N. DAK.
 H. STYLES BRIDGES, N. H.
 CHAS. BURNEY, S. DAK.
 WYLLIS C. BELMONT, OREG.

United States Senate

COMMITTEE ON MILITARY AFFAIRS

VICTOR FURNESS, CLERK
 W. J. BRALLEY, ASST. CLERK

January 30, 1939.

Dear Mr. Secretary:

The Senate Military Affairs Committee directs me to request that you forward to me for the immediate information of the Committee, a photostatic copy of the President's letter or other communication authorizing you to assist the French Mission in the procurement of airplanes.

Very sincerely yours,

Morris Sheppard

Honorable Henry Morgenthau, Jr.,
 Secretary of the Treasury,
 Washington, D.C.

February 6, 1939.

My dear Senator:

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I suggested the elimination from the printed record of the Committee of certain passages which, I believe, should be eliminated in the public interest. I realize perfectly that the Committee's authority covers final decision as to what shall be included in its record. If this testimony only affected me personally, I should be delighted to have you make public every single word, but I still believe, however, that it would be in the public interest to make the excisions which I suggested, if the record is to be made public.

Sincerely yours,

Secretary of the Treasury.

The Honorable Morris Sheppard,
Chairman, Military Affairs Committee,
United States Senate.

February 8, 1939.

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Secretary of the Treasury.

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Chairman, Military Affairs Committee,
United States Senate.

February 7, 1939.

MEMORANDUM

TO: SECRETARY HORGENTHAU
FROM: MR. GASTON

SUBJECT: Contacts with the Military Affairs Committee of the Senate on the subject of the sales of airplanes to France.

On Friday, January 27th, there appeared in the morning newspapers first-page stories indicating that it had been deduced by the Senate Military Affairs Committee, as a result of the testimony of Brigadier General H. H. Arnold, Chief of the Army Air Corps, that the Secretary of the Treasury had granted the authority to a French aviation commission to inspect a light attack bomber at the plant of the Douglas Aircraft Company, at the Municipal Airport at Los Angeles, and that this fact would not have been brought out and indeed the presence of the French Aviation Commission in the United States would not have been disclosed but for the fact that the bomber crashed, the pilot was killed and the French observer, Paul Chemidlin, seriously injured. I was in your office around ten o'clock that morning when you received a call from Senator Sneppard, Chairman of the Military Affairs Committee, who asked if you would care to appear before the Committee. You had just been discussing the stories with Mr. Hanes and me and you told Senator Sneppard that you would like to appear as soon as possible and tell the facts as you knew them. He arranged that you should appear before the Committee at eleven o'clock that morning. I left your office at ten thirty and went to the President's press conference, Mr. Schwarz having preceded me. Most of the conference was devoted to the President's statements about the airplane matter.

As soon as he had finished discussing it, I left the conference and endeavored to reach you on the telephone, but was told that you were in the Committee Room and that it was executive session. I told the Clerk that I would come right up. I went to the Capitol and was admitted to the executive session. During a pause in your testimony I whispered to you that the President had discussed this subject quite frankly at his press conference. You then called the Chairman aside, with Mr. Hanes and myself, and he agreed that I should report the substance of the press conference to the Committee, which I did. A memorandum introduced as a part of your

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testimony, and also the testimony of Secretary Woodring, referred to a letter from the President giving you authority to assist the French commission. Senator Nye during the hearing asked the Chairman if it would not be proper to ask that a copy of that letter be furnished to the Committee. The Chairman replied that it would and Nye made the request, which, however, was not acted upon at that time by the Committee.

On Monday, January 30th, you were kept at home by a severe cold. I was at your house during the morning and Bob McHugh brought up a letter to you from Senator Sheppard, dated that day, January 30th, asking that you supply to the Committee a photostatic copy of the letter or other communication authorizing you to assist the French in the purchase of planes. You instructed me to take the letter to the White House, submit it to McIntyre, and ask for instructions. I did so. McIntyre's reaction was: "We won't do it," and other more expressive terms. He said, however, that he would have to consult the President and asked me to leave the letter, which I did. That same afternoon McIntyre called me on the phone and told me that the President wished to see you at the house at 10:15 the following morning and that he would see Senator Sheppard and his Committee at 10:30. The transcript of your testimony of Friday was sent down by the Committee and delivered to you.

On Tuesday, January 31st, you saw the President as scheduled and he also conferred with the entire Military Affairs Committee. At his press conference that afternoon there were questions about his meeting with the Committee. The principal question asked was why the members of the Committee had been enjoined not to reveal what had passed. The President's reply was simply that he thought it a good thing.

On Wednesday, February 1, all the morning newspapers carried lead stories on the President's conference with the Military Affairs Committee, in which the statement was made that the President had said in case of war our "frontier" would be "in France" or "on the Rhine." The story also said the President denied having written any letter, but said he had written various memoranda or "chits" as he often does on official business. You asked me to go over your testimony again to see whether you had used the word "letter." I brought the transcript into your office for that purpose. I looked over your replies to questions and found that you had used the words "order" and "direction" but found nowhere that you had used the word "letter." I did find that Secretary Woodring had referred to a "letter" from the President. I went over again with you our corrections of the transcript. We had

drawn lines through all of my testimony and the subsequent questions and answers which referred to my testimony. We had also marked out those portions of your later replies, which referred to Germany, that portion which referred to the fact that the French had agreed not to let any planes go out of the country for a year and the colloquy, toward the close, between you and Woodring, in which the latter had shown some heat. You instructed me to take the transcript personally to the Secretary of the Committee and I made an appointment.

In going over the testimony again just before I left, I discovered that the memorandum by Collins, which you had introduced into the record, contained the statement that Assistant Secretary Johnson said that the War Department had received a "letter" similar to that received by the Treasury. I immediately went into your office and interrupted a meeting you were holding with some others to call this to your attention, but I believe you had already seen the President. I then went to the Hill with the transcript and delivered it personally to Smalley, the Clerk of the Committee, at one o'clock. I went over with him the changes we had made and suggested that he call Senator Sheppard's attention to them. I did not know, I said, whether your agreement with the Senator would cover changes of this sort and therefore wanted his particular attention called to them. He (Smalley) told me that he thought there would be no question that they would be all right.

On Saturday, February 4th, I received a call from the Senate Military Affairs Committee and was told that Senator Sheppard wished me to come up on Monday. I made an appointment to see him at ten o'clock. An item appeared on the U.P. ticker Saturday morning, under a Berlin date, which stated that a correspondent of the Berlin Nacht Ausgabe had reported that there was turmoil in the meeting of the Senate Military Affairs Committee on Friday when it was discovered that whole pages of the testimony of Secretaries Morgenthau and Woodring were missing from the record. Some of the newspaper men later supplied the information that Senators Clark and Nye had either said directly or had intimated that you had bribed the Committee stenographer to omit parts of your testimony from the record.

I saw Senator Sheppard in his private office adjoining the Military Affairs Committee Room as soon as he came in Monday, which was about 10:20. Three Army officers came in after I did and were waiting to see the Senator. The Clerk of the Committee, Smalley, and the Military Adviser, Major Rapp, came into the Senator's office with me. Smalley had our copy of the transcript and another copy in his hands. Senator Sheppard told me that we shouldn't have attempted to eliminate parts of the record; that the record was the property of the Committee and nothing could be omitted without the

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Committee's consent. I told him that of course I understood completely that we had no authority over the Committee's record, but that we had merely followed the customary practice with respect to transcripts of hearings at which the Secretary or other Treasury officials appeared. We made of course the necessary verbal changes to correct grammar and to make the meaning clear, but beyond that we were merely suggesting the omission of certain passages. He again said that only the Committee could decide what could be omitted and then we took up in detail the parts which we proposed to change. I explained the reason for omitting my testimony and also pointed out that the reasons for the other omissions seemed to be quite plainly in the public interest. I again said that our changes could only be considered as suggestions and I said that I thought that I had made that plain to Mr. Smalley when I brought the transcript to him. Smalley said that that was correct, that he understood me to say that we were merely suggesting these changes and asked that they be brought to the attention of the Chairman. Senator Sheppard turned to Smalley and asked him to repeat that statement, which he did, and the Senator expressed satisfaction that there was no difference of opinion on that point.

He then brought up the matter of the letter of January 30th to you requesting a photostat of the President's letter. I told him that it was my impression that that matter had been disposed of when the President called the Committee to meet with him. I told them exactly what our procedure had been with respect to the letter; that I had taken it to McIntyre and left it with him and that McIntyre had said that he would take care of it. I had assumed that the meeting disposed of it. The Senator said: "No, we haven't anything in our record and we have to have a reply for our record." I told him I would report his wishes to you, which I did immediately upon returning. You then told me to go over and consult Steve Early on the matter and you called him up. I saw Steve and gave him the whole story of what had happened in the interview with Sheppard. He said that of course he would have to see the boss, but his idea was that you should write two letters to Sheppard, the first dealing with the transcript, repeating what I had told Sheppard and what you had told Sheppard on the telephone immediately after my return, that is, that our corrections were mere suggestions to the Committee, that we had no requests to make, but that you still thought the deletions you made were in the public interest if the record was to appear in print. As to the second

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I returned to the office and shortly afterward received a telephone call from Early. He told me that the President said to tell Sheppard very positively with respect to the suggestions you made as to changes in the transcript, that they were made in the public interest, that you realize however that you can only make suggestions to the Committee; that their authority covers the final decision as to what should go in the record but you still stand on your suggestion that it would be in the public interest to omit these passages. With respect to the Sheppard letter of January 30th, asking for a copy of the President's letter, Early said that we should flatly refuse to send it.

A conference in your office followed, participated in by Foley, Hanes, McReynolds and Taylor, at which time I dictated rough drafts of two letters. Suggestions were made for changes by Foley and yourself and new drafts were prepared, which you took with you when you went to lunch with the President at one o'clock. Our letter had said "Since your request relates to a confidential communication from the President" etc. The President changed it to read: "Since your request relates not to one but to many confidential communications from the President, both written and oral" etc. The other letter had been approved by the President without change. The two letters were typed in final form, you signed them, and I took them to the Hill after the press conference, delivering them to Smalley at 4:50 P.M.

February 7, 1939.

MEMORANDUM

TO: SECRETARY MORGENTHAU
FROM: MR. GASTON

SUBJECT: Contacts with the Military Affairs Committee of the Senate on the subject of the sales of airplanes to France.

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As soon as he had finished discussing it, I left the conference and endeavored to reach you on the telephone, but was told that you were in the Committee Room and that it was executive session. I told the Clerk that I would come right up. I went to the Capitol and was admitted to the executive session. During a pause in your testimony I whispered to you that the President had discussed this subject quite frankly at his press conference. You then called the Chairman aside, with Mr. Hanes and myself, and he agreed that I should report the substance of the press conference to the Committee, which I did. A memorandum introduced as a part of your

testimony, and also the testimony of Secretary Woodring, referred to a letter from the President giving you authority to assist the French commission. Senator Eye during the hearing asked the Chairman if it would not be proper to ask that a copy of that letter be furnished to the Committee. The Chairman replied that it would and Eye made the request, which, however, was not acted upon at that time by the Committee.

