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War Savings Bonds

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December 1, 1943
9:30 a.m.

TAXES

Present: Mr. Bell
Mr. Gaston
Mr. Paul
Mr. Thompson
Mr. Smith
Mr. White
Mr. Blough
Mr. Haas
Mr. Sullivan
Mr. Surrey

H.M.JR: The point I want to bring out is not in any sense of criticism, and you can repeat it to Paul. I think this--Blough, can you tell me how long I have been after you to give me a statement on how to get the increase of wages of the factory workers?

MR. BLOUGH: You have been after us since, I think it is, September of 1941.

H.M.JR: I sense this thing: You don't have to be a sooth-sayer to know that the sales tax is licked, that they are going to concentrate on the fact that there is discrimination between the white collar workers who are doing nothing to create the increased taxes and the factory workers who are getting over and above what they were getting in peacetime.

I'm sorry. I didn't want to say it, but I thought Paul's answer on that was extremely weak.

MR. BLOUGH: I thought his emphasis--he could have done a good deal better on it.

H.M.JR: I sense this, that they are licked on the sales tax, and the Treasury just doesn't seem to have an answer. You said since September, 1941 I have been at it, and by God! it seems to me there must be some answer. The suggestion that Lee Wiggins made to me when I said--he sent up to you (Bell) a six-page answer which was wholly unsatisfactory. I'm not saying. He says he

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doesn't see why you can't simply give a person some kind of a credit on account of the taxes he paid the year before, and then if a person had no income tax he would get no credit--but some kind of a credit you just deduct on an average of what his earnings are.

Now, this may be a very old story to you, but what's wrong with it? It is a very simple matter.

MR. BLOUGH: If you follow it through from beginning to end, it means that your top incomes would have their rates cut in two.

H.M.JR: I'd simply go below five thousand. I wouldn't go above five thousand.

MR. BLOUGH: You wouldn't meet the principal problem, which is the Congressman, himself.

H.M.JR: To hell with him!

MR. BLOUGH: He's the one whose work--

H.M.JR: I'm not talking about him. We've gotten a hundred percent dividend from Ernest Lindley. It is wonderful. The thing that amuses me is the headline, "War Taxes." That rang the bell! Here is one entitled, "Courage and Realism." (Refers to articles in the Washington Post of December 1, and the Baltimore Sun of November 30, 1944.)

But I think from my own standpoint my only philosophy of the thing, the only thing that I think is vulnerable today is that we, the Treasury, don't have some answer, one, to protect the person affected, and, two, somehow or other to reach the person whose income has swollen. I'd like you and Stanley--you each take turns and everybody can jump on you.

MR. BLOUGH: I'll be very glad to start, because we have put in more work on that one problem than any other problem except the sales tax within the last two years.

H.M.JR: Excuse me. Is there anybody who should be here who isn't here? Look around the room.

MR. WHITE: There is no one from the legal division.

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MR. BLOUGH: Randolph will be in, in just a few minutes. And as you recall, in the fall of 1941 you were needling us pretty heavily on that, and Randolph Paul came in with a plan which we analyzed in a big meeting. I remember Harry White--

MR. WHITE: Objected.

MR. BLOUGH: No, Harry went all around and finally wound up against it.

MR. WHITE: Which surprises me; I thought I started in that way.

MR. GASTON: No, you just sneaked up on it, Harry.

H.M.JR: Go ahead, I'm listening.

MR. WHITE: It shows I have an open mind!

MR. BLOUGH: Well, I admired you for it, because you came out right.

MR. BLOUGH: There are only two really basic problems involved in it. One is, whom do you want to hit by such a tax?

H.M.JR: Do you mind my interrupting you? The two things are, whom do you want to protect and whom do you want to hit.

MR. BLOUGH: All right, put it the other way: Whom do you want to protect. If it is a tax on increases, whom do you want to hit.

H.M.JR: Are you asking me?

MR. BLOUGH: That is the question.

H.M.JR: And I'll give a very good answer, I hope. The person I think should be hit--to go back to September, and I hope I'm consistent--is the person, let's say, who was getting twenty dollars a week and now will be getting maybe a hundred or a hundred and fifty. In the room here-- I mean, maybe my ideas are old-fashioned, but I believe that person would be the most dangerous person from a standpoint of foolish spending.

MR. BLOUGH: I think that is right.

MR. WHITE: You made a pretty safe case for yourself. The man who goes from twenty dollars to over a hundred, I don't know, but I am wondering whether the number of such cases--how far down would you go? I think the number of such cases must be small.

H.M.JR: You are wrong, Harry. I'll give you an example. IBM comes in and locates a plant in the south of Poughkeepsie, right out in the community, to make thirty-seven millimeter guns. Except for a few foremen they brought down, every single fellow is off the farm.

MR. WHITE: Now, if he is making one hundred dollars he didn't pay any taxes before, and he would now pay under the present tax bill how much?

MR. BLOUGH: One hundred a week?

MR. WHITE: Five thousand a year.

MR. BLOUGH: About one thousand if he is single; he'd pay a fifth of his income.

MR. WHITE: I think you could increase that, but I wonder how far down you could go? I think it is a very small amount.

H.M.JR: Again quoting B. M. Edwards--they are little local stories, but they can be multiplied a hundred times. Look at the women. Take the fifty percent of the women in the industries--forty went from nothing. He takes his wash Sunday morning to this Negro woman who does his wash. On the porch he sees her husband sitting there rocking in a chair. He says, "Bill, what are you doing here?" He says, "I am having my vacation." He says, "What do you mean, 'my vacation'?" He says, "I'm just down from Baltimore. I got my two-weeks vacation from the shipyards. They put me on the receiving end of the riveter. I can do that other side and get twice as much on the job." He went to night school and how he's a riveter getting one hundred and three dollars a week. Throughout the shipyards in the South, the Negroes, particularly, would go from twenty to one hundred dollars, but the boys on the farm that have been drawn off the farm--the women who have been drawn off into these things--I don't

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want to set a figure, Harry. My twenty and a hundred both may be extreme--the twenty might be on the high side and the hundred might be on the high side--but I'm sure there are lots who have gone from ten to seventy-five.

MR. BLOUGH: Why has it taken these high wages to pull them in?

H.M.JR: I can answer that: It is competition between the industries; I mean, the bad management on the part of administration of man power.

MR. SULLIVAN: Correct.

H.M.JR: It is competition. Now, in England they got through a law to freeze a man and woman to the bench, but they have never used it. They transplant them from one part of the country to another. It is competition between, for instance, Consolidated and Bell Aircraft with no Government supervision and no Government sense.

MR. BLOUGH: Take some of those specific cases. Take your overtime workers. If you are going to put a heavy tax on the increase in a man's income, isn't that the first thing that will drop off? It is unpleasant for them. They will have the pleasure and an opportunity to spend the money.

H.M.JR: I had a wonderful time. I just read the article on the Russiam Incentive Plan with reference to what they do with increased production with parallel assembly lines. I'd be perfectly willing to take the responsibility of a higher tax on these people against the overtime if at the same time I could do the control on the incentive angles as proposed in the plan.

MR. BLOUGH: You've only got one leg to work on here, though.

MR. WHITE: You are substituting a different kind of a drive for a monetary drive, which can be more effective. But I think if they had that approach, I'm sure you could get a large number of people who get preposterous increases and who don't handle their money properly. But let's approach it from that point of view. Let's

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take advantage of this approach and see whom you want to hit. But the proportion of workers that would fall in that category is small in percentage terms, not in the absolute amounts, and therefore if you can indicate what kind of a proposal you have in mind--let's see whom it hits, the bulk of the people it may hit.

H.M.JR: I'll let you fellows put me under fire, and I am going to turn around and exert myself as boss. As soon as they say, "Who hits how," I'm going to say what hits how.

I want you two fellows to underline the various plans you could have. We are talking about an impact and we don't know what it is. In these two or three or four different methods, how could you do it? That is, if you don't mind my saying it, the more intelligent approach.

MR. WHITE: That is the same question I was asking.

MR. BLOUGH: We have several plans, of course, and perhaps the basic and easiest plan is, say, to take the individual who has not paid much attention to what his family status was in 1941 or 1940--whatever you are going to take as the basic year--and has not paid too much attention to where he lives or what his expenses are, or anything else. Just take a raw individual, and say that we will give him the 1941 income as a basis, and if it was too small for him to file an income tax return, give him an arbitrary level as an exemption and then levy a tax on the increase in his income during this current year over that base period, and have him pay the tax at the end of the year, since you don't know what it is going to be until the year is over. Pay it on March 15 like his regular income tax.

H.M.JR: Give me an example.

MR. BLOUGH: Suppose an individual had an income of fifteen hundred dollars a year in 1940 or 1941--whichever you take as your base year. He now has an income of thirty-five hundred. Subtracting the fifteen hundred from the thirty-five hundred, he has an increase of two thousand dollars. Take twenty-five percent of that increase--that's five hundred dollars. And you pay

that five hundred dollars after the year is over as an additional tax.