On Monday, January 30th, you were kept at home by a severe cold. I was at your house during the morning and Bob McHugh brought up a letter to you from Senator Sheppard, dated that day, January 30th, asking that you supply to the Committee a photostatic copy of the letter or other communication authorizing you to assist the French in the purchase of planes. You instructed me to take the letter to the White House, submit it to McIntyre, and ask for instructions. I did so. McIntyre's reaction was: "We won't do it," and other more expressive terms. He said, however, that he would have to consult the President and asked me to leave the letter, which I did. That same afternoon McIntyre called me on the phone and told me that the President wished to see you at the house at 10:15 the following morning and that he would see Senator Sheppard and his Committee at 10:30. The transcript of your testimony of Friday was sent down by the Committee and delivered to you.

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I saw Senator Sheppard in his private office adjoining the Military Affairs Committee Room as soon as he came in Monday, which was about 10:20. Three Army officers came in after I did and were waiting to see the Senator. The Clerk of the Committee, Smalley, and the Military Adviser, Major Rapp, came into the Senator's office with me. Smalley had our copy of the transcript and another copy in his hands. Senator Sheppard told me that we shouldn't have attempted to eliminate parts of the record; that the record was the property of the Committee and nothing could be omitted without the

Committee's consent. I told him that of course I understood completely that we had no authority over the Committee's record, but that we had merely followed the customary practice with respect to transcripts of hearings at which the Secretary or other Treasury officials appeared. We made of course the necessary verbal changes to correct grammar and to make the meaning clear, but beyond that we were merely suggesting the omission of certain passages. He again said that only the Committee could decide what could be omitted and then we took up in detail the parts which we proposed to change. I explained the reason for omitting my testimony and also pointed out that the reasons for the other omissions seemed to be quite plainly in the public interest. I again said that our changes could only be considered as suggestions and I said that I thought that I had made that plain to Mr. Smalley when I brought the transcript to him. Smalley said that that was correct, that he understood me to say that we were merely suggesting these changes and asked that they be brought to the attention of the Chairman. Senator Sheppard turned to Smalley and asked him to repeat that statement, which he did, and the Senator expressed satisfaction that there was no difference of opinion on that point.

He then brought up the matter of the letter of January 30th to you requesting a photostat of the President's letter. I told him that it was my impression that that matter had been disposed of when the President called the Committee to meet with him. I told them exactly what our procedure had been with respect to the letter; that I had taken it to McIntyre and left it with him and that McIntyre had said that he would take care of it. I had assumed that the meeting disposed of it. The Senator said: "No, we haven't anything in our record and we have to have a reply for our record." I told him I would report his wishes to you, which I did immediately upon returning. You then told me to go over and consult Steve Early on the matter and you called him up. I saw Steve and gave him the whole story of what had happened in the interview with Sheppard. He said that of course he would have to see the boss, but his idea was that you should write two letters to Sheppard, the first dealing with the transcript, repeating what I had told Sheppard and what you had told Sheppard on the telephone immediately after my return, that is, that our corrections were mere suggestions to the Committee, that we had no requests to make, but that you still thought the deletions you made were in the public interest if the record was to appear in print. As to the second

letter he suggested sending a photostat of the memorandum of some date in December, on which the President had endorsed his approval of the project of assisting the French providing that no military secrets were disclosed. Before going to see Early I had received from Miss Chauncey the Sheppard letter of January 30th, which in the meantime had been returned by the White House. Steve asked that this be left with him again for his conference with the President.

I returned to the office and shortly afterward received a telephone call from Early. He told me that the President said to tell Sheppard very positively with respect to the suggestions you made as to changes in the transcript, that they were made in the public interest, that you realize however that you can only make suggestions to the Committee; that their authority covers the final decision as to what should go in the record but you still stand on your suggestion that it would be in the public interest to omit these passages. With respect to the Sheppard letter of January 30th, asking for a copy of the President's letter Early said that we should flatly refuse to send it.

A conference in your office followed, participated in by Foley, Hanes, McReynolds and Taylor, at which time I dictated rough drafts of two letters. Suggestions were made for changes by Foley and yourself and new drafts were prepared, which you took with you when you went to lunch with the President at one o'clock. Our letter had said "Since your request relates to a confidential communication from the President" etc. The President changed it to read: "Since your request relates not to one but to many confidential communications from the President, both written and oral" etc. The other letter had been approved by the President without change. The two letters were typed in final form, you signed them, and I took them to the Hill after the press conference, delivering them to Smalley at 4:50 P.M.

TREASURY DEPARTMENT

277

INTER OFFICE COMMUNICATION

DATE FEB 8 1939

TO Secretary Morgenthau
FROM E. H. Foley, Jr.

For your information

I am attaching a memorandum from Mr. Dwan concerning your immunity if subpoenaed by a Senate committee and questioned concerning Presidential communications of a confidential nature. The memorandum concludes that for a Senate committee to insist upon disclosure would constitute an invasion of the constitutional powers of the President.

The memorandum may be summarized briefly as follows:

(1) As to matters concerning the Army, Navy and foreign affairs, you are under no obligation to furnish information if, in your opinion, it is incompatible with the public interest to do so; nor can you be coerced by a Senate committee for refusing to comply with a subpoena calling for the production of records concerning such matters or for refusing to make disclosures in regard to them; and

(2) No precedents of a legislative or judicial character have been found where requests from Congressional committees for information of a confidential character have been refused and such requests have been followed up by subpoenas or other coercive measures.

As to matters involving the Army, Navy and foreign affairs, the Chief Executive has been designated by the Constitution as representative of the Federal Government. Accordingly, the President and the members

- 2 -

of his Cabinet have been given the widest latitude by the legislative and judicial branches of the Government to disclose as much, or as little, as they might see fit concerning such matters.

E. W. F. H.

Attachment

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(Initialed) E. H. F., Jr.

Attachment

WFO

FEB 24 1953

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(Initialed) E. H. F., Jr.

Attachment

FEB 8- 1939

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(Initialed) E. H. F., Jr.

Attachment

TREASURY DEPARTMENT

285

INTER OFFICE COMMUNICATION

DATE February 7, 1939

TO Mr. Foley, Acting General Counsel

FROM Mr. Dwan

Re: Disclosure by the Secretary to a Senate Committee
of confidential communications from the President.

I.

It is submitted that the Secretary was justified in refusing to disclose without the specific authority of the President on at least two grounds:

(a) For the Senate Committee to insist upon disclosure would constitute an invasion of the constitutional powers of the President. It would seem that the Secretary in this instance was acting as the representative of the President. The constitutional power of the President may be based upon one or more of three theories:

(1) As Commander in Chief of the Army and Navy, the President has powers which cannot be interfered with by Congress. See Ex parte Milligan, (1866) 4 Wall. (U.S.) 2, 139; Swain v. United States, (1893) 28 Ct. Cl. 173, 221, affirmed in (1897) 165 U.S. 553.

(2) The President has wide powers over foreign affairs because he is designated by the Constitution as the representative of the Federal Government in such matters. See United States v. Curtiss-Wright Corporation, (1936) 299 U.S. 304, 319 at seq.

(3) The President's general executive functions require some freedom from legislative interference. That is indicated by the authorities discussed below with reference to compelling the executive to produce information or documents.

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(b) A demand for such information by a committee of one House of Congress is an attempt to limit the authority of the Secretary over Departmental records conferred upon him by section 161 of the Revised Statutes of 1873 (U.S.C. title 5, sec. 22), and exercised by him in Department Circular No. 591. See (1912) 29 Op. Atty. Gen. 555, 560. Obviously, a committee of one House of Congress cannot repeal a statute or derogate from authority granted by a statute. See (1854) 6 Op. Atty. Gen. 680; (1889) 19 Op. Atty. Gen. 385; (1909) 27 Op. Atty. Gen. 150.

In this connection, however, it must be pointed out that section 248 of the Revised Statutes of 1873 (U.S.C. title 5, sec. 242), provides that the Secretary of the Treasury shall "make report and give information to either branch of the legislature in person or in writing, as may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office." See (1889) 19 Op. Atty. Gen. 385, 388. It is believed, however, that that section does not limit the Secretary's authority over confidential Departmental records under section 161 of the Revised Statutes.

II.

It is quite clear under the authorities that the Senate Committee could not compel the Secretary to disclose Departmental information which he considered to be confidential.

(a) Disclosure in court. Such precedents would seem to be relevant because, for present purposes at least, relations between the Executive Department and the Legislative Branch are similar to, if not

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identical with, the relations between the Executive and the Judicial Branch. Thus, in discussing disclosures to Congress, Attorney General Wickersham cited Boake v. Comingore, (1900) 177 U.S. 459, which involved disclosures in court. (1912) 29 Op. Atty. Gen. 555, 560. The rule may be stated as follows. While it is proper to subpoena the head of a department, he probably is not legally bound to appear; if he does appear, he may refrain from testifying as to matters which, in his judgment, should not be disclosed, or from producing documents which, in his opinion, it would be prejudicial to the public interest to reveal. See (1905) 25 Op. Atty. Gen. 326.

(b) Legislative and Executive Precedents. These precedents support the position taken by the Secretary.

A striking example was referred to by the Supreme Court in United States v. Curtiss-Wright Corporation, (1936) 299 U.S. 304, 320, in which Washington refused to accede to a request to lay before the House of Representatives material relating to the negotiations of the Jay Treaty, as illustrative of the powers of the President in the international field generally.

There have been numerous other examples wherein one of the houses of Congress has requested information from the Chief Executive or one of his Cabinet members and such a request has been met with a refusal to divulge the information. Although in some instances the refusal has been countered with a further request, no instance has been found where the Congress has attempted to obtain such information by any manner of coercion. See 3 Hinds' Precedents of the House

- 4 -

of Representatives (1907) secs. 1884-1894; 6 Cannon's Precedents of the House of Representatives (1936) secs. 433-437.

It should be noted that when a resolution of inquiry is addressed to the President or the State Department, it is customary to use the clause "if not incompatible with the public interest". Hinds, supra, sec. 1896; Cannon, supra, sec. 436. The distinction between the Department of State and the President in this connection and other executive departments is recognized in United States v. Curtiss-Wright Corporation, supra, at page 321.

Cannon, sec. 436, states that the phrase "if not incompatible with the public interest" is not ordinarily used in resolutions addressed to other executive departments. It would seem that the true reason for the distinction between the Department of State and other departments is that the Department of State is the one customarily dealing with foreign affairs. Therefore, when the resolution of inquiry is directed to another department and does concern foreign affairs, the qualifying phrase should be employed. See Hinds, sec. 1901, where the House refused to modify a request to the President of the United States for certain information with the phrase "if not incompatible with the public interest", but Mr. Venable of North Carolina justified the form of the resolution by pointing out that this clause was usually inserted in resolutions calling for information relating to foreign relations.

Even where it does not appear that foreign relations were involved, in instances where the divulgence of information might have proved harmful to the public interest, that phrase has been employed in resolutions directed to heads of departments. See Cannon, supra, sec. 434, a resolution directed to the Secretary of War requesting information as to the condition of our military forces and the state of readiness of the country for defense in the event of war, and the additional forces that would be necessary to guard against invasion in time of war. See Cannon, sec. 414, a resolution requesting certain information directed to the Secretary of the Treasury. The Committee on Ways and Means recommended that it be amended by incorporating the phrase "if not incompatible with the public interest". The confidential nature of the information which was in the possession of the Treasury Department was stressed as a reason for adopting the modification of the amendment, and, accordingly, the amendment was adopted by the House.