H.M.JR: As an additional tax?

MR. BLOUGH: That is right.

MR. WHITE: As an addition to his present income. Why would you stop at five thousand dollars?

MR. BLOUGH: You wouldn't stop any place.

Now, that's the simplest plan that I can think of for handling that. Do you know of any simpler one, Stanley?

MR. WHITE: You'll have to have a regressive rate in order not to take away everything.

MR. BLOUGH: The simplest thing would be the flat rate on everything above that. Then you begin to complicate the thing if, as you say, the rate ought to be progressive.

MR. WHITE: Regressive. Progressive on the increase, but regressive on the income; otherwise, you would have a fellow at the top paying more than he gets.

MR. BLOUGH: The second thing would be to subtract the tax from the income and arrive at the increase. That would be the way of arriving at it. Third, try to take into account family status.

MR. WHITE: I don't think any tax would be arrived at on the ground of these complexities, though the complexity in itself would not be the argument against it. There ought to be better arguments.

H.M.JR: What do they have in England and Canada-- anything comparable to this?

MR. BLOUGH: Germany did, back in 1940, and they dropped it.

H.M.JR: Surrey was the objector. What was the matter with that, Stanley?

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MR. SURREY: There are two ways of hitting at this problem. Blough has stressed one way, in other words, to levy a direct tax on the increases in income which has hit the people that are going up. I don't know what the statistics that we have in the Treasury are on the point. I would imagine that would cover the great majority of people in this country.

For the great majority of the people in the country we would have, then, a second tax, since the wages of the great majority of the people have gone up. This second tax will be very complex, maybe more complex than the minimum tax we objected to, and more people will be subject to it. I think it will bog down.

We have a slight little area in the last draft where we have this business; that was in the second windfall provision of the Ruml Plan, where relief was not given to people whose income had increased. That measure is on its way to be repealed in the Senate Finance Committee, because a lot of people who have been unfairly hit against have come in to protest against it. And to save the law it will have to be patched up and patched up. It is an example of what will happen to the vast majority of taxpayers.

It also has in it a basic question of equity, which-- I suppose many people in the country would answer in favor of a tax, although most people in the Treasury to date have answered against the tax. In other words, as Randolph said, your total tax burden is different, depending on whether you had less money in the past or more money in the past, and if less money, you pay more taxes. The man who has always had five thousand dollars and was able to accumulate more in clothing, furniture, and savings will pay a lower tax today than the man who has five thousand dollars today, but who had less--

H.M.JR: Why?

MR. SURREY: Because of this special tax. Both men will pay a tax on their five thousand dollar income. The man who has gone up-hill will pay a special tax on the increase in the past few years.

(The Secretary held a telephone conversation with Senator Barkley, as follows:)

December 1, 1943
9:53 a.m.

HMJr: Hello.

Senator
Barkley: Hello.

HMJr: Henry talking.

B: Yeah.

HMJr: I just called up to tell you I appreciated the assistance you gave me on Monday.

B: (Laughs) I don't know whether it was worth calling me up about.

HMJr: Well, I felt it was, and....

B: Well....

HMJr:the questions you asked me were most helpful and I would like to say, "Thank you."

B: Well, thank you.

HMJr: And we evidently -- both Byrd and Vandenberg have thrown up the sponge on the sales tax.

B: Well, I rather think so. Say, I wanted to -- I wanted to talk to you about a thing that is disturbing me....

HMJr: Yeah.

B:and it's disturbing a lot of people in my state.

HMJr: What's that?

B: Senator George, the other day, threw out a suggestion about shortening the period....

HMJr: Yeah.

B:for these liquor people to pay the taxes in bonded warehouses.

HMJr: Yeah.

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B: Now, the situation about that is this....

HMJr: Yeah.

B:they can't finance the payment of those taxes unless they put the liquor on the market.

HMJr: That's right.

B: Now, they've got no bottles in which to bottle it. They can't get the bottles.

HMJr: I see.

B: And besides -- and they haven't -- they can't build warehouses to put it in.

HMJr: Yeah.

B: They haven't got them and they can't build them. And they tell me it will just ruin them if they are required to pay this tax at the end of four years. Ah -- they're coming before the committee but I wanted you to get their reaction to it....

HMJr: Uh....

B:because it was -- I understood you approved his suggestion.

HMJr: Yeah. I had a memorandum from the Bureau in which they said that they thought that we could pick up a billion dollars that way.

B: Well, now that's a -- I don't know, of course, about the amount. You know how -- you know it's impossible for them to finance the payment of a billion dollars in taxes unless they can put that stuff immediately on the market.

HMJr: Oh, that was the idea of the whole -- the only reason that I -- I -- I didn't look at it from the revenue standpoint. I thought it would relieve the shortage if they could put it on the market.

B: Well, I -- they -- they can't put it on the market in barrels. They've got to put it on the market in bottles.

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HMJr: Yeah, so I....

B: And they tell me they just can't get the bottles.

HMJr: Well, I'll take a fresh look at it. Maybe we can get a little more revenue out of Coca Cola or something.

B: Well, yes. That might -- of course, George wouldn't be for that.

HMJr: No.

B: All right.

HMJr: Thank you.

B: All right. Good bye.

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H.M.JR: He says that the trouble is that they have to put the thing on the market and they can't get the bottles.

MR. SULLIVAN: They could use quart bottles instead of fifths and pints.

H.M.JR: Give me a memorandum on that, will you?

MR. SULLIVAN: Yes.

H.M.JR: On these things - I have been around here long enough, I ought to be right once in a while. They put all these bottles on the table - didn't Graves handle that?

MR. THOMPSON: McReynolds.

H.M.JR: I said, "I don't want any four-fifths. I think it is cheating; I want quarts." Remember that?

MR. WHITE: Yes.

H.M.JR: Let's do away with the four-fifths. People think they are getting a quart, and they are not.

MR. SULLIVAN: He is again cutting down the eight to four.

H.M.JR: Yes, but you might give me memorandum.

MR. SULLIVAN: I asked for that, but I don't know where it is.

MR. WHITE: When prices were declining rapidly from '29 to '41, was there ever any talk of increasing their taxes because they were getting better off?

H.M.JR: Harry, we will first get this thing on a sound economical basis. But take it from me, they are licked on the sales tax, and now the drive is going to be on this. I want to first get a good answer, and then I want to be - I don't know who is for it, but the little

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chart I got for that thing showing how this thing is reduced from eight down to six, I think, is a trick. Now, I am telling you here I haven't the answer, and I don't think, with all due respect to my tax advisers, they have either, not one that is satisfactory.

MR. WHITE: I think this last point is extremely important, and I just want to make sure it is fully understood.

(The Secretary left the conference.)

MR. SURREY: Freeze everybody in their economic status.

MR. GASTON: I think the thing is no good; and if we take the lead in it, we lead ourselves into a very bad situation. If they want to go ahead and develop it themselves, that would be the course to let them take. On the point of equity, of course, in the first place I doubt if the thing would be constitutional. You are attempting to tax two people differently because of their past situation, and you are increasing a tax on a man because he hasn't enjoyed as high an income in prior years.

MR. BELL: Herbert, you are hitting the group, it seems to me, who was unfortunate and always will be unfortunate in depression years. Now they have the opportunity to get a little higher income and you sock them.

MR. WHITE: During the war is the only time you do it. These people who are hot on taxes have the feeling that these common working people who are making extravagant wages ought not to have them; they are a class that ought not to have that money. Their thinking is adjusted to a surplus labor market. Now we have a shortage in the labor market in which they command, according to the old principle of supply and demand, a higher wage, and it arouses resentment, and they don't want them to have that money.

MR. SURREY: Mr. Gaston, isn't this, though, the significant point that the impact of this tax will be on the majority of taxpayers of the country.

MR. BLOUGH: It affects two groups, the farmers and the laborers.

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MR. SURREY: The tax hitting a majority of the people will be resented by the majority, whereas the other complaint comes from the minority.

MR. GASTON: That is the political aspect. I was talking from the economic aspect.

MR. SURREY: I was going into the techniques. To answer the complaint of the minority you are hitting the majority. That was what Randolph was suggesting, the minority needs some protection in this time of rising taxes to spread the load so that their commitments do not take them under as their taxes take them up. If we answer that complaint by something everybody in the country doesn't like, an unfair tax, I don't think it would stand up.

MR. BELL: What you need is enforced savings for that group.

(The Secretary reentered the conference.)

H.M.JR: What words of wisdom have I missed?

MR. BLOUGH: You missed one political statement by me.

MR. SULLIVAN: When the telephone rang Stanley was talking about the inequity of this tax.

H.M.JR: Let Stanley do it over again.

MR. SURREY: Let's take a man who has had five thousand dollars a year since 1940. He will pay in the year of 1944 a tax on his five thousand dollar income, say a tax of one thousand dollars.

Here is a man who has perhaps had nothing in 1940 and has worked his way up - this is an extreme case - to five thousand dollars in the year of 1944. He likewise will pay a tax of one thousand dollars in the year of 1944. Under the tax suggested by Mr. Blough this second man will in

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addition pay another tax, maybe two hundred, three hundred, or four hundred dollars. Maybe it is a thousand. In any event he will be paying more than the first man.

However, the first man who has had this steady high income is the more fortunate of the two, and you are taxing him less heavily than the man who has not been as fortunate in prior years. That second group is probably also a majority group in the country.

H.M.JR: Which group?

MR. SURREY: The group that has had the increase. They feel - and this goes for the equity argument, I think - that they are getting the increase because they are doing what the Government has told them to do; they are going into war work, and so forth. They will be hit with a higher tax than the other people who have exactly the same income that they have enjoyed this year and who have in prior years enjoyed large incomes.

MR. BELL: They have enjoyed steady incomes.

MR. SULLIVAN: Such a tax would be bitterly resented, I think, by the great majority of people in the country.

MR. BELL: It seems to me there were ten or fourteen million people on relief or living on their savings from 1930 on. Now they have suddenly gotten into war work and high wages and you are going to make them suffer again. The white-collar worker has been crushed, but he has had steadier employment and wages all through the depression.

MR. WHITE: Take the Government employee; he has been able to do many things, accumulate a home, furnishings, insurance, and what not. Sure, he is out of luck now, but that's the chance he takes with the steady income. He doesn't get the declines, but he doesn't profit on the increase either.

MR. SURREY: He is drawing on the savings which the other fellow never had.

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H.M.JR: Let's say now for a minute that this is all right, but what I would like to do is - again, I don't think the Treasury presented a good picture yesterday. I think the thing is going to grow, and I think the two of you ought to take the time to prepare a paper on this and not wait until it grows. The thing I am going to ask Gaston to do is repeat what he did with these half dozen columnists, see?

MR. GASTON: Yes.

H.M.JR: Do you agree, Fred?

MR. SMITH: Yes.

MR. GASTON: I have given it to them, but I will give it to them again.

H.M.JR: I think these boys will develop a good paper on this thing, the two of them. Call them in and say, "Look, we realize that will be the next attack by the somebody who wanted a sales tax." If you give these fellows these things they can do what they want with it; but at least Walter Lippmann and Lindley did an honest job. I want you to give me a paper, an intelligent answer to the New York Times. That is the most dishonest editorial I have ever read. It is the most dishonest intellectual thing I have ever seen. I sent it up to your office this morning.

MR. GASTON: The answer to this thing is war savings bonds. It is the only solution to this problem. And right here, this very point is the demonstration that compulsory savings are no good for the main problem. You have to have these big general campaigns for the purpose of voluntary purchase of war securities to mop up the excess, and it is the only equitable way in which you can do it, over and above taxes which are equitable and applied equally on all brackets.

MR. BELL: It seems to me it ought to be done through enforced savings.

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MR. GASTON: You have the same problem on enforced savings.

H.M.JR: If you want to take Herbert's angle then, the interesting thing is to look at the table. You ought to show them - not these boys; I think they have seen it - that the industries that get the highest wages have purchased the highest percentage of war bonds. We have done a good job on it. We have done it by industries. The ones that are getting the most money are the ones that are buying those bonds. I know what I am doing here this morning.

Let's leave this for a minute and go to the other side. Let's see what is right.

MR. SULLIVAN: I would like to see that paper before it is turned in, Roy.

H.M.JR: George, do you want to say something?

MR. HAAS: The main theme when this Administration came in was to take care of the ill-fed, the ill-clothed, and the ill-housed. Now they have the money. I am just putting this as a part of an ethical justification.

H.M.JR: But, George, for the first time I saw the expression on Walter George's face. He kind of let himself go when he got criticized. "I want to know where you stand on the sales tax."

I said, "I am against it."

"Where do you stand on compulsory savings?"

"I am against it."

They are not interested. I know those Senators aren't.

MR. ELOUGH: They were interested in the other thing, Mr. Secretary.

MR. HAAS: May I add one other thing on this?

H.M.JR: Sure.

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MR. HAAS: Take a look at the thing today - but if it happened to work out in peacetime, those are the things we need to keep the wheels going. It just happened that you had an enormous dislocation before. There is difficulty in putting a tax on these people who have been unfortunate. You have this inflationary pressure, and I think the only answer as I see it is what Herbert mentioned.

H.M.JR: There are two people you ought to add to the list, and you can remember these. One is Mrs. Roosevelt, and the other is Dorothy Thompson.

MR. GASTON: Yes.

H.M.JR: I am going to pursue this method instead of waiting until this gets to be a snowball. I am going to ask Herbert to see these six or eight people when he has the facts, and hit the thing this week, if possible, and let's be a little aggressive.

What we have done - where we have made our mistake is, we get thirty or forty people in the Administration together and none of them will agree.

MR. SULLIVAN: Physically together.

H.M.JR: Yes, and they all go out and knife the Treasury.

On the other hand, if we have something, they may or may not; you can't tell. But I think this seems to be an effective way. What do you think, Fred?

MR. SMITH: I think you should. Why couldn't somebody look into the constitutionality thing? Isn't there some way you can find out if it is constitutional?

MR. SULLIVAN: I wouldn't argue on the constitutionality of it. Everybody in this country is supposed to be free and equal. Here is the Treasury proposal that puts its foot on the necks on the people who have been suffering,

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who haven't had big wages, and have nothing in the savings banks, and it keeps them from attaining the kind of level the others are on. You tell somebody in the shipyard--

MR. SMITH: That isn't the fellow we've got to argue with. We have to argue with the Senators who are looking for alibis, and the same argument would never work with the sales tax. Until we got down to the fact that the sales tax wasn't any damned good, you still won't get them to vote strong. But if it is an unconstitutional tax that won't be possible to enforce, then that is your answer, I would think.

MR. WHITE: But the thing has to be clearly so.

MR. BLOUGH: You can't tell what the Supreme Court would do.

H.M.JR: I agree with Smith, let's have a paper on why it is unconstitutional. Don't let's say it is unconstitutional, period; say it is unconstitutional and why.

MR. SURREY: I would be glad to work on it, but I think it would be very bad strategy to say that a tax measure is unconstitutional.

MR. BLOUGH: They asked them - Barkley said, "Don't you think this would be unconstitutional?"

H.M.JR: All right then, Paul should have a reason.

MR. BELL: Paul said he had some doubts on this.

H.M.JR: You shouldn't make a statement. I am asking you people now to argue pro and con the question of the legality of the thing, and I am entitled to have it, the pros and cons of the legality of that form of tax.

MR. WHITE: I don't think it should be used unless clearly unconstitutional, because if you put your eggs in that basket--

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H.M.JR: Harry's case is pros and cons, but have the cons much stronger than the pros.

MR. WHITE: Don't use it unless it is a clear case of unconstitutionality.

H.M.JR: I still think we are entitled to a paper from the legal staff of the pros.

MR. BELL: Did you understand that there was a paper put in the House hearing on this tax, on tax increases?

H.M.JR: That has as much effect as putting it to the people here.

MR. SULLIVAN: It didn't get anywhere.

H.M.JR: Have you read this paper? Have you read it?

MR. GASTON: No, I haven't. I don't think I have seen that paper.

MR. BELL: Here was Paul's answer in the Senate.

H.M.JR: I just said, "If it isn't read in the Treasury why should any Senator read it?"

MR. BLOUGH: Senator Connally has read a very similar thing, because he wrote him a letter on it.

H.M.JR: He is one out of ninety-six.

I think we are on the right track.

MR. SULLIVAN: You mean in getting ready to answer it?

H.M.JR: If Herbert has the time and energy, which I think he has, to see six, or eight, or ten key columnists of quality that he has seen before, I think it is an even money bet that we may get some good results.

MR. SULLIVAN: I think it is all to the good to emphasize what is wrong with these suggestions.

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H.M.JR: Wait a minute, Harry, I'd like to go to the other part in a minute. You can try to tell me why you wouldn't tax the fellows on the increase.

MR. WHITE: All right.

H.M.JR: That is wonderful; Harry and I are together. So shall it be at the end as it was in the beginning.
(Laughter)

(The Secretary left the conference.)

MR. BLOUGH: Of course, this isn't getting anywhere in Congress because of the farmers and because of the laborers.

MR. WHITE: It might be possible to give a reduction on the absolutely lowest level, maybe fifteen, certainly not higher, and maybe lower, and say that the man that has not gotten an increase - make it regressive so that the man who is lowest down after he has figured all his taxes-- say that the man can get X rebate if he has been getting twenty-five hundred dollars before the increase.

MR. SULLIVAN: You don't think that is discriminating against the fellow who got the increase?

MR. WHITE: Yes.

MR. GASTON: It is the absolute mechanism, but it would have to work the other way.

MR. BLOUGH: It will be administratively much easier.