Moreover, it would seem that the Secretary was justified in refusing to divulge the information since the Senate Committee would not have been able to obtain that information directly from the President, and, in attempting to secure it from the Secretary, was attempting to do indirectly what it could not do directly. In fact, it has been a precedent of the Congress to secure information on foreign affairs from the President or the Department of State. This precedent, as well as most of the arguments that have been previously advanced,

has been aptly summarized by the late Senator Spooner, of Wisconsin, who stated on the floor of the Senate:

"It rarely has happened that a request has been addressed to any Cabinet officer where foreign relations were involved. Where such a resolution has been adopted it has been addressed to the President, with the qualification that he is requested to furnish the information only so far as in his judgment, the transmission of it is compatible with the public interest.

"There are reasons for that, Mr. President. The State Department stands upon an entirely different basis as to the Congress from the other Departments. The conduct of our foreign relations is vested by the Constitution in the President. It would not be admissible at all that either House should have the power to force from the Secretary of State information connected with the negotiation of treaties, communications from foreign governments, and a variety of matters which, if made public, would result in very great harm in our foreign relations--matters so far within the control of the President that it has always been the practice, and it always will be the practice, to recognize the fact that there is of necessity information which it may not be compatible with the public interest should be transmitted to Congress--to the Senate or to the House.

"There are other cases, not especially confined, Mr. President, to the State Department, or to foreign relations, where the President would be at liberty obviously to decline to transmit information to Congress or to either House of Congress. Of course, in time of war, the President being Commander in Chief of the Army and Navy, could not, and the War Department or the Navy Department could not, be required by either House to transmit plans of campaign or orders issued as to the destination of ships, or anything relating to the strategy of war, the public knowledge of which getting to the enemy would defeat the Government and its plans and enure to the benefit of an enemy.

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"There are still other cases. The Department of Justice would not be expected to transmit to either House the result of its investigations upon which some one had been indicted, and lay bare to the defendant the case of the Government. The confidential investigations in various departments of the Government should be, and have always been, treated by both Houses as confidential, and the President is entirely at liberty to permit by the Cabinet officer to whom the inquiry is addressed as much or as little information regarding them as he might see fit." (1906) 41 Cong. Rec. 97-98; (1907) 3 Hinds, p. 197.

N.P.Z.
J.A.L.
R.H.D.

February 10, 1939

Present:

Mr. Hanes
Mr. Gaston
Mr. McReynolds
Mrs. Klotz

HM, Jr: I called up Senator Sheppard. (Copy of the conversation is attached hereto.)

There is an Associated Press story that I refused against giving my testimony on the Hill publicity. Sheppard said, "I did not give it out. When I saw the newspaper men this morning they said you did it."

Now, the testimony is all printed and I have until ten o'clock Monday morning to correct it and I have decided not to change one word. Everything stays as is.

February 10, 1939.
2:27 p.m.

HMJr: Hello.

Operator: Senator Sheppard is in a Military Affairs Conference but I can get him if you want him.

HMJr: Who are you talking to?

O: I'm talking to the clerk in the committee room.

HMJr: Ah -- let me -- what's the clerk's name?

O: I don't know, I'll get him though.

HMJr: Yeah. Let me talk to the clerk.

(Pause)

O: Mr. Smalley -- he's the assistant clerk.
Go ahead.

HMJr: Hello, Mr. Smalley--

Smalley: Hello, Mr. Morgenthau.

HMJr: Is the Senator occupied now?

S: Yes, he is just at this time, but I think perhaps I could call him from the conference.

HMJr: Well, I mean, is it a regular Military Affairs Committee

S: No, no, no -- it's just three or four gentlemen in his office.

HMJr: Well, tell him if it's entirely convenient, I would like to talk to him.

S: Yes, sir, just a moment.

HMJr: Thank you.

(Pause)

Senator
Sheppard: Hello.

HMJr: Hello, Senator.

S: Yes.

HMJr: Morgenthau talking.

S: Yes, yes.

HMJr: How are you?

S: Fine.

HMJr: Senator, tonight's Star, page two, carries the story, the headlines are, "Morgenthau Requests Secrecy on Portion of Planes Inquiry", and it sort of disturbed me a little bit, and --

S: I haven't seen it.

HMJr: But -- well, it's on page two of tonight's Star.

S: Yes, well, on the other hand I understood you stated a few days ago that you welcomed the opposite.

HMJr: Welcomed the what?

S: I say you welcomed publicity.

HMJr: Yes.

S: So this thing is entirely out of order.

HMJr: That's what I thought.

S: Yes, it didn't come from here.

HMJr: Well--

S: It had no possible origin here.

HMJr: Well I was -- I wasn't --

S: I mean, the newspaper men told me this morning that you said you had written me this note.

HMJr: No, no, I haven't seen any newspaper men.

S: Well, I say the newspaper men -- I had said nothing about any note, but the newspaper men this morning said that you said that you had written me a note.

HMJr: No.

S: Suggesting that certain things should be cut out.

HMJr: No, that's not correct, Senator.

S: Well, there you are. You see how they mix things up.

HMJr: The only time I see newspaper men is at a formal press conference, and I have two stenographers present, not one, but two, and I didn't -- I haven't -- outside of the people right in my office nobody knows I wrote you.

S: Yes, well, that's all I know about it.

HMJr: Well, I'm glad I called you, because I haven't talked to anybody except at a formal newspaper conference.

S: Yes, yes.

HMJr: But in view of this thing, I mean --

S: They don't quote me, do they?

HMJr: Ah --

S: They don't say I said it?

HMJr: They say here that the Treasury's Secretary was reported authoritatively to have written the Committee that he believed some sections of his testimony involved military secrets which should not be disclosed, you see?

S: Yeah, well, you did make a suggestion.

HMJr: I made a suggestion, that's right.

S: Yes, but I didn't give it out.

HMJr: Well, I'm not even suggesting, what I'm trying --

S: I understand. I just want you to get the straight of that.

HMJr: Fine.

S: And I'll tell you what we've done today.

HMJr: I would appreciate that.

S: The Committee is sending this -- this completed testimony to every man who has testified.

HMJr: Yeah.

S: We're asking them for suggestions -- if they thought anything should go out.

HMJr: You mean, it's coming back to me again?

S: That's right, and it's going to Woodring, it's going to Craig, and it's going to Arnold.

HMJr: I see.

S: A completed confidential publication.

HMJr: I see.

S: So as to be fair with everybody. So you see that puts the whole thing in the clear. We are requesting everybody to look it over and to suggest, if they think there is anything in this publication that's completed now -- of the hearings -- that ought to go out in the interest of the Government and of the country.

HMJr: You mean it's a sort of a -- getting the thing all over again -- I mean, the testimony.

S: Well, not exactly doing it all over again. We never got the published proceedings back until yesterday.

HMJr: I see.

S: And we are taking these proceedings and sending them back to the people to see if the published proceedings give a correct account of what they said.

HMJr: I see.

S: Do you see the point?

HMJr: I see.

S: They may be made public and if they are we want you to see them, Craig, and everybody.

HMJr: Now, are you setting any time limit.

S: Oh, yes, we want them back at ten o'clock Monday morning.

HMJr: Ten o'clock Monday?

S: Yes, and Mr. -- Major Watts is going to bring them down personally.

HMJr: I see. Well, I'm glad I called you because --

S: Either this afternoon or Monday morning -- I mean, Saturday morning.

HMJr: Fine.

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- S: Yes, I'm glad you called me because I wanted you to know the exact situation, and we haven't decided anything finally yet.
- HMJr: I see.
- S: On the airplane matter -- about publication.
- HMJr: Well, as far as I'm concerned, I hope the Committee makes the whole works public.
- S: Well, that's it exactly, and now we are giving everybody a chance to see it before we make a decision.
- HMJr: Uh-huh. Thank you.
- S: All right.



OFFICE OF THE DIRECTOR

TREASURY DEPARTMENT
PROCUREMENT DIVISION
WASHINGTON

288
A

February 10, 1939

MEMORANDUM FOR THE SECRETARY

There is attached hereto a copy of the proposed contract between the French State and the Glenn L. Martin Airplane Company, as well as a copy of a memorandum concerning my contact with the office of the Assistant Secretary of War today.

It is understood that arrangements will be made to sign this contract late this afternoon.

Contracts are now in the course of preparation with the Douglas Company, the Pratt & Whitney Company and the North American Aviation, Inc., the latter contract covering the purchase of 250 trainers which have been cleared for export and which are similar to those that have been sold in quantities during the past few years to foreign governments.

Hollings

ENCLOS.

February 10, 1939

MEMORANDUM

This morning at 10:20 a finished draft of the proposed contract between the French State and the Glenn L. Martin Airplane Company was delivered by hand to Colonel Burns, Assistant to the Assistant Secretary of War, with the request that it be cleared. It was explained to Colonel Burns that the contract had not been signed and would not be signed until the War Department's approval had been given. After discussing the contract in general with Colonel Burns I accompanied him to Assistant Secretary Johnson's office where he was told of our wishes. He reiterated his desire to cooperate in every way and directed Colonel Burns to do everything possible to effect the approval of this contract at the earliest possible time.

At 2:50 this afternoon Colonel Burns called me and stated that the contract had been approved with the understanding (a) that there are no secret devices or equipment in the plane; and (b) that they would be cleared for export through regular State Department channels.

Colonel Burns was informed that the contractors had given an assurance that there was nothing secret on the plane and that within the course of the next month necessary steps looking toward this clearance for export would be taken by the contractor. Colonel Burns assured me that a written approval would be forwarded as soon as it could be prepared.

CONTRACT

(as of)

FEBRUARY 6, 1939

between

THE FRENCH STATE

and

THE GLENN L. MARTIN COMPANY

CONTRACT
(as of)
FEBRUARY 6th, 1939
between
THE FRENCH STATE
and
THE GLENN L. MARTIN COMPANY

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(This page does not constitute part of the Contract)

THIS CONTRACT entered into as of this 6th day of February, 1939, by THE FRENCH STATE, hereinafter called "Government", represented by René P. G. Weiser, Air Attaché to the French Embassy of the Republic of France in the United States, and R. HOPPENOT, Inspector of Finance, Chargé de Mission, representing the Air Minister of the Government, executing this Contract, and THE GLENN L. MARTIN COMPANY, a corporation organized and existing under the laws of Maryland, of Middle River, Baltimore County, in the State of Maryland, hereinafter called "Contractor",

WITNESSETH:

WHEREAS, the Contractor is designer and manufacturer of aircraft, equipped with adequate facilities for constructing such aircraft under normal conditions in reasonable quantities and at reasonable rates of delivery; and

WHEREAS, the Contractor has designed and partially constructed a prototype of a new high performance aircraft known as Model 167; and

WHEREAS, the Government is desirous of purchasing a quantity of airplanes of the same design, known as Model 167-F, materially in advance of normal and usual delivery requirements and has insisted that these deliveries be made at times and at rates of production in excess of the Contractor's existing facilities; and

WHEREAS, in order to make deliveries as required by the Government, the Contractor will have to operate its facilities on multiple shift operations, require overtime work of its employees, and pay premiums in order to obtain necessary delivery of raw, semi-finished and finished material, parts, accessories and equipment, all of which and other considerations and circumstances required and brought about as a result of the delivery schedules required by the Government, will materially increase the cost of planning, production, manufacture and delivery of said Model 167-F airplanes and material hereinafter referred to; and

WHEREAS, time is of the essence to the Government in the delivery of airplanes and equipment;

NOW, THEREFORE, the parties do agree as follows:

ARTICLE I.