MR. WHITE: Not only that, but I think from the other point of view it is more defensible, because it relieves a smaller group of payments and you open it at the low level and don't tax the others. In the long run, of course, it is discriminatory.

MR. GASTON: You are looking at the horse from the other side.

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MR. WHITE: You are looking at a much smaller horse, and I think there is a difference in the first place because you are going to stop it at a low level. In other words, if you say that a man has five thousand dollars a year and has been getting it right along he doesn't need any rebate; he is all right. But the man who is getting twenty-five hundred dollars now and was getting twenty-five hundred dollars before is being squeezed, and you ought to give him some little rebate. I think that is still defensible.

MR. BELL: That still is rotten.

MR. GASTON: It is still spinach, and you know what is said about it.

MR. BLOUGH: We spent a lot of time with Colin Stam on that one last summer. Basically he starts right off with the opposite assumption, that is, that you take anything that you take to the top, the millionaire against rising taxes.

MR. WHITE: Personally, I think that is inexcusable.

MR. BLOUGH: It has to go past two thousand, because there is your trouble. I don't think--

MR. WHITE: (Interposing) I don't think that the people who have been getting ten thousand or five thousand in the past five years--

MR. SULLIVAN: (Interposing) How many members of Congress do you know who aren't broke?

MR. WHITE: Who isn't broke?

MR. BLOUGH: Really, I think the Congressmen have a lot of expenses which they ought to be allowed to deduct, because the tax on ten thousand dollars on a Congressman is probably the heaviest tax on any ten thousand dollars in the United States. Naturally, when you put those rates up on those fellows - they know what they have to do and what they don't get deductions for - it is terrible.

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MR. GASTON: The Congressman ought to be like the Army officer. They ought to have commutation, quarters and subsistence in Washington.

MR. BLOUGH: But the administrative attitude toward a Congressman is worse than it is toward a lobbyist.

MR. WHITE: They ought to have some entertainment fund. He has to buy lunch for everyone who comes in from his home county.

MR. SURREY: I think if they had a spread in there you might get somewhere. I have heard them talk among themselves. They say they can't stand this when they are talking to each other.

MR. GASTON: They ought to have quarters and subsistence in Washington.

(The Secretary reentered the conference.)

MR. SULLIVAN: I am working on relief for Congressmen.

MR. BLOUGH: It has to be hidden in the bill.

H.M. JR: Am I keeping anyone from a big conference? I think this is important. I don't think we have enough of these. Am I keeping anybody from a conference?

MR. GASTON: No.

H.M. JR: Stanley, is this at all menacing in the Senate or House? Are they likely to go after this sort of a tax?

MR. SURREY: Connally may. Well, last year in the Senate Finance Committee a tax on increases in incomes got a great many votes. It didn't carry, but it got quite a few votes. The House seems fairly well convinced that it cannot be handled, so we can't go ahead over there.

MR. GASTON: We went all over this thing when Barnard was here. This was his favorite idea.

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MR. SULLIVAN: Randolph said he had the whole thing solved; he said he had it solved by relief for hardship cases.

MR. WHITE: It is Sullivan's idea that the fellows who haven't had this money will say, "Look at the others; it isn't right."

MR. GASTON: This is an old favorite of mine. A friend of mine out in Duluth, Minnesota was sitting on a hotel porch and another traveling man said, "You know what those fellows are getting?" The city crew was working on the street. He said, "Those fellows are getting ten dollars a day. It is just a damned outrage."

This friend of mine said to him, "I happen to know that they are still hiring men if you want to go down."
(Laughter)

MR. WHITE: There is an excellent story that I think fits this thing perfectly. I think John has the same one in mind. I will tell it some day, but John knows the story.

However, it is true that those who are intent on increasing taxes of workers who now get higher pay never point to the big income receivers who were receiving ten thousand dollars before or twenty thousand and are now getting fifty. He is being taxed enough.

MR. SULLIVAN: Harry, you don't understand. They claim that that is not inflationary money.

MR. SURREY: Harry is going back to what you suggested. Of course, that is what was suggested before the house Ways and Means Committee.

MR. WHITE: What?

MR. SURREY: A credit for the person whose income had not increased.

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MR. BLOUGH: You could defend it if it were a temporary deduction which the other fellow would get later.

MR. SULLIVAN: There hasn't been anything proposed by this Administration or any other that tends to make a caste system any more than the excess profits tax. You can dress it up any way you want to, but that is what it is.

MR. GASTON: We did make one suggestion; that was the spendings tax.

MR. BLOUGH: That reached a lot of these problems.

MR. WHITE: He had his choice. And if you had some way of reaching, as you say you are doing it through the voluntary measure - I mean, some of them--

MR. GASTON: What I said, Harry, is that if you approach it, not through the angle that he is making more money, but through the angle of putting a penalty tax on spending and giving a credit for saving, then you have something.

MR. BELL: The fellow who has had his program for ten years of insurance and buying a house is protected under the spendings tax; and it gets at these fellows who have the excess earnings and don't save them.

MR. WHITE: You force him to save.

MR. BELL: That is right.

MR. WHITE: That is better than taking it away from them.

MR. BLOUGH: There you run right up against the Administration, especially the complaint that all of these millions of people have never learned to save. They are already complaining about the extent of present high income taxes; if you throw that on them in addition, you will have a very serious problem, but it is no more complicated than this tax on increases in income.

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MR. WHITE: I recall hearing it twice, once in Bell's office and once in John's office; everybody was agreed that there was little to be said for it that was good.

MR. GASTON: That was Chester Barnard's pet scheme. It started with Chester Barnard.

MR. SULLIVAN: When you prepare this paper, Roy, be sure you don't neglect the fellow who at that time was earning thirty dollars a month as a private in the Army and who is now out, the fellow who was in in 1941, made thirty dollars a month as a private, was wounded in Tunisia and has had a medical discharge from the Army. What are we going to do about him?

MR. GASTON: He was an airplane mechanic in the air corps and he is now getting one hundred ten dollars a week in an aircraft plant.

MR. WHITE: Or he is a shipbuilder who is getting one hundred dollars a week, and beginning with the fall of 1944 they are going to dismiss about twenty-five percent of those fellows. What are you going to do with him.

MR. SULLIVAN: And he hasn't any property.

MR. BELL: One hundred thousand are going to be thrown out of work in the next couple of months.

MR. WHITE: The Army is going to release three hundred thousand in July after the European department of the war is over. Put that in the record, that it will be over before summer. If I am right I will look the record up; if I am wrong I will never refer to it. (Laughter)

MR. HAAS: I think the whole thing has gone too far now in this increase. I think we are very crude in handling this thing. We have eleven million people in the Army and not enough in war work.

MR. BELL: Everybody ought to get fifty dollars and have all obligations taken care of, and then you won't have any inflation.

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(The Secretary reentered the conference.)

H.M.JR: You won't have any inflation?

MR. HAAS: After we have fought a few more wars the whole economy will be put under the thing and all these problems will take care of themselves. Everybody will essentially be in the Army.

MR. GASTON: Well, they will have Soviet economy.

H.M.JR: They didn't have that at all these past ten years. This places everybody on the same basis.

MR. WHITE: They never had it; nobody ever had the same--

MR. HAAS: They have the same basis in the Army, captains, majors, generals, and everybody.

H.M.JR: But on the income basis, on the factory--

MR. GASTON: They froze pay scales and jobs just as the Germans did.

MR. WHITE: Yes, jobs, but I don't think pay scales.

H.M.JR: Now look, gents, will you two give me the argument on the plan, and then we will all jump on it again. What could you do to protect the poor spinster who teaches up in my district for eight hundred or a thousand dollars?

MR. WHITE: Nothing can help her. (Laughter)

MR. GASTON: Let's be realistic. Let's protect those who need protection.

H.M.JR: You notice what I said, eight hundred to a thousand; that is what they get. If they are very highly paid they get fifteen hundred dollars. Well, anyway, what can you do for the six million so-called white collar workers who will vote for Mr. Roosevelt? Do they in New Hampshire?

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MR. SULLIVAN: A few, not many.

H.M.JR: All right.

MR. SULLIVAN: But nobody is if we have anything like we are talking about this morning, so it won't make any difference.

H.M.JR: I'd like to do it on a purely sound economical basis.

MR. SURREY: In the House there was proposed a credit against the tax for those people who have not had a ten percent or fifteen percent or whatever you want to make it - an increase in income - they would pay currently a slightly lower tax, those who have not had an increase in income. Another way of doing that would be to give a credit for certain fixed commitments which might reach the same result, because these groups by and large I gather from the figures of the fixed commitments on insurance, mortgages, and so forth--

H.M.JR: Start over again.

MR. SURREY: In the House there was proposed for that group which have not had an increase in income of, I think, fifteen percent a credit against their tax, so they would pay during the current year a lower tax than would the person who has had a greater income. Administratively it is an easier way of handling it, because you are handling your administrative difficulties for the minority of the people instead of the great majority. However, since that has the same problem of equity, except stated in reverse, these people who have had fixed incomes still have a lighter tax burden this year. That suggestion in the House was coupled with the post-war credit.

In other words, these people who have not had an increase in income got their post-war credit now, and therefore the lighter burden now. People, in effect, who had a higher income got the post-war credit for the future.

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H.M.JR: I can't follow you; you will have to talk dollars and cents.

MR. SURREY: Let's take then these two five-thousand-dollar people. Let's say the tax on five thousand dollars at the rates the Treasury proposed is a thousand dollars. The man did not have an increase in income; he had five thousand dollars all along. He would get a credit against his one thousand dollar tax, let's say just for the sake of argument, two hundred dollars.

H.M.JR: Which fellow?

MR. SURREY: The man who has not had the increase in income. He would only have to pay in 1944 eight hundred dollars. Whereas, the man who had the increased income would pay at the rate of one thousand dollars, which is the income tax on five thousand dollars. Now, that is relief for the fixed income.

MR. GASTON: Wait a minute, you didn't finish. He gets his two hundred dollars in the form of a post-war credit.

MR. SURREY: In the current year the man with the fixed income is getting relief, since his tax payment has been reduced by two hundred dollars. However, that is just as inequal as placing a two hundred dollar increase on the man that had the increase in income. So to get around that the Treasury said, "To get around the inequity, the man who didn't get the two hundred dollars now will get it after the war is over." After the war they will both have paid the total amount in taxes, but the burden of payment is easier on the fixed income person because he doesn't have to pay the full increase now. Whereas the man who did not have a fixed income pays the full increase now and will get some of it back after the war. It takes care of the equity argument.

H.M.JR: I think the Times criticizes us for that; we will have forty-four million returns on post-war credit. It will be just as complicated as the Victory Tax, which you will see.

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MR. SULLIVAN: That is a true statement.

MR. SURREY: It is not quite as bad as that, Mr. Sullivan, because the burden, I think, would fall more on the Bureau than it would on the tax payer.

H.M.JR: You don't? Let me say that I think you are making it a little bit over-complicated. Let me finish what I am going to say without somebody jumping up. I am very timid. I was being facetious before, but let's take the person anywhere, the school teacher, the bookkeeper, or any other person, and let's say, for example, that person lived in Hartford, which is a highly concentrated war industry district, or maybe a policeman in a highly concentrated war industry. Now, the person is there and they have four or five children. They are honest people; they live up to the OPA regulations, and so forth, and so on, but they have this very high increase in food, and so forth. Let's say they didn't own their home and have difficulty finding a place and all that. Now, that person is up against it. Has anybody ever thought of giving that kind of a person, say, who is getting three thousand dollars - instead of doing it your way, give him some extra stamps?

MR.WHITE: Point stamps, you mean?

H.M.JR: Giving them an extra hundred, two hundred, or three hundred dollars.

MR. WHITE: You mean food stamps?

H.M.JR: Let me give you the idea: Instead of doing it through taxes, you would earmark them carefully, and these people would be willing to come in and file an affidavit and explain that they are up against it; they have five children and can't clothe them properly and are willing to say so and sign the statement, and then they can be given some kind of a bonus through food.

MR. GASTON: That would be the cost of living subsidy applied to the individual.

MR. WHITE: It would be inflationary unfortunately.

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MR. GASTON: There would be an administrative difficulty.

MR. SULLIVAN: That fellow's kids don't need more than those of a fellow who is working in a Pratt and Whitney plant.

(Mr. Paul entered the conference.)

(The Secretary held a telephone conversation with Senator Clark, as follows:)

December 1, 1943
10:38 a.m.

HMJr: Hello.

Bennett C.
Clark:

Hello, Mr. Secretary. How are you?

HMJr: Hello, Bennett. Henry talking.

C: How are you Henry?

HMJr: I just thought I'd call you up and thank you for the help you gave me the other day.

C: (Laughs) Oh, I didn't do anything, Henry. I thought you did swell.

HMJr: Well, you asked me the right questions.

C: Well, I was glad to have a chance to set you off.

HMJr: And -- Oh, Vandenberg and Harry Byrd, I gather, threw up the sponge.

C: I think they have. I knew damn well they'd bring that up before you got through.

HMJr: Well, we were ready.

C: I was awfully glad you were, Henry, and I thought you handled it beautifully.

HMJr: Well, I did the best I could but you asked me the right questions.

C: Well, that's fine. Thank you very much, Henry.

HMJr: And I thought between us, we just slayed 'em.

C: Well, I did, too. They -- they -- that business about the yield of the sales tax just knocked it clear off the Christmas tree.

HMJr: No? I think it's dead, isn't it?

C: Huh?

HMJr: I think the sales....

C: Oh, I think so, Henry; I don't think they can get it many votes.

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HMJr: Yeah.

C: That is, they can get some votes but I don't think they can possibly carry it now.

HMJr: Yeah. Well, anyway, I'm much obliged.

C: Well, thank you for calling me, Henry.

HMJr: Good bye.

C: Good bye.

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MR. WHITE: The sales tax is dead. May I say something that won't be pertinent, but I can remember when the statement was made in this room, not once, but at least ten times that unless we do this, that, or the other thing we are going to get the sales tax. I took the position that we wouldn't get the sales tax.

MR. PAUL: Well, I raised that last year and there was great danger at that time. One of the reasons is because election is next year.

H.M.JR: I think there is certain justification.

MR. PAUL: If you are going to raise that issue, I would like to defend what I said last year

MR. WHITE: I will retract.

MR. PAUL: Strike it out or else I want to answer.

H.M.JR: I want either Blough or Surrey to take five minutes or so and take Paul outside and tell him what the discussion was. Who wants to answer on this food subsidy?

Do you want to take him outside and tell him?

MR. BLOUGH: Ask him why a policeman didn't go into a war plant? (Laughter)

(Mr. Blough and Mr. Paul left the conference.)

H.M.JR: Roy is pretty objective.

What I am doing here is, I am going all around the lot and drawing this thing out. I want to get this thing in writing.

John's argument doesn't hold water with me at all. Maybe the three thousand is too high. Maybe we will get it down to under fifteen hundred, but at any rate--

MR. SURREY: But the basic question, I think, is this--

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H.M.JR: Wait a minute, John. I don't want anybody to go without food. I don't want to say that I am for a food subsidy, but it is perfectly intelligent for somebody to worry.

MR. SULLIVAN: I think you should give me just a second to explain my position. There isn't enough nourishing food to go around the country. Now, your proposal was that the fellow on a fixed salary with five children should get more food than the family who had an increase.

H.M.JR: That isn't what I said; you misunderstood me. The man with a fixed income who hasn't enough money to buy the food - the Federal Government should assist him to buy it. I will put it this way: Let's say that a man and his wife with five children are getting fifteen hundred dollars and under the present conditions he can't get enough calories for himself, his wife, and five children. I am raising the point that instead of giving him a credit, is there some way of giving him credit so that his family can get the minimum food standard?

MR. SULLIVAN: That is something else. Let's see where it fits in this present discussion. Would he get any more help than the man who had been earning five hundred dollars and who had been raised to fifteen hundred dollars, or would they get the same help?

H.M.JR: They would get the same.

MR. SULLIVAN: That is entirely different. I withdraw my remark.

H.M.JR: I am saying that fifteen hundred is a good figure. I am under the impression that a person with fifteen hundred dollars and seven members in his family may not be able to provide the proper food.

MR. SULLIVAN: I doubt very much if he can.

(Mr. Blough and Mr. Paul reenter the conference.)

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H.M.JR: Instead of doing all the credit and adding and so forth - I am not recommending it Randolph, but I want to ask the question, should something be done to assist that family so that they can get enough food so they can have a full stomach?

MR. SURREY: The point Mr. Sullivan raised is that the fifteen hundred dollar man with the five children who has had fifteen hundred dollars all along pays exactly the same tax as the fifteen hundred dollar man with five children who maybe was on relief a year ago. Now, both of them may need more food. The question of the need of food and whether the the tax burden is too high doesn't happen to depend on whether you have an increase or not.

H.M.JR: Stanley, I am forgetting that we are going to try to do anything on tax credits or anything else. I am simply saying--here is a situation--we will forget the tax structure.

MR. SURREY: All right. The question of whether they need food does not depend on whether they have increases or not.

MR. WHITE: Why is it a tax problem?

MR. GASTON: The Secretary is not raising a tax problem.

MR. SURREY: It is a straight question of subsidies on present needs regardless of what your past experience is, and that is a question I know nothing about.

MR. GASTON: It seems to me that if it were approached from an individual standpoint the administrative difficulties would be tremendous. They are trying to approach it on the OPA and food administration and so on; they are trying to approach it from the bare necessities of living.

H.M.JR: I am raising the question, should we go back to the orange and blue stamps, which I think were created to take the surpluses and assist the farmer, which is largely what motivated it. I started the thing with

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Doctor Parran, whose impression was that people didn't get enough to eat. I am going all around the lot. Let's say I have asked all these people to give us memoranda of why they think it is impractical from a tax standpoint to take care of the people who got a tremendous increase in 1940 and the other memoranda why these - the facts that will take care of the white-collar worker.