SCOPE OF THE CONTRACT.

The Contractor shall furnish and deliver to the Government all of the airplanes, aeronautical equipment, spare parts and data, as set forth more particularly in ARTICLE VIII hereof, for the consideration stated and payable as set forth more particularly in ARTICLE X hereof, in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof, as set forth more particularly in ARTICLE VIII hereof. Delivery shall be made as more particularly set forth in ARTICLE IX hereof.

ARTICLE II.

EXTRAS.

Except as otherwise herein provided, no charge for extras will be allowed unless the same shall have been ordered in writing by the representative of the Government and the price thereof stated in such order.

ARTICLE III.

INSPECTION AND TEST.

(1) *Inspection of Manufacturing.* The Contractor shall provide a complete system covering the inspection of all material, fabrication methods and finished parts. This system shall conform to the same standard of inspection employed and used by the Contractor in connection with the manufacture and assembly of similar equipment for the United States Army Air Corps by the Contractor. Records of all such inspection work shall be kept complete and shall be available to a representative of the Government at all times. The work of construction shall at all times be open to not more than six (6) duly authorized representatives of the Government for the purpose of observing the manufacturing processes and inspection by the Contractor, and all reasonable facilities and assistance shall be afforded such representatives for the prosecution of their work. The representative of the Government shall have the right to require replacement of parts not in accordance with the approved drawings and specifications or showing inferior workmanship or material, or which are unsuited for the purpose intended or are over-weight. The Contractor shall inform the representative of the Government when materials or parts are ready for final inspection. The Contractor shall, in the manufacture of the articles to be supplied under this Contract, be required to use jigs,

fixtures and/or other devices or appliances in all processes where such use is conducive to interchangeability and conformity of the product, of such character as will reduce the necessity for selected assembly to the least practical minimum, and whenever the representative of the Government shall determine that any jig, fixture, device or other appliance is incorrect, worn, damaged or defective to such an extent as adversely to affect basic interchangeability of the article manufactured, he shall so inform the Contractor, in writing, and the Contractor shall not thereafter use the said jig, fixture or appliance in its incorrect, worn, damaged or defective form in the manufacture of articles intended for delivery under this Contract. The passing as satisfactory of any part or piece by the Government's representative does not relieve the Contractor from any responsibility regarding faulty workmanship or material which may be subsequently discovered prior to final acceptance. All inspection and test by the representative of the Government, and observation by the representative of the Government of inspections and test by the Contractor, shall be performed in such a manner as not to unduly delay the work. The Contractor, to the extent permitted by the United States, or its agencies, shall make available to the representatives of the Government the specifications most currently used by the United States Army Air Corps to govern inspection of the articles to be manufactured.

(2) *Flight Tests.* In order to demonstrate compliance with the performance and stability guarantees set forth in ARTICLE XIII hereof, the Contractor shall conduct with its own pilot, and at its own risk and expense, flight tests of the first airplane to be manufactured hereunder. Such flight tests for the demonstration of performance shall be conducted in accordance with the procedure specifically described in Appendix IV of the Specifications, and under the conditions set forth under "Performance" (Page 9c) of the Specifications. Such flight tests for the demonstration of stability shall be conducted as required by Appendix VIII of the Specifications. The performance and stability of the airplane during such test flights shall be measured by instruments supplied and calibrated by the Contractor. The representative of the Government may observe the calibration of such instruments. The representative of the Government shall be afforded full opportunity, at his option, whether before, during or after such tests, to check instruments for their accuracy of calibration. All flight tests may be observed by a representative of the Government by actual presence in the airplane during such flight and observation of instruments

during the performance, or from the ground, for the purpose of observing compliance of the airplane and equipment to be supplied hereunder with such performance and stability guarantees. The Contractor shall, with the assistance and participation of and checking by the Government representative, reduce the readings of the instruments or other indications of the performance to standard condition as provided in the Specifications, and the Contractor shall submit to the representative of the Government the results of such reduction to standard conditions and the results of the stability tests. Such report shall be signed by the Contractor and a representative of the Government. Such performance of said airplanes, tested as provided above, shall, unless the Government should exercise its optional right to a second flight test as hereinafter provided, be conclusive and controlling in the determination of whether all the airplanes covered by this Contract comply with such performance and stability guarantees. In the event the airplane to be flight tested shall fail to meet one or more of the guaranteed performance or stability requirements, the Contractor shall have the right, at its expense, to make changes and improvements in or to such airplane and to repeat the test of such airplane as to performance or stability effected by such changes and improvements, and the Contractor shall at its expense include such changes and improvements in all other airplanes delivered hereunder in order to obtain from all such airplanes the performances guaranteed.

At the option of the Government it may designate for flight tests an additional airplane, at its own discretion as to the identity of such airplane, and the time of its designation, out of the first series of 25 airplanes manufactured hereunder; and thereupon such airplane shall be tested for compliance with the performance and stability guarantees set forth in ARTICLE XIII hereof, in the same manner and under the same conditions as are provided with reference to the flight test for performance of the first airplane manufactured hereunder. The performance of the airplane under such second test shall also be conclusive and controlling in the determination of whether all the airplanes covered by this contract comply with such performance and stability guarantees. In the event that it fails to meet one or more of the guaranteed performance requirements, the Contractor shall have the right, at its expense, to make changes and improvements in or to such airplane and to repeat the test of such airplane as to performance effected by such changes and improvements and the contractor shall, at its expense, include such changes and improvements in all other airplanes delivered hereunder in order to obtain from all such airplanes

the performance guaranteed. Upon the exercise of such option the Government shall pay to the Contractor the sum of Four thousand dollars (\$4,000.00) to cover the cost of such second flight test.

(3) *Ground Testing.* All airplanes covered by this Contract, shall be ground tested by the Contractor. At the option of the Contractor, and to expedite delivery of the articles purchased, such ground test may be conducted without the tail surfaces, outer wings or other parts not essential to such ground test being assembled to the airplane at the time of such ground testing.

(4) *Weighing.* The Contractor shall, in the presence of the Government Representative, and for the purpose of demonstrating compliance with the requirements of ARTICLE XIII hereof as to weight, weigh the first, fifth, tenth, twentieth, and each succeeding twentieth airplane to be delivered hereunder. The airplanes which are thus weighed and all other airplanes delivered hereunder shall be deemed to comply with such specifications as to weight if variation from the weight stated in the Specifications shall not exceed plus or minus 3 per cent. A similar variation of 1.0 per cent of mean aerodynamic chord of wing shall be allowable with respect of the center of gravity.

(5) *Static Test.* The Government shall have the option, to be exercised in writing and upon payment to the Contractor of One hundred thousand dollars (\$100,000), to designate the skeleton structure comprising one of the first twenty (20) airplanes to be manufactured hereunder for use by the Contractor for static test, for the purpose of demonstrating the structural strength of the airplanes to be delivered hereunder. This option may be exercised at any time prior to sixty days before the scheduled contract delivery of the twentieth airplane to be manufactured hereunder, and the contractor shall perform such static tests and deliver a report thereon to the Government representative within sixty (60) days after such scheduled contract delivery date. In the event this option is exercised, the number of days between the last day on which such option may be exercised and the delivery of such static test report shall be deemed excusable delay within the meaning of paragraph (9) of Article IX hereof with respect to one of said first twenty (20) airplanes. Such static tests shall be conducted on those parts of such skeleton structure as are designated and described in Appendix VI of the Specifications and as provided therein, and under the observation of the representatives of the Government. Should such static test demonstrate that the airplane or any part thereof does not conform to the Specifications as to structural strength

requirements, then the Contractor shall correct such failure so as to make the airplanes or part thereof comply with the Specifications as to structural strength and so to correct all airplanes thereafter to be delivered and all airplanes theretofore delivered.

(6) *Fixed Gun Installation Test.* The Contractor shall install in the first airplane to be flight tested, as provided above, fixed guns, and conduct, in the presence of the Government representative, a firing test of such guns in order to demonstrate proper provision for installation of such guns and the functioning of control of such guns. Such tests shall be conducted on the ground with not to exceed 100 rounds of ammunition for each gun. Such guns and ammunition shall be supplied by the Government to the Contractor.

(7) *Government Check Flights.* After flight tests and gun installation tests, provided for above, shall have been completed and such airplane or airplanes shall have been accepted by the Government, the Government may, at its option, conduct, with either or both such tested airplanes, check flights with its own pilot under the following terms and conditions: (a) the Government shall assume all risk of loss and/or damage to such airplane or airplanes and death of or injury to its pilot and all liability for damage to any third persons except Contractor's employees participating in such check flights, and for these purposes the airplane shall be deemed the property of the Government; (b) the airplane shall be flown only within a radius of the Contractor's air field as is permitted by regulation of the United States Civil Aeronautic Authority; (c) the Government shall pay the Contractor at the Contractor's regular rates, not to exceed seventy-five dollars (\$75.00) per hour of flight, for gasoline, oil, ground crew and other services rendered by the Contractor in connection with such flights; (d) the Government shall also pay the Contractor at the Contractor's regular rates for installation of any and all instruments or equipment not called for by the Specifications which the Government may wish installed in such airplane or airplanes; (e) for the purposes of Article XI hereof, such airplane or airplanes shall be deemed to be delivered when accepted by the Government prior to such check flights; (f) such check flights by the Government, and/or any performance or stability of the airplane or airplanes indicated thereby, shall in no manner or way affect the provisions of paragraph 2 of this Article III providing that the test flights conducted by the Contractor shall be conclusive and controlling in the determination of whether all airplanes covered by this contract comply with the performance and stability guarantees contained in paragraph 1 of ARTICLE XIII.

(8) Any and all delay in the delivery of said airplanes hereunder caused by weather making flight tests as provided in Paragraph (2) above impracticable, shall extend the dates upon which delivery of such airplanes shall be made, as provided in ARTICLE IX, Paragraph (1) hereof, if and to the extent that delay in such tests shall be shown by the Contractor to have actually delayed production of other planes hereunder. Any and all delay in the delivery of airplanes hereunder caused by failure of engines and equipment supplied by the Government hereunder during flight or ground tests, which failure shall not have been caused by the Contractor, shall in the same manner and method extend the dates upon which delivery of such airplanes shall be made, as provided in ARTICLE IX, Paragraph (1) hereof.

The foregoing provisions in this paragraph (8) and their appearance in this Article III shall in no way derogate or limit the construction of paragraph 8 of ARTICLE IX.

(9) The inspection of manufacture and assembly provided for in paragraph (1) of this ARTICLE III, and compliance with performance and stability guarantees as provided for in paragraph (2), shall be attested as to each airplane by a certificate of inspection and test jointly signed by the Chief of the Inspection Department and a Vice President or President of the Contractor. The representative of the Government shall sign such certificate of inspection and test as to each airplane if it shall conform to the Specifications and this contract, and if the performance and stability of the airplanes, as provided in ARTICLE III, paragraph (2) hereof, shall have conformed to and met with the provisions of this Contract.