Now, I raise another question, which is, if we can't do this, should we in the Treasury raise the question of the reestablishment of the stamp plan to help these people out while food prices are so high. I don't agree with John that there isn't enough food to go around. John said, "The trouble is, there isn't enough food to go around." I have always felt it was bad distribution.

MR. SULLIVAN: I was thinking about the shortage this winter.

H.M.JR: Here is an interesting thing. Just give me a minute or two without interrupting. Marvin Jones told me - I don't know whether anybody was present when we were in the midst of a food subsidy - he had only been there a week or two, and he said, "If they had given me a chance to go up on the Hill I could have sold the food subsidy; I could have done it."

Now, let's be a little bit forehanded and say, "All right, the President is going to get licked on the food subsidy at the level of subsidies - the people they are trying to subsidize." But supposing he says, "All right, I am licked; you don't like it. Let's go back to the other thing and approach the thing from the other basis and go back to the question of helping the consumer." The great trouble with this Administration is we haven't been sufficiently consumer-minded; we have never tried to organize the consumer. They brought down the fellow from New York and gave him two clerks. He was so uphappy that he went home; and that is why we are getting licked on all these things, we haven't a strong consumer lobby. We haven't tried to get some of this stuff through.

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MR. GASTON: I think there is a lot in your idea. I think from the standpoint of Agriculture I would say, "Here is the alternative. Here is what a lot of these people are up against; and if you don't want general food subsidies, here is something else we are going to submit to you."

MR. WHITE: It would take away the demands for increase. It would take away those. You could say you were going to subsidize these basic foods.

H.M.JR: And it won't begin to, because the eight hundred dollars that he is asking for--

MR. HAAS: I think that has been proposed by some Senator or Congressman.

H.M.JR: I wonder what Milo Perkins is doing.

MR. WHITE: I think he would be good.

H.M.JR: Is he in town?

MR. SULLIVAN: I learned last week that he just returned from Mexico.

MR. WHITE: I wanted to talk to him about something else, but I think you have an interesting approach there from the point of subsidies.

MR. BELL: Wasn't there a memorandum from Agriculture?

MR. WHITE: They were only going to subsidize a certain number of commodities. Your thought was they could give stamps on those commodities to those individuals and societies who have been hardest hit and who cannot stand the additional pressure of rising prices.

H.M.JR: I will do it this way: I would like to go to Miss what's-her-name over in Agriculture - the home economist?

MR. HAAS: Miss Stanley.

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H.M.JR: Say, "Look Doctor Stanley, I want alternative menus for a family. And then would you please tell me the ways they could be helped financially?" Get Doctor Stanley to work the thing out. There is this much reason in that: What was the reason the subsidy was defeated? Among other reasons was that they need higher prices in order to take advantage of these large production. They didn't want to do that. They couldn't keep the price down, they didn't like subsidies, and they had to give the return to the farmer.

MR. HAAS: They would give the farmer the highest price, but they would give the consumer the lowest price.

MR. WHITE: You are not going to interfere with the price of the farmer this way. You will get high production, and yet you are going to take care of the effect of that high price. How can you make the best kind of a case from the point of view of a subsidy? It is going to meet it wholly.

H.M.JR: I would avoid the word subsidy. I would put it wholly on the question of humanity and on the question of keeping the inflation front from cracking. You will keep the labor unions happy and the worker in the munitions plant happy.

MR. WHITE: Most of those wouldn't get it, because the basis of distribution would be rationing.

MR. BELL: Wouldn't these stamps be inflationary?

MR. WHITE: So would the subsidy. It depends on how widely you spread it.

MR. SULLIVAN: Are you going to hand them out to people in different areas?

MR. WHITE: The logical way would be to hand them out to everybody below a very low amount; and that is why, I think, it wouldn't hit workers in war industries, but it would take away their stronger arguments, I think. I don't

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see-if you give a man who is earning fifty dollars a week in a war plant and who has two children additional stamps, that means you are going to give eighty-five percent of the people in the United States additional food stamps.

H.M.JR: I didn't have that in mind.

MR. WHITE: It would have to be very low. I should think it would have to be in the neighborhood of fifteen hundred dollars or less.

MR. SMITH: There are twenty-one million people, according to the figures, that make under a thousand.

MR. WHITE: Yes, but I think a good many of them belong to families.

H.M.JR: I would start with people of one thousand dollars or less.

MR. WHITE: Wouldn't it be better to start with families and leave the single people out?

H.M.JR: George has some people that worked on this thing. Couldn't we get a few people - it should be Agriculture, because they have material on this. Doctor Stanley--

MR. HAAS: I sort of think she is out of the running over there. She is not over there any more.

H.M.JR: She went through the food stamp thing with us.

MR. WHITE: I should think you would want to see what it amounts to. George would have enough data in his shop to start with.

H.M.JR: Couldn't you call Doctor Stanley and see if she would give you the material, or do you have enough in your shop?

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MR. HAAS: Let us do it in our shop first.

H.M.JR: The present head of home economics at Cornell is a Roosevelt Democrat. She is the only one in Cornell who is for Roosevelt. They say it has gotten to where when the classes ask anything about Roosevelt they won't explain it. You could start the pipeline going.

MR. HAAS: She is the Dean of Home Economics at Cornell?

H.M.JR: Mrs. Roosevelt and Mrs. Morgenthau say she is very able and happens to be a Roosevelt Democrat.

MR. GASTON: Is she a new one?

H.M.JR: The catalog will tell you.

MR. HAAS: Let us take a look at what we have.

H.M.JR: But move fairly fast, won't you? It certainly would be a nice approach on the theory that the tax boys can't do anything. But come through with those papers anyway.

Well, thank you all for a very interesting discussion. I am sorry to have missed it.



TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE

December 1, 1943

TO The Secretary

FROM Fred Smith

I suggest that you don't answer the Times editorial. It is about the sales tax, and the sales tax is a dead horse, so why not let 'er lay?

For future reference, however, I would like to call your attention to point four in the attached memorandum. If I read it right, it says that the Treasury's increases in excises and other taxes "would almost exactly offset the reduction in their taxes due to elimination of the Victory Tax."

If this is the case, we had better cut short our argument that these people should be relieved of Federal tax-paying. The argument doesn't hold water, if we have taken away taxes with one hand, and put them back with the other.

Attachment



December 1, 1943

MEMORANDUM FOR THE SECRETARY

Subject: "Treasury and Sales Tax" -- New York Times editorial, December 1, 1943.

Much of this editorial is argumentative rather than factual. The following comments may be made in connection with the editorial.

(1) As you pointed out in your testimony to the Senate Finance Committee: "Although at 1944 levels of income about 81 percent of the total cash income will be received by persons with incomes under \$5,000, only 65 percent of the net income above income tax exemptions will be received by this group. Likewise, although 61 percent of total income will be received by persons with incomes under \$3,000, only 39 percent of the net income above income tax exemptions will be received by this group.

"Looking behind these aggregates to individual cases, we find that the margin of disposable income over and above wartime needs is very narrow for the millions of persons in the lower income brackets. Out of 67.3 million income recipients in the calendar year 1944, 58.2 million are expected to receive net incomes of less than \$3,000. The average cash income per recipient before taxes will be \$1,650, and after existing taxes, about \$1,500. The demands of wartime living on incomes of this size leave little margin for additional taxes and afford few opportunities for inflationary spending."

(2) The Treasury did not propose "a set of taxes that would place proportionately a still greater burden on one-fifth of the country's income and a proportionately still smaller burden on the other four-fifths." It is estimated that over 54 percent of the increases of all taxes combined under the Treasury proposal would fall on persons with incomes of less than \$5,000. It is estimated that under present law 50 percent of Federal taxes are paid by such persons.

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(3) The editorial makes the assumption that persons with incomes under \$5,000 cannot be reached through the income tax. This is obviously not the case since under present law more than half (53 percent) of the total income tax is coming from persons with less than \$5,000 of net income and that more half (52 percent) of the increased income tax recommended by the Treasury would come from this group. One-fourth (26 percent) of the increase would come from incomes below \$3,000. If the Congress believes that the groups under \$5,000 or under \$3,000 should pay still more, the income tax is an entirely practicable method of accomplishing that objective.

(4) It seems to be implied that the nine million persons who would be relieved of income taxes under the Treasury proposals were to get off entirely free under the Treasury proposals. In point of fact, however, the increase in excise taxes and other taxes, estimated to fall on such persons, would almost exactly offset the reduction in their taxes due to elimination of the Victory tax.

(5) The complexities of the Victory tax and the House Bill are not comparable with the "ledger accounts with 44 million taxpayers in order to establish a record for postwar refunds." No problems or complications of taxpayer compliance would be involved in the ledger accounts, which would be similar to existing social security accounts. Moreover, any complexity must be measured in terms of the results and in the case of the minimum tax the results are not worth the complications.

(6) The fact that the general sales tax would be "imposed only as a supplement to existing taxes, including the most steeply progressive income tax in our history," does not justify its failure to recognize the necessity of protecting minimum living standards or the fact that the sales tax is much more of a burden on large families than on small families and single persons with the same incomes.

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(7) The Times editorial pays no attention to the burdens which the sales tax would place on people with fixed low wages, pensions, or allotments. Over 13 million persons are at the present time dependent in whole or in part on Government aid, including dependents of men in the armed forces, aged persons on State public assistance rolls, disabled veterans, retired and disabled state and local employees, and persons receiving social insurance payments. Their already low incomes would be further reduced by the sales tax.

(8) The Times editorial gives no consideration to the fact that at a time when the high cost of living is already threatening the economic stabilization program, it would be wholly inconsistent to raise the cost of living on essentials still further through imposition of a general sales tax.

(9) The editorial gives no consideration to the probability that exemptions would greatly reduce the revenue possibilities of the sales tax.

(10) The editorial gives no consideration to the fact that the sales tax is simply another method of taxing income and that if sources of income are "already taxed close to the limit" the sales tax would face the same danger of going over the limit as would the income tax. Indeed, the sales tax would be more likely to go over "the limit" because of the low incomes on which it would fall.

Roy Blough

The New York Times.

DEC 1 - 1943

TREASURY AND SALES TAX

The statements of Secretary Morgenthau and Mr. Paul before the Senate Finance Committee merely emphasized the weakness of their argumentative position. They have properly insisted, as against Congressional leaders, upon a heavy increased volume of taxes. But instead of distributing or diversifying the increased tax burden, they wish to place it even more heavily on sources of income already taxed close to the limit.

Their own tax proposals, moreover, make it impossible for the Treasury spokesmen consistently to criticize the Congressional alternatives with any effectiveness. The Treasury program, at the same time as it proposed unparalleled increases in the total tax load, proposed a repeal of the Victory tax, which would exempt about 9,000,000 persons now paying taxes. This seemed so contradictory and so political that the House bill tried to keep these taxpayers in by placing a special tax of 3 per cent on the low-income groups as a substitute for the Victory tax. Mr. Paul describes this substitute as almost hopelessly confusing and complex. This is surely a strange objection to come from the same Treasury officials who did not hesitate to propose to set up ledger accounts with 44,000,000 taxpayers in order to establish a record for post-war refunds.

Mr. Paul's objections, however, to the complexities of the House bill's proposed substitute for the Victory tax seem in the main well taken. The alternative is not to exempt these groups completely. It is to reach them in a simpler way. That simpler way is through a general sales tax. But the Treasury, in spite of the fact that its arguments against a sales tax cannot hold under present circumstances, continues to oppose such a tax with undiminished vigor. It continues to object that a sales tax would put a disproportionate burden on low-income groups. The Treasury is still talking, in other words, as if that tax would be imposed in isolation. It would, of course, be imposed only as a supplement to existing taxes, including the most steeply progressive income tax in our history. If imposed instead of the proposed House substitute for the Victory tax, it would be the only substantial tax imposed on these low-income groups. Higher income groups, on the other hand, would have to pay both the sales tax and the income tax.

The Treasury has refused, finally, to

be guided even by its own figures. It was Secretary Morgenthau himself who recently declared: "We know where the bulk of the new money lies, and where, therefore, lies also the greatest danger of inflationary pressure. Today four-fifths of all the income of the nation is going to people earning less than \$5,000 a year." The logical corollary of this statement would have been the proposal of a tax calculated to reach the mass of inflationary income in the country. Instead, the Treasury proposed a set of taxes that would place proportionately a still greater burden on one-fifth of the country's income and a proportionately still smaller burden on the other four-fifths.

December 1, 1943
2:33 p.m.

HMJr: I just wanted to tell you how much pleased I was
the way the bills have been going.

Allan
Sproul: Well, they've been going very well.

HMJr: Yeah.

S: I think they've had no difficulty and will continue
to have the bids come in.

HMJr: You think it will be all right?

S: Yeah.

HMJr: Well, I just wanted to check with you and see
whether you were satisfied.

S: It's going all right and I see no reason why it
shouldn't continue to go all right.

HMJr: Well, thank you very much.

S: All right.

Meeting in the Secretary's Office
December 1, 1943
3:15 P.M.

Present: Secretary Morgenthau
Mr. Leroy Beaulieu
Mr. White

Mr. Beaulieu, who was formerly the Financial Counselor for the French Government, said he wished to call to pay his respects to the Secretary whom he had not seen since the fateful day in June 1940. He said that he was now here to take care of French Lend-Lease matters under Mr. Monnet. The Secretary said he was glad to see him again. In the conversation that followed Beaulieu reminisced about the important assistance which the Secretary had given the French in their purchasing program here in the United States in the fall of 1939 and spring of 1940. Mr. Beaulieu said that no one will ever know how much the Secretary had done to help France acquire arms and planes and said that he had it all in his memoires in a trunk buried in a garden in France and he hoped to be able to write it up some day.

The Secretary asked whether he would not care to jot down some of the details he had in mind while he was here. Mr. Beaulieu replied that he would be glad to do so.

Mr. Beaulieu referred to one of his last visits in the Treasury in June 1940 in which he was being pressed by Treasury officials to sign the transfer of French gold to Montreal. The Secretary replied that he did not remember the episode.

H. D. White

December 1, 1943
3:30 p.m.

FINANCING

Present: Mr. Bell
Mr. Tietjens
Mr. Delano

H.M.JR: I told Mr. B.M. Edwards and Lee Wiggins, President of the A.B.A., that as far as I was concerned, I would like to leave sleeping dogs alone, and that I couldn't go along with this bill the way it was. I thought it was very stupid of Eccles to propose it. A permanent charter to his family's chain back in Utah and Idaho, and what would happen if they pushed me in a corner, and I had to fight, then I would have to fight for a bill with a death sentence.

MR. DELANO: I don't think we need to discuss it any more. That is exactly the conclusion we have arrived at, Mr. Secretary.

H.M.JR: I was telling them that. But I hope they don't push me. Then Edwards said, "You know where I stand even though I have a chain bank, but you ought to take a look at the law in South Carolina in chain banking, which I helped get through."

Then Wiggins spoke up and I gathered that he was for a bill. He said he always had been, but he wasn't for the death sentence. Then I told him how I felt, and all, where we are apart.

MR. BELL: We are not apart, here. You know the President recommended legislation in 1938 which would eventually knock out the holding companies. June 30, 1944, was the deadline. That is the policy we have been travelling under ever since.

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You had Glass introduce a bill which would do that very thing which was never pushed.

H.M.JR: Did Glass ever introduce it?

MR. BELL: Yes, sir, but never called a hearing.

MR. DELANO: Went right back here to the Committee.

MR. BELL: And there it stayed. Now Marriner is pushing this bill, largely, we think, because he has asked the Giannini interest to show cause why their permit - what is the privilege of doing business under corporate structure?

MR. DELANO: Yes, it is what they call a voting permit.

MR. BELL: ...should not be cancelled. And he is going to have to have public hearings, possibly, on that charge sometime early next year. He said that he would like to get through some kind of a bill freezing this situation as it is now. He said that it is their responsibility. They know that the Treasury can't go up and advocate the bill. But they would like to have the satisfaction that there is no objection to it, or that it is the best we can do at this time. We know that we can't get a death sentence at this time, so the next best thing we can do is to get a freezing bill.

Now, it seems to me before you would change from the original policy you - or the three of you - you and Crowley should go and discuss the matter with the President.

H.M.JR: Well, according to the radio you can't get at the President very easily.

MR. BELL: Let's assume.

H.M.JR: You can't do anything until the President gets back. How is that?

MR. DELANO: Perfect.

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H.M.JR: You can put it all on me, that as far as I am concerned, I am just here as an appointed officer. The last time I talked to the President he approved the death sentence. "Until the President can be reached in places in Shangri-la--" and so forth, and so forth.

You can put it on me if you want to. Say that I am for the bill, which is a death sentence bill.

MR. DELANO: That is our position exactly. We have been right behind it all the way.

MR. BELL: Shouldn't we tell Eccles, himself?

H.M.JR: You can't do anything about it until the President gets back from wherever he is.

MR. TIETJENS: You might get an argument from them along this line, that while it doesn't say death sentence, it is so strict it may eventually be a death sentence.

H.M.JR: No, to me, I am all out a hundred percent death sentence, no modifications.

MR. BELL: It is a terribly complicated bill.

MR. DELANO: Takes the powers away from my office and Crowley's and puts them down at the Federal Reserve. It introduces interpretations and subtleties that hardly anybody can follow through.

H.M.JR: We can't do anything until the President comes back from Shangri-la.

MR. BELL: He has called me about twice a week for the last month on this. The last time he talked to me I told him I hadn't had an opportunity to discuss it with you, but by going over the files and the past history, I thought we couldn't change here unless the President orders to change. Now, I said--

H.M.JR: A.B.A. is with us.