(10) Final inspection of manufacture shall be conclusive, except as regards latent defects, fraud or such gross mistakes as amount to fraud. Final inspection and acceptance or rejection of the materials and supplies shall be made as quickly as practical, but failure to inspect and either accept or reject materials or supplies before or during manufacture or assembly shall not impose liability upon the Government for such materials and supplies as are not in accordance with the Specifications. Final inspection on behalf of the Government, except for possible damage in transit to the Contractor's plant, of engines, propellers, accessories or instruments, not manufactured by the Contractor, as shown by the Specifications, shall be made at the factory of the manufacturer thereof.

(11) The Contractor shall have no liability whatever, for negligence or otherwise, in connection with any salary, wages, living or

other expenses of any representatives, inspectors of manufacture or pilots of the Government or for injury to or death of such Government personnel and the Government shall indemnify the Contractor for any liability of the Contractor not covered by insurance for injury or death to such representatives for which the Contractor may be held liable. The Government shall not be liable whether for negligence or otherwise for any injury to or death of any employee of the Contractor participating in check flights as provided in paragraph 7 of this ARTICLE III or ARTICLE XVII hereof and the Contractor shall indemnify the Government for any liability of the Government not covered by insurance, for death of or injury to any employee of the Contractor for which the Government may be held liable.

ARTICLE IV.

RESPONSIBILITY FOR SUPPLIES TENDERED.

The Contractor shall be responsible for the articles and materials covered by this contract until they are delivered at the designated point, and the Contractor shall bear all risk on rejected articles or materials after notice of rejection. Where final inspection is at the point of origin but delivery by Contractor at some other point, the Contractor's responsibility shall continue until delivery is accomplished.

ARTICLE V.

COVENANT AGAINST CONTINGENT FEES.

The Contractor warrants that it has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul this contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fee. This warranty shall not apply to commissions payable by the Contractor upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the Contractor for the purpose of securing business. The Contractor further warrants that no cost of advertising or allowance for any commission, percentage, brokerage or contingent fee payable to any third party has been included in the contract price.

ARTICLE VI.

DISPUTES.

Except as otherwise specifically provided in this contract, disputes concerning the meaning or performance of any part of this contract or concerning the rights or liabilities of the parties under this contract shall be referred for discussion to a Committee consisting of a representative of the Government, an official of the Contractor, and a third party mutually acceptable to the other two members of the Committee. During such discussions the Contractor shall diligently proceed with the performance of the terms of the contract. If during such discussion no agreement is reached, either party may appoint an arbitrator and shall immediately give written notice thereof to the other. Thereupon, within ten days after the giving of such notice, the other parties shall appoint a second arbitrator, and give written notice of such appointment to the first party, and in default of such second appointment within said time, the arbitrator first appointed shall be sole arbitrator. When any two arbitrators have been appointed, as aforesaid, they shall, if possible, agree upon a third arbitrator, giving written notice thereof to both parties; but if ten days shall elapse after the appointment of the second arbitrator without notice of appointment of a third arbitrator being given as aforesaid, then either party hereto may, in writing, request the appointment of the third arbitrator by the Senior United States District Judge for the District of Maryland. The three arbitrators shall meet within one week after the appointment of the third arbitrator, and shall give opportunities to each party to present its case and witnesses, if any, in the presence of the other, and the decision of the majority of the arbitrators shall be binding upon the parties hereto and shall be a condition precedent to any right of court action. Such decision of the arbitrators shall include fixing of the expenses of the arbitration and the assessment of the same against either or both of the parties hereto.

ARTICLE VII.

DEFINITIONS.

(1) The term "Government representative" or "representative of the Government", as used herein, shall mean any person who shall be appointed and accredited by the Government, acting through Air Attache of the Embassy of the French Republic in the United States, to act in its behalf for the purposes of this contract. One or more repre-

representatives may be so appointed, provided the Contractor shall be notified of each appointment in writing by the Government. One designated representative shall be in charge of and shall approve invoices, certificates for monthly payments, and final payments, orders for shipment and similar documents. Another designated representative shall be in charge of inspection and test as provided in ARTICLE III and final inspection and acceptance of the airplanes and material covered by this contract and who shall approve the certificate of inspection and test. The Contractor is hereby authorized to rely and act upon any written approval, direction, consent or notice signed by either principal Government representative.

(2) All notices or communications to the Contractor shall be addressed to the Contractor at Baltimore, Maryland.

(3) All notices and communications to the Government shall be addressed to the appropriate Government representative at the plant of the Contractor at Baltimore, Maryland.

ARTICLE VIII

ARTICLES AND SUPPLIES CALLED FOR.

(1) Contractor shall furnish and deliver to the Government all of the following airplanes, aeronautical equipment, spare parts and technical data, to wit:

Item I. One hundred and fifteen (115) two engine, Martin Model 167-F type airplanes, manufactured and constructed in accordance with The Glenn L. Martin specification #80 dated February 3, 1939, a copy of which is annexed hereto marked Exhibit A and made a part hereof, and the complete installation of engines of the type designated as Pratt & Whitney Twin Wasp Model SC3-G including the installation of all items of equipment listed in Appendix I of the Specifications and with space and provision for installation of accessories and equipment listed in Appendix III to such Specifications, such airplanes and equipment being ground tested and the first airplane, and at the option of the Government one other airplane, being flight tested, as provided in Article III (Par. 2) hereof, and ready for delivery and acceptance by the Government at Middle River, Baltimore County, Maryland.

Item II. Each and every article, accessory and item of equipment listed and described in Appendix I to said Specifications (Exhibit A) and each and every article, accessory and item of equipment listed and described in Appendix II of the Specification, completely installed in the airplanes.

Item III. One set of Van Dyke prints on durable material from which blue prints may be made of the Contractor's complete detail and assembly drawings and group parts list for the airplanes covered by Item I above. Three blue print copies of the Contractor's preliminary production detail and assembly drawings as originally released to the Contractor's shop.

Item IV. Three (3) blueprint copies of the Contractor's standard performance results for the airplanes covered by Item I hereof.

Item V. Three (3) blueprint copies of Stress Analysis and strength calculations for the airplanes covered by Item I above.

Item VI. Twenty (20) blueprint copies in the French language of the Contractor's erection manual for the airplanes covered by Item I hereof.

Item VII. One hundred and fifty (150) copies in the French language of the Contractor's Handbook of Maintenance Instructions for the airplanes covered by Item I hereof.

Item VIII. One hundred and fifteen (115) copies in the French language of the Contractor's pilots' manual for the airplanes covered by Item I hereof.

Item IX. One hundred and fifteen (115) copies in the French language of operation and maintenance instructions for all instruments and accessories not manufactured by the Contractor if and to the extent such are supplied in English by the manufacturer thereof.

Item X. All material and services required to disassemble one hundred and fifteen (115) airplanes covered by Item I, subsequent to ground testing; the packing in adequate and proper overseas shipping boxes, including all fastenings and wrappings, together with complete packing lists of the airplanes covered by Item I above; the loading of boxes upon railroad cars secured and placed for rail shipment; one hundred and fifteen (115) sets of weather-proof overseas type shipping boxes.

Item XI. Spare parts for the airplanes and equipment called for under Items I and II above to the aggregate dollar value of fifteen per cent (15%) of the contract price of such airplanes and equipment boxed for export. A list of major assemblies and principal units of such spare parts of the basic airplane is annexed hereto and marked "Schedule of Spare Parts by Major Assemblies," such list showing the percentage of value which each such assembly or part bears to the total value of the basic airplane. Within twenty-five days, the representative of the Government shall notify the Contractor which of such spare parts by major assemblies the Government wishes to order. Within 120 days after date of contract, the Contractor shall supply to the Govern-

ment a breakdown of the list of such spare parts comprising such major assemblies, and within 30 days thereafter the Government shall advise the Contractor in writing which of the spare parts are to be delivered as major assemblies and which of the spare parts are to be delivered as detailed parts.

(2) All the airplanes called for under the terms of Item I hereof shall be serially numbered by the Contractor, as designated by the representative of the Government.

(3) It is expressly understood and agreed that the Government shall furnish to the Contractor for installation in the airplanes covered by Item I above, two hundred and thirty (230) engines, Model Pratt & Whitney Twin Wasp SC3-G, and accessories and parts thereto, as provided in the Specifications (Exhibit A). Such engines shall be supplied to the Contractor by delivery to the Contractor's plant at Middle River, Baltimore County, Maryland, on or before the number of days after February 6, 1939, the date of this contract, as indicated below:

2 engines—	37 days
2 engines—	77 days
2 engines—	86 days
6 engines—	94 days
14 engines—	98 days
14 engines—	105 days
14 engines—	112 days
14 engines—	119 days
14 engines—	126 days
14 engines—	133 days
14 engines—	140 days
14 engines—	147 days
14 engines—	154 days
14 engines—	161 days
14 engines—	168 days
14 engines—	175 days
14 engines—	182 days
14 engines—	189 days
14 engines—	196 days
8 engines—	203 days

(4) The Government shall furnish the Contractor at its plant, Middle River, Baltimore County, Maryland, the drawings, information and material listed and described in the Schedule annexed hereto and made a part hereof and marked Exhibit B, on or before the dates indicated opposite each item in said schedule. Such drawings, information and equipment are necessary and essential to the Contractor in

order that the Contractor may design and plan the production of the airplanes covered by this contract, and any delay in the delivery of any of such drawings, information and material shall automatically and conclusively extend the time within which all airplanes shall be delivered hereunder, by the amount of time that any such drawings, information or material in final and accurate form and condition are delayed after the dates specified in said Schedule. If any of such drawings, information or material in such final and accurate form and condition are not received by the Contractor within the time specified in said Schedule B and the Contractor shall promptly notify the representative of the Government in writing of the non-receipt thereof, the Government may at its option, to be exercised but once on each item of equipment involved and within twenty-four hours after receipt of such notice, notify the Contractor in writing whether the Government shall be bound by such conclusively presumed excusable delay in the delivery of airplanes hereunder or whether the Contractor may proceed with the engineering, planning and production of said airplanes without making space or provision for installation of the item or items of equipment as to which there has been a failure to deliver such drawings, information or material.

(5) The Government shall also furnish to the Contractor the equipment listed and described in the schedule annexed hereto and made a part hereof and marked Exhibit C, on or before the dates indicated opposite each item in said Schedule in order that the Contractor may at its option use such equipment and material for testing the adequacy and accuracy of space and installation provisions for such equipment in each airplane.

(6) The Government shall also furnish to the Contractor for use in the airplanes during ground and flight tests twenty (20) pairs of batteries of the type referred to in Appendix III of the Specifications (Exhibit A). Such batteries shall be supplied to the Contractor by delivery to the Contractor's plant at Middle River, Baltimore County, Maryland, on or before the number of days after February 6, 1939, the date of this contract as indicated below:

Quantity of Batteries	
1 Set	—102 days
1 Set	—104 days
1 Set	—106 days
3 Sets	—107 days
7 Sets	—110 days
7 Sets	—117 days

(7) Any failure of the Government to deliver engines, batteries or other material or equipment to be furnished by the Government hereunder (except the information and material referred to in paragraph 4 of Article VIII) shall be deemed to have caused delay in the planning and production of the airplanes and equipment hereunder unless and to the extent that such failure of the Government shall be rendered immaterial by delay caused by other events or circumstances.

ARTICLE IX.

DELIVERIES.

(1) The airplanes and equipment covered by Items I and II of paragraph (1) of Article VIII of this contract shall be delivered on or before the following dates:

- 20 Airplanes 144 days from date of this contract;
- 25 Airplanes 175 days from date of this contract;
- 35 Airplanes 206 days from date of this contract; and
- 35 Airplanes 236 days from date of this contract.

Said airplanes shall be deemed to be delivered for purposes of this Article IX when said airplanes have passed final inspection and test and a duplicate of the shop record of such inspection and test is presented to the Government representative. The certificate of inspection and test provided for in Article III, paragraph (9), shall be presented to the representative of the Government for approval and signature within forty-eight hours thereafter. The Contractor shall disassemble and pack for export such airplanes and equipment within four days after delivery as defined above.

(2) The Van Dyke prints covered by Item III of paragraph (1) of Article VIII shall be delivered to the representative of Government at the plant of the Contractor on or before sixty days after delivery of the last airplane to be delivered hereunder. The Contractor's preliminary production detail and assembly drawings covered by Item III of paragraph 1 of Article VIII shall likewise be delivered on or before delivery of the first airplane to be delivered hereunder.

(3) The material and data covered by Items IV and V of paragraph (1) of Article VIII shall be delivered to the representative of the Government at the plant of the Contractor on or before sixty days after delivery of the first airplane to be delivered hereunder.

(4) The material and data covered by Items VI, VII, VIII and IX of paragraph (1) of Article VIII shall be delivered to the representa-

tive of Government at the plant of Contractor within sixty days after delivery of the first airplane hereunder.

(5) Preliminary working instructions, in English, relating to the material and data covered by Items VI, VII and VIII and English copies of the instructions covered by Item IX of paragraph (1) of Article VIII shall be delivered to the representative of the Government on or before delivery of the first airplane to be delivered hereunder.

(6) Spare parts called for under the terms of Item XI of paragraph (1) of Article VIII shall be delivered free on board railroad cars at the plant of the Contractor at Middle River, Baltimore County, Maryland, properly and securely packed in overseas shipping boxes, as follows:

Ten per cent of the total value of such spare parts on or before delivery of the sixtieth airplane; 10 per cent of such total value on or before delivery of the last airplane; and the balance on or before sixty days after delivery of the last airplane.

(7) All cases and packing boxes containing material covered by this contract shall be marked and consigned and bills of lading shall be issued therefor in accordance with instructions from the representative of the Government.

(8) The Contractor shall not be deemed to be in default in its obligation to make deliveries as in this contract provided, when, and to the extent that, the Contractor shows that such delivery was prevented or delayed by force majeure (as hereinafter defined) and which prevention or delay could not have been escaped or avoided by the exercise of reasonable care on the part of the Contractor. Such prevention or delay is herein referred to as excusable delay. Force majeure is defined as follows:

- (a) War between the United States and any foreign country;
- (b) Civil war, riots or insurrections in the United States;
- (c) Any law, proclamation, ordinance or regulation of the Government of the United States or of the State of Maryland, or any sub-division of either authority or representative thereof. Any such law, proclamation, ordinance or regulation shall be deemed to have been passed, made or promulgated with due authority and power;
- (d) Floods, fires, explosions or other catastrophe or serious accident;
- (e) Epidemics or quarantine restrictions;

- (f) Any labor trouble causing cessation or interruption of work;
- (g) Without limitation by enumeration of the foregoing, any other cause duly established emanating either from the Government or its representatives, or from events which cannot be foreseen and independent of the will of the Contractor, and which cause would result either in delaying or in preventing execution by the Contractor of its obligations.

(9) Excusable delay as such term is used in this contract shall mean any and all delay for which the Contractor is not responsible as provided in Paragraph (8) of Article IX, Paragraph 8 of Article III, and Paragraphs 4 and 7 of Article VIII. Any excusable delay in production or production planning shall be conclusively presumed to create a corresponding excusable delay in the delivery of airplanes hereunder.

The Contractor shall within three days from the beginning of any excusable delay (except that provided for in Paragraph 4 of Article VIII) notify the Government representative in writing of its claim of such delay and the extent or anticipated extent thereof. Within three days after its receipt of such notice the Government representative shall notify the Contractor in writing, either that the Government concurs in such notice given by the Contractor or the extent, if any, to which, in the opinion of the Government, other events and circumstances have rendered immaterial the delay claimed by the Contractor. In the event the Government shall not concur in such claim by the Contractor the parties shall confer, and, if possible, reach an agreement as to the extent of any excusable delay and the adjusted delivery dates which agreement shall be reduced to writing and approved by the parties. If the parties shall not agree, each shall make a written statement concerning such claimed excusable delay, which statements shall be exchanged and preserved for use in arbitration of the dispute.

(10) If the Contractor fails or refuses to make delivery of the airplanes and equipment specified in Items I and II of Article VIII hereof within the time or times specified in this Article as such time may be extended by excusable delay, as in this Article provided, there shall be deducted as liquidated damages from the contract price of each airplane, as to which there has been such failure or refusal to deliver, the sum of One Hundred Seventy-five Dollars (\$175.00) per day for each day by which the delivery of such airplane and equipment shall have been delayed after the date upon which such airplane should have been delivered. If the Contractor is using reasonable diligence to make deliveries as in this Article provided, then such right of the Government to deduct such sum or sums from the contract price

shall be in lieu and in place of any right of the Government to cancel or terminate this contract for failure of the Contractor to make deliveries at the times as provided herein; provided, however, that should the Contractor fail or refuse to deliver all or any of said one hundred and fifteen airplanes and equipment covered by Items I and II of Article VIII of this contract on or before two hundred sixty-seven (267) days after the date of this contract, as such date may be extended by excusable delay and/or by the exercise of the option provided for in Article XI (such extended date hereinafter sometimes called "adjusted delivery date"), then the Government shall have the right to cancel and terminate this contract as to all or any airplanes then undelivered, and to recover from the Contractor that portion of any payments made by the Government pursuant to paragraph (2) of Article X hereof which the number of airplanes as to which this contract is cancelled bears to the total number of airplanes called for by this contract. Such right of cancellation shall be exercised by the Government by notice in writing delivered to the Contractor on, or not more than seven days before, the earliest day on which the Government claims or contends that such right of cancellation shall accrue or has accrued. Such notice shall state the number of airplanes to which such claimed right of cancellation shall apply and it shall also state such claimed date of cancellation. If the Contractor shall not concur in such claimed date of cancellation it shall so advise the representative of the Government in writing, and if the parties shall be unable to agree upon the adjusted delivery date hereunder such date shall be as finally determined by arbitration, and all rights of either party as to any airplanes affected by such claimed right of cancellation shall depend upon such final determination.

(11) The Contractor is hereby expressly authorized and permitted to make delivery of airplanes ready for delivery and the Government hereby agrees to accept such airplanes and make final payments thereon even though the flight test on the first airplane to be manufactured hereunder and on a second airplane pursuant to the Government's option, as provided in Article III, Paragraph (2), shall not have been completed. In the event the Contractor shall be unable to make the airplane meet its performance guaranties and the Government shall as a result thereof cancel and terminate this contract, all the airplanes delivered to the Government pursuant to this paragraph shall be returned to the Contractor (all transportation charges to be for the account of the Contractor) and this contract shall be deemed to be cancelled as to such airplanes. Any changes and improvements made

by the Contractor in order to cause such airplanes to meet one or more of the guaranteed performance requirements, as provided in Paragraph (2) of Article III, shall, at the expense of the Contractor be incorporated in and made to any airplanes delivered pursuant to this paragraph. If airplanes should be so delivered prior to flight testing of the first airplane and/or of the second airplane, and if any planes so delivered prior to the flight tests should be recalled by the Contractor for receiving such changes and improvements, then such planes shall, notwithstanding the privilege to the Contractor under this paragraph, be fully subject to the provisions of Article IX as to delivery dates; and the delivery or deliveries of such planes after such changes and improvements shall be deemed to be the first delivery thereof for purposes of applying liquidated damages for delay of fixing the Government's right of cancellation and of any other consequences under this contract.

ARTICLE X.

PAYMENTS AND SECURITY.

(1) *Payments and Methods thereof.* The total amount which the Government agrees to pay to the Contractor for the manufacture and delivery of all of the items covered by Article VIII of this contract shall be the sum of

American Dollars New York funds. Payment of the foregoing amount shall be made as follows:

- (a) For the 115 airplanes and installation of engines, accessories and equipment called for under the terms of Item 1 of Paragraph 1 of Article VIII of this contract at a unit price of per airplane
- (b) For equipment and accessories and installation called for under the terms of Item II of Paragraph (1) of Article VIII of this contract the sum of per airplane, or a total of
- (c) For the spare parts called for under the terms of Item XI of Paragraph (1) of Article VIII of this contract at unit prices equal to the percentage of the total price of the basic airplane hereunder as shown by Items (a) and (b) of this paragraph indicated opposite each unit of spare parts shown in the list attached hereto and marked "Schedule of Spare Parts by Major

- Assemblies" and spare sets of standard and special equipment at unit prices for such sets as shown in said schedule to a total dollar value of fifteen (15%) per cent of the contract price of such items (a), (b) and (d)
- (d) For the material and services called for under the terms of Item X of Paragraph (1) of Article VIII of this contract at a unit price of per airplane
- (e) For the material and data called for under the terms of Items III, IV, V, VI, VII, VIII and IX of paragraph (1) of Article VIII of this contract No Charge
- (f) For materials and services necessary to pack and load spare parts called for under the terms of Item XI of Paragraph (1) of Article VIII of this contract No charge

The unit price of airplanes stated in sub-paragraph (a) above is arrived at by adding to the price at which such airplanes would be sold by the Contractor in such numbers for normal and usual delivery schedules, a premium of 25 per cent of such price for normal and usual times and rates of delivery, which premium the parties agree is a reasonable and just premium to cover and absorb the additional cost to the Contractor by reason of multiple shift operations, overtime work of employees and increased cost to the Contractor of raw, semi-finished and finished materials and overhead necessary in order to meet the accelerated delivery requirements of the Government as herein provided.

It is furthermore mutually recognized that the Contractor will be required to expand its manufacturing and processing facilities to an extent not justified by its present or anticipated volume of business exclusive of this contract; that the cost of such additional facilities will be increased by the speed with which they must be constructed and acquired in order to meet the delivery requirements of this contract; and that the total cost to the Contractor of such additional facilities, none of which would be undertaken at this time but for this contract, will be not less than Two million two hundred and fifty thousand dollars (\$2,250,000). In consideration of providing such expanded manufacturing and processing facilities, which the Contractor hereby agrees to provide, there has been added to the unit price, at which such airplanes would be sold by the Contractor for normal and usual times and rates of delivery, an additional premium of 8.6 per cent of such unit price, as fair consideration and inducement for providing such expanded facilities at this time.

The Contractor shall, on or before the delivery of the first airplane to be delivered hereunder, submit to the Government an appropriate certificate of its Treasurer or its Assistant Treasurer showing that a sum of not less than Two million two hundred and fifty thousand (\$2,250,000) dollars has been expended by the Contractor for such additional facilities.

(2) (a) *Partial Payments.* Partial payments will be made by the Government to the Contractor each month as the work progresses, which payments shall equal the amount expended, disbursed, charged or incurred by the Contractor during the preceding month for labor, direct charges, overhead, contracts, facilities and materials received and accepted by the Contractor for use in or in connection with the manufacture of the airplanes, materials and services called for by this contract, as the aggregates of such amounts, respectively, shall be certified by the Treasurer or Assistant Treasurer of the Contractor, provided, however, that such payments shall not be made after the payment for the month in which the first airplane is delivered, and further provided that such partial payments shall not exceed in the aggregate thirty-five (35%) per cent of the total amounts stated in sub-paragraphs (a), (b), (c) and (d) of Paragraph (1) of this Article X, subject however to the said aggregate of 35 per cent being limited by such a maximum as shall give effect to the contingent limitation on partial payments set forth in Article XIX. The Contractor shall, on or before the 10th of each month, furnish the Government with a schedule of anticipated partial payment requirements under this contract for that month. On or before the 10th day of each month the Contractor shall submit to the representative of the Government an invoice or bill for the partial payment due on account of the preceding month, and such invoice or bill shall be paid by the Government on or before five days after presentation of such invoice or bill by the Contractor.

(b) *Title to Property After Partial Payments Are Made.* The title to all property acquired for incorporation in such airplanes and equipment upon which any partial payment is made prior to the completion of this contract shall vest in the Government in its then condition forthwith upon the making of any such partial payment or payments; provided, however, that nothing herein shall deprive the Contractor of such equitable interests, if any, as may exist in it; nor deprive the Contractor of any further partial or final payments due or to become due hereunder; nor relieve the Contractor and/or the Government of any of their respective rights or obligations under this contract.

(c) *Title to Property After Partial Payments Are Made and Default Occurs.* The Contractor agrees that in case of default by it in the performance of this contract or of any other termination thereof before completion, such default or other termination shall ipso facto operate to vest in the Government title to all property acquired and/or produced by the Contractor for incorporation in such airplanes and equipment, the title to which has not been previously vested in the Government under the provisions of this contract, subject, however, to such equitable interests, if any, as may be determined to exist in the Contractor, provided that this provision of this section shall not be operative unless at least one partial payment has been made under this contract.

(d) *Fire Insurance.* The Contractor agrees to insure against fire all property in its possession upon which a partial payment has been made or is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments, if any, theretofore made thereon, and further agrees to keep such property so insured, free of cost to the Government, until the same is delivered to and accepted by the Government. Such insurance policy or policies shall be taken out with a company or companies normally used by the Contractor for similar insurance for the United States Government, and shall provide that loss, if any, shall be payable to the Contractor and the Government, as their respective interests may appear. All such policies shall be filed with the Contractor but subject to examination at any time by the representative of the Government and shall be in standard American form for such insurance.

(3) It is expressly understood and agreed that the prices herein stipulated include all United States, State and local taxes which are applicable to the material called for under the terms of this contract. All taxes, duties, imposts, charges or assessments levied or imposed by the Government or any of its agencies or departments with respect to this contract or the importation, receipt or purchase by the Government of the airplanes and equipment or material covered by this contract shall be borne by the Government.

(4) *Final Payment.* Upon delivery of invoices, certificates of inspection, bills of lading and packing lists approved by the representatives of the Government, authorized to approve such documents respectively, representing, covering and describing airplanes or material delivered as hereinafter provided, the Government shall pay to the Contractor the contract price of the airplanes or material covered by such invoice, certificate of inspection, bills of lading and packing lists, less

an amount equal to that portion of the total partial payments then made which the contract price of the airplanes or materials being delivered bears to the total contract price for the airplanes and materials covered by this contract.

(5) *Methods of Payment.* After invoice shall have been approved by the representative of the Government, whether for partial or final payment, such invoice shall be presented either by the Contractor or by the representative of the Government to The Financial Attache of the French Embassy, who shall stamp such invoice and either return the same to the Contractor or present the same on behalf of the Contractor to the Federal Reserve Bank of New York, through which bank payment shall be made, or shall be caused to be made, of the net amount of such invoice, for the account of the Contractor to the Guaranty Trust Company of New York. Final payments shall be accomplished by such additional method or procedure as may be agreed upon between the Contractor and the representative of the Government, but, at the option of the Contractor, final payments shall be made against presentation by the Contractor of bills of lading representing shipment.

ARTICLE XI.

Options. 1. The Contractor hereby grants to the Government the right and option, to be exercised only once, to purchase airplanes in addition to those to be furnished under the terms of Item I of ARTICLE VIII, without equipment and accessories as provided in Item II of ARTICLE VIII, to the following numbers, under the conditions, however, as set forth below:

(a) To purchase fifty (50) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(b) To purchase one hundred (100) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(c) To purchase one hundred fifty (150) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(d) To purchase two hundred (200) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(e) To purchase two hundred fifty (250) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(f) To purchase three hundred (300) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(g) To purchase three hundred fifty (350) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

(h) To purchase four hundred (400) additional airplanes at a unit price of per additional airplane in lieu of the unit price per airplane set forth in Item 1(a) of ARTICLE X hereof.

It is expressly understood and agreed that this option or any part thereof, if exercised, shall be exercised, in writing, by the Government and received by the Contractor on or before March 12, 1939, and if the same is not then so exercised, the same shall lapse and be of no further effect. Deliveries of any airplanes ordered by the exercise of this option shall be made at the rate of thirty-five (35) every thirty days commencing immediately following the delivery of the last airplane called for by Item I of ARTICLE VIII. At the option of the Government, to be exercised at the time the foregoing option or any part thereof is exercised, deliveries at the rate of fifty (50) every thirty days commencing ninety (90) days after the delivery of the last airplane called for by Item I of ARTICLE VIII shall be made provided the unit price or prices of airplanes as to which such option is exercised shall be increased by an amount equal to three hundred thousand dollars (\$300,000.00) divided by the number of airplanes covered by the exercise of such option. The exercise by the Government of the option given by this ARTICLE XI shall extend the date upon which the right of cancellation referred to in Paragraph 10 of ARTICLE IX hereof shall accrue to a date thirty days after the day on which the last airplane covered by such option is to be delivered under the deliveries called for by this Paragraph.

The Contractor shall supply and/or install the same equipment and accessories in each airplane (as listed in Appendix I, II and III of the Specifications) ordered by the exercise of the foregoing option as are supplied by the Contractor for airplanes covered by Item I of

ARTICLE VIII hereof at the same price per airplane as provided in ARTICLE X hereof, plus any increase in actual cost to the Contractor of such equipment and accessories put into effect by the vendors thereof after the date of this contract and in effect prior to five days after notice to the Contractor of the exercise of said option by the Government.

If said option is exercised, in whole or in part, the partial payments as provided in paragraph 2 of ARTICLE X shall include amounts expended, disbursed, charged or incurred as in said Paragraph 2 provided with respect to the airplanes and equipment covered by the exercise of said option and said partial payments shall, at the option of the Contractor, continue to and include such partial payment for the month in which the first airplane called for by the exercise of said option shall be delivered, provided, however, that the total sum of all partial payments made pursuant to this paragraph and paragraph 2(a) of ARTICLE X, plus the total sum of all final payments made pursuant to paragraph 4 of ARTICLE X, less the contract price of all airplanes, equipment and spare parts delivered and accepted hereunder shall not at any time exceed Six Million Two Hundred and Fifty Thousand Dollars (\$6,250,000).

The Government shall be required, at the time such option is exercised, and as a part of such option, to order spare parts to an aggregate amount of dollar value of not less than fifteen (15%) per cent of the total contract price of airplanes and equipment covered by the exercise of such option. The price of such spare parts shall be the price of spare parts as indicated in sub-paragraph (c) of Paragraph 1 of ARTICLE X hereof, reduced in the same proportion as the price of airplanes and equipment covered by the exercise of said option is reduced under the corresponding price of airplanes and equipment stated in Paragraph 1 of ARTICLE X. Such spare parts shall be delivered by the Contractor securely packed for export and loaded on board railroad cars at the Contractor's plant, Middle River, Baltimore County, Maryland, as follows:—twenty-five (25%) per cent in dollar value of such spare parts on or before the delivery of fifty (50%) per cent of the airplanes and equipment covered by the exercise of the option; twenty-five (25%) per cent in dollar value of such spare parts on or before the delivery of one hundred (100%) per cent of the airplanes and equipment covered by the exercise of the option; and the balance of such spare parts within sixty days after delivery of the last airplane covered by the exercise of such option. At the time the option for additional airplanes and equipment given by this ARTICLE is

exercised, the Government shall advise the Contractor which of said spare parts by major assemblies and principal units the Government wishes to order. The Government shall advise the Contractor which of said spare parts shall be delivered by major assemblies and which of said spare parts shall be delivered as detailed parts at the same time that the Government advises the Contractor in this respect as to the spare parts covered by Item XI of paragraph 1 of ARTICLE VIII hereof.

2. In the event the Government shall not exercise the option set forth in paragraph 1 above, then the Government shall have the right, for a period of thirty (30) days from the expiration of said option to purchase additional airplanes of the type covered by this contract at prices and for delivery to be agreed upon by the parties hereto.

ARTICLE XII.

CONTRACTORS LIABILITY FOR BREACH (EXCLUSIVE OF FAILURE IN DELIVERIES).

In the event any airplanes finally offered for delivery hereunder should fail to conform to and comply with the guaranties of weight, stability and performance, as provided in ARTICLE XIII hereof, or in the event that any such airplane should, in any material respect, fail to conform to and meet with the Specifications (Exhibit A) hereto annexed, or should the contractor fail, in any material respect, to carry out and perform the terms and conditions of this contract on its part to be performed, then and in any such event the Government may terminate this contract by written notice to the Contractor, and the Contractor and his surety shall be liable to the Government for any and all payments made by the Government to the Contractor with respect to airplanes which, at the time of such cancellation have not been delivered and accepted and for any and all such damages as the Government may suffer from any such failure by the Contractor. This Article shall not govern the right to cancellation or termination of this contract by reason of failure or refusal of the Contractor with respect to time or times of delivery as provided in Article IX hereof.

ARTICLE XIII.

GUARANTIES AND WARRANTIES.

1. *Guaranty of weight and performance:* The Contractor hereby guarantees that each of the airplanes called for under the terms of

this contract will equal or exceed the requirements of Specification No. 80, dated February 3, 1939, (Exhibit A attached hereto), page 5 (b) as to weight empty; the requirements of said Specifications, page 5 (c) as to center of gravity; the requirements of said Specification, page 9c, as to airplane performance, and the requirements of said Specification Appendix VIII as to longitudinal stability and control characteristics. It is expressly agreed and understood that in the event the airplanes to be tested as provided in Article III, Paragraph (2) shall fail to meet the aforesaid guaranties, then no obligation shall rest upon the Government to accept and/or make payment for any airplanes hereunder; provided, however, that the Government reserves to itself the right to purchase said airplanes at a proper reduction in price to be negotiated between the parties hereto.

2. *Warranties by Contractor.* It is expressly understood and agreed by and between the parties hereto that each of the airplanes called for under the terms of this contract shall meet and comply with all of the requirements of said Specification No. 80 dated February 3, 1939 (Exhibit A). The Contractor warrants that all workmanship and material will be equal to the workmanship and material required and called for by the Specifications of the United States Army Air Corps, and all such airplanes are warranted by the Contractor to be free from defects in material and workmanship under normal use, service, and proper installation; Contractor's obligation under this contract being limited to replacing C. I. F. at a port in France to be designated by the Government any part or parts thereof which shall, within six months from date of delivery, or within two hundred (200) hours of flying time—whichever shall first expire—be delivered to the Contractor at its factory, Middle River, Maryland, with all transportation and other handling charges prepaid, and which its examination disclosed to its satisfaction to have been defective.

The warranty hereby made does not apply to any airplane hereunder which has not been operated and/or maintained in accordance with all the provisions of Specification No. 80 dated February 3, 1939 (Exhibit A) and with instruction books furnished by the Contractor under this contract.

Such warranty shall not apply to instruments or accessories not manufactured by the Contractor, as shown by the Specifications; however, the Contractor will obtain for the Government the usual service warranties by the manufacturers of such items when obtainable.

3. If parts are found to be defective in material or workmanship after the expiration of the warranty period, Contractor agrees to sell parts to replace such defective parts at a reduction in price, which, in the Contractor's sole judgment of the defect, is fair and reasonable.

ARTICLE XIV.

Patents. The Contractor agrees to protect, indemnify and hold harmless the Government against any liability or loss to the Government resulting from the infringement of any United States Letters Patent by the airplanes and equipment covered by this contract, including accessories and equipment not manufactured by the Contractor. The Contractor does not warrant or guarantee the right of the Government to own, operate, use or possess the airplanes or the engines, accessories or equipment installed therein without infringement or violation of the rights of any third parties in any country or place in the world except in the United States of America.

ARTICLE XV.

Liability for Government Property. The Contractor's liability for loss or damage to Government property delivered to it for installation in the airplanes contracted for hereunder or for use in connection with the performance of this contract, shall be that of a bailee under a mutual benefit bailment.

ARTICLE XVI.

Sub-Contracts. No contract shall be made by the Contractor with any other party for furnishing any of the completed or substantially completed articles, spare parts or work herein contracted for, without the written approval of the representative of the Government, provided, however, that this clause shall not prohibit the Contractor from making contracts with third parties for furnishing of sub-assemblies, such as landing gear, control surfaces, tail surfaces, outer wings and/or parts, or the purchase of finished articles of accessories and equipment, as indicated in the specifications. The Contractor shall notify the Government representative of such sub-contracts, except sub-contracts for the purchase of raw, finished or semi-finished articles and material normally and generally purchased by the Contractor from third parties. The Contractor will require that sub-contracts shall be performed so that the material covered thereby shall be in accordance

with this contract and the specifications. The Contractor shall exercise supervisory power over the system of inspection used in performing sub-contracts, of which notice is required. In such sub-contracts the Contractor shall wherever possible provide that the Government, through its representative, shall have the same rights of observing inspection and test, and access for that purpose, as are provided for in ARTICLE III hereof.

ARTICLE XVII

Reproduction Rights. It is understood and agreed that the Contractor does not convey to the Government any reproduction rights in or to the airplanes and/or spare parts called for herein by virtue of the terms of this contract. This clause shall not be construed to prohibit repairs by the Government.

ARTICLE XVIII

Reassembly and check flight in France. Contractor agrees, at the request of the Government, to send to France, to arrive coincident with the arrival of the first airplane to be delivered hereunder, at the expense of the Contractor, a demonstration pilot and five (5) erection engineers, or such additional engineers as may be necessary, for the purpose of directing and supervising the personnel of the Government with the proper assembly, flying characteristics and approved operation standards of the airplanes covered by this contract, such demonstration pilot and erection engineers to remain in France for a period not to exceed three months after the arrival of the last airplane delivered hereunder in France. Upon assembly of each airplane in France the Contractor agrees to conduct at its risk with respect to the airplane and damage or injury to said pilot a check flight of each airplane delivered hereunder in order to demonstrate ordinary and proper functioning in flight of each such airplane, such flight to be for not less than fifty-five (55) minutes nor more than one hour with respect to each such airplane, and shall include at least thirty (30) minutes flight at normal rated power. Gasoline and oil for such flight shall be provided by the Government. The Contractor shall be relieved of the obligation imposed by this Article in the event the laws of the United States or any proclamation, ordinance or regulation of any officer, department or representative thereof shall prevent compliance herewith. Any such law, proclamation, ordinance or regulation shall be presumed to have been passed, made or promulgated with due authority and power.

ARTICLE XIX.

SURETY BONDS.

The Contractor shall furnish bond or bonds, in the form annexed hereto, with surety thereon, as would be acceptable to the United States Government, as shown on the list of approved sureties most recently published by the Treasury Department of the United States. The aggregate amounts of such bonds shall at all times equal or exceed the sum of Nine Million Dollars (\$9,000,000). Such bond shall be delivered to the Government simultaneously with the execution and delivery of this contract or thereafter; provided, however, that the Government shall not be required or obligated to make any partial payments as provided in ARTICLE X hereof until such bond shall have been delivered to the Government. Should the Contractor be unable to obtain a bond or bonds to the full amount provided herein, the Contractor shall have the right to furnish bond or bonds in a lesser aggregate amount, provided; first, that such lesser amount shall not be less than Six Million Dollars (\$6,000,000) and second, that the difference between the amount of such bond or bonds and the total amount of all partial payments shall at no time be less than Two Million Seven Hundred and fifty Thousand Dollars (\$2,750,000).

ARTICLE XX.

NON-ASSIGNABILITY. EFFECT OF RECEIVERSHIP, ETC.

1. This contract shall enure to the benefit of, and be binding upon, the successors and assigns of the parties hereto; but it shall not be assignable wholly or in part by either party without the prior written consent of the other party, excepting in case, unaccompanied by change in essential management of the Contractor's plant, or merger, consolidation or voluntary sale or transfer of substantially all of the Contractor's assets.

2. In case a receiver or trustee should be appointed whether in an Equity court or in bankruptcy or in any other legal proceeding, or any assignment of this contract shall be made in violation of paragraph 1 of this Article, then upon written notice by the Government to such receiver or trustee or assignee the Government at its option may cancel and terminate this contract, wholly or in part, such cancellation or termination not to prejudice the right of the Government to enter upon the premises and take title and/or possession of any or all com-

pleted planes, uncompleted planes, materials, accessories and/or equipment then upon the premises of the Contractor for purposes of incorporation in such airplanes and remove all or any of the same from the premises of the Contractor subject to the payment by the Government of all partial payments which would then be due or on account of the material so taken by the Government plus all payments due for completed articles delivered and taken, plus an amount representing the value of uncompleted articles so taken in their then uncompleted state. In lieu of the amounts so payable for uncompleted Articles the Government may post with any bank or trust company sufficient funds to secure such payment until the proper amount of such payment shall have been determined by arbitration or otherwise. The election of the Government to take possession of airplanes or of completed or uncompleted parts or some airplanes, or materials for them, shall in no respect constitute a waiver of its right or rights to recover payments theretofore made with respect to airplanes, parts or material, as to which the right of the Government to take title and/or possession has not been exercised or as a waiver of any claim for damages which it may have for breach of this contract.

THE FRENCH STATE,

By
*Air Attache of the French
 Embassy*

and

.....
Charge de Mission

THE GLENN L. MARIN COMPANY,

By
President

ATTEST:

.....
Vice President.

EXHIBIT B.

The Government shall, as to all items listed below, in addition to the specific matters listed, supply the Contractor with full and detailed information as to functioning and operation of each item where such information is necessary in order to provide proper installation.

Date Required

Complete dimensional drawings of radio equipment showing method of mounting....	February 16, 1939
One complete set of actual parts or accurate mockup parts of radio equipment	February 28, 1939
Complete outside dimensional drawings of batteries, including dimension and location of terminals, and accurate mockup of one set of batteries or one actual set of batteries...	February 16, 1939
Complete dimensional drawings of camera and accessories thereto	February 7, 1939
One camera complete or mockup thereof.....	February 16, 1939
Complete outside dimensional drawings of binoculars and accurate mockup of binoculars..	February 16, 1939
Complete outside dimensional drawings of fixed guns and one actual fixed gun.....	February 16, 1939
One actual fixed gun	February 23, 1939
Complete outside dimensional drawings of flexible guns and detailed drawings of mounts and ammunition boxes therefor	February 16, 1939
One actual flexible gun and mount therefor with one set of yokes for mounting in upper and lower positions and one complete set of ammunition boxes therefor	February 16, 1939
Complete outside dimensional drawings of gun sights for fixed and flexible guns and accurate mockups of such gun sights	February 16, 1939
Complete dimensional drawings of vertical bomb racks including accessories thereto and one set of actual operable bomb racks and accessories	February 16, 1939
Complete dimensional drawings of bomb sights and accessories thereto and accurate mockup of such bomb sight	February 23, 1939

- One mockup of seat type parachute and one
mockup of back type parachute February 16, 1939
- Complete dimensional drawings of one flare
and one rack therefore, together with one
actual operable flare rack February 23, 1939
- Complete dimensional drawings of signal flare
box together with mockup of signal flare box. February 23, 1939
- Complete dimensional drawings of oxygen
equipment and one complete mockup of
oxygen equipment February 23, 1939

EXHIBIT C.

	<i>Date Required</i>
Four complete sets of radio equipment or mockup thereof	May 5, 1939
Four complete sets of camera equipment and accessories	April 27, 1939
Two binoculars or mockups thereof	May 5, 1939
Four sets of fixed guns	April 27, 1939
Two sets of flexible guns and ammunition boxes therefor	April 27, 1939
Two sets of flexible guns and ammunition boxes therefor	May 27, 1939
Four sets of fixed and flexible gun sights	April 27, 1939
Four sets of vertical bomb racks complete with accessories	April 27, 1939
Four complete mockups of bomb sight	April 30, 1939
One set of parachutes	April 27, 1939
Three sets of flare racks	April 27, 1939
Three mockups of signal flare racks	April 27, 1939
Four mockups of oxygen equipment	April 27, 1939

FORM OF
PERFORMANCE BOND

(See Article XIX)

KNOW ALL MEN BY THESE PRESENTS, That we THE GLENN L. MARTIN COMPANY, a corporation organized and existing under the laws of the State of Maryland, as Principal, and

as Sureties, are held and firmly bound unto the FRENCH STATE, hereinafter called the Government, in the penal sum of

for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract, hereto attached, with the Government, dated as of February 6th, 1939, by which the Contractor has agreed to manufacture and sell, and the Government has agreed to purchase one hundred and fifteen (115) Model 167-F twin engine airplanes to be manufactured by the Contractor.

NOW THEREFORE, if the principal shall have well and truly performed and fulfilled all the undertakings, covenants, terms, conditions and agreements of said contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Sureties being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this day of February, 1939, the name and corporate seal of each corporate

party being hereto affixed and these presents duly signed by its under-
signed representatives, pursuant to authority of its governing body.

THE GLENN L. MARTIN COMPANY, *Principal.*

By.....

.....
Surety

Attest:

.....
Assistant Secretary

In presence of:

.....
In presence of:

.....
Surety

.....

.....
Surety

.....