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MR. DELANO: No question about it.

MR. BELL: He said, "Well, the Federal Reserve Board is an independent organization and I think Congress looks to us to have independent recommendations."

H.M.JR: Fine.

MR. BELL: That puts a little different--

MR. DELANO: I made a comment on that, Mr. Secretary, which would be of interest to you. I said that the legislation creating the control of currency asks for his recommendations every year, his specific and independent recommendations, but that I would not think of making such a recommendation if it directly opposed a recommendation made by the President of the United States, and furthermore, I wouldn't do it without consulting you and him.

H.M.JR: All right. Let them stew. What the heck!

MR. BELL: You don't want any conference with Crowley and Eccles until the President gets back.

H.M.JR: And then the President will be too busy. No, to hell with it, now.

MR. BELL: I think you have got to do something about it. Turn him down or say we won't go along.

H.M.JR: All right, just tell him I won't do anything about it until I can contact the President. Put it on me. Quote me.

MR. BELL: We have a good out. We can say we haven't seen anything from the President that changes the policy of the Administration as set out in his message.

H.M.JR: And if he wants to be the great independent Eccles, I would love to see it.

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MR. DELANO: The Hill won't do anything with us. They don't want anything stirred up at this moment.

H.M.JR: To my surprise, B.M. Edwards said it was he who got Giannini to come to see me. That is the first I have heard that.

MR. DELANO: Is that so.

H.M.JR: He said, "I persuaded Mario Giannini that you, Morgenthau, were a human being, and on that basis he should come and see you."

MR. DELANO: Earle Kelley insists he did that trick.

MR. BELL: They all take credit.

H.M.JR: Well, thank you all.

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December 1, 1943
3:48 p.m.

Operator: Mr. Menafee.

HMJr: Hello.

Operator: Go ahead.

HMJr: Hello.

Sen. Byrd's Secretary: Yes, Mr. Morgenthau, this is Mr. Menafee.

HMJr: Mr. Menafee, I was trying to get hold of the Senator and I asked somebody up there, a young lady, whether he wouldn't call me between two and two-thirty.

M: Well, Senator -- Mr. Morgenthau, I got the message from the lady but I think maybe it was my mistake. I told him to call you at two-thirty. Well, I got to him over there a few minutes after two-thirty and I don't know -- I assumed that he did try to call you and maybe you were out then.

HMJr: Well, this is what I want and see if you could arrange it.

M: Yes, sir.

HMJr: I wonder if the Senator could stop in tomorrow morning at the Treasury to see me on his way to work.

M: Yes, sir.

HMJr: And I want to talk to him about this \$15 million bill to subsidize the newspapers, which he voted against.

M: Yes, sir.

HMJr: And if they ever threw \$15 million down the sewer, there it goes, and I thought we might once try to stop it before they start to spend it instead of doing it afterwards.

M: Yes, sir. Well, now, Mr. Morgenthau, where would he stop? What's the room number?

HMJr: Well, it's in the Treasury, my office.

- 2 -

M: All right, sir.

HMJr: Anybody....

M: He comes in here about nine o'clock.

HMJr: Well, I -- could he, say, be here at nine o'clock?

M: Yes, sir, I think so.

HMJr: What?

M: Yes, sir. I'll call your secretary back just as soon as I can get in touch with him and verify that, sir.

HMJr: Would you do that? If he could stop by here at nine, I won't keep him more than five -- ten minutes at the most.

M: I'll do that, sir. I'm -- I'll go up to the Finance Committee now and see if I can get a hold of him and I'll call your secretary.

HMJr: . FitzGerald is the man's name.

M: Yes, sir. All right, sir.

HMJr: Thank you.

December 1, 1943
5:04 p.m.

HMJr: Hello.

Operator: Senator Byrd.

HMJr: Hello.

Operator: Go ahead.

HMJr: Hello.

Senator
Byrd: Hello, Henry.

HMJr: How are you?

B: How are you feeling?

HMJr: All right. Harry, I was trying to get you today. I wondered whether your Committee couldn't help save \$15 million before it was squandered, and that's that.....

B: Well, we -- we all opposed it on the floor, you know.

HMJr: Yeah.

B: McKellar and I.

HMJr: Yeah.

B: Then it passed the Senate. You're speaking of the newspaper bill?

HMJr: Yeah.

B: Yeah.

HMJr: And I wondered if I couldn't get some help from you.

B: Yeah. Well, we'll do all we can. We do -- we did all we could in the Senate but we couldn't -- couldn't defeat it. They beat us by five votes.

HMJr: Well, think over whether a letter from me to you as Chairman of the Committee on Economy would do any good.

December 1, 1943
5:04 p.m.

HMJr: Hello.

Operator: Senator Byrd.

HMJr: Hello.

Operator: Go ahead.

HMJr: Hello.

Senator
Byrd: Hello, Henry.

HMJr: How are you?

B: How are you feeling?

HMJr: All right. Harry, I was trying to get you today. I wondered whether your Committee couldn't help save \$15 million before it was squandered, and that's that.....

B: Well, we -- we all opposed it on the floor, you know.

HMJr: Yeah.

B: McKellar and I.

HMJr: Yeah.

B: Then it passed the Senate. You're speaking of the newspaper bill?

HMJr: Yeah.

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B: Yeah. Well, we'll do all we can. We do -- we did all we could in the Senate but we couldn't -- couldn't defeat it. They beat us by five votes.

HMJr: Well, think over whether a letter from me to you as Chairman of the Committee on Economy would do any good.

B: I think it would be all right. Then we could -- I could send it over to all the House Members, you see? I think you're absolutely right about it. I'm a newspaper publisher myself, but I think it's absolutely wrong.

HMJr: Yeah.

B: You understand it's passed the Senate?

HMJr: I know it did and I know you....

B: It was reduced from thirty -- I was against it -- it was reduced from thirty million to fifteen....

HMJr: Yeah.

B:and limited to newspapers under ten thousand.

HMJr: Yeah.

B: But it gave you no discretion....

HMJr: Yeah.

B:as to where to spend the money. It's just a kind of a....

HMJr: It's a hand-out.

B:hand-out business. If you'd write a letter, I'll get it over in the hands of those fellows over in the House.

HMJr: Because I don't see how Doughton, who is always talking about economy....

B: That's right.

HMJr: I think it comes up in the House -- before Ways and Means Friday.

B: Yeah. I'll tell you what you do. You get it to me and I'll get it to Doughton and Willis Robertson and all those fellows over there.

HMJr: All right.

B: And Woodrum's been talking economy and I think you're absolutely right about it, Henry.

HMJr: I'll -- I'll get the letter to you tomorrow.

B: Fine. I'm sorry I couldn't call you at 2:30.

HMJr: That's all right.

B: That was because I got in the Finance Committee and couldn't get out. What do you know today. Anything else?

HMJr: No. No. I just got this on my mind because I never saw....

B: Send it to me tomorrow and I'll -- I'll get it over to them right away.

HMJr: Thank you.

B: I think you're right. Good bye

HMJr: Good bye.

25

DEC 1 1943

My dear Mr. Secretary:

I acknowledge your letter of November 20, 1943, recommending that the Treasury grant authority to the War Department to extend its War Bond issuing facilities in foreign areas for the sale of United States War Savings Bonds (on a cash basis only) to members of the United States Armed Forces and United States citizens employed by the United States in such areas.

It is understood that United States Army disbursing officers will be designated as bond issuing agents to effectuate the proposal, which may be accomplished, under the present procedure, by having such officers certified to the appropriate Federal Reserve Banks. The Treasury will be glad to join with your Department in working out the details.

You will be interested in knowing that the State Department has no objection to the arrangement that the War Department extend its facilities for the sale and issue of United States War Savings Bonds to include members of the United States Armed Forces and United States civilian citizens serving in foreign areas.

Very truly yours,

W. H. Morgenthau, Jr.

Secretary of the Treasury

Honorable Henry L. Stimson
Secretary of War
Washington, D. C.

beb:jk 11-30-43

WAR DEPARTMENT

WASHINGTON, D. C.

NOV 20 1945
20570+
2801

The Honorable,

The Secretary of the Treasury.

Dear Mr. Secretary:

During the past six months, with the specific approval of the Treasury Department in each instance, disbursing officers of the United States Army located in certain foreign theatres have been designated as bond issuing agents for the purpose of issuing United States War Savings Bonds of Series E to authorized personnel in the areas involved. The successful operations of these selected bond issuing agents has led the War Department to consider the advisability of designating other United States Army disbursing officers located in other foreign theatres as similar bond issuing agents.

It is recommended that authority be granted the War Department to extend the facilities to other foreign theatres for the sale (on a cash basis only) and the issuance of United States War Savings Bonds of Series E to members of the United States Armed Forces and United States citizens employed by the United States Government in the areas involved. Since the Army's Class "B" Allotment plan is in operation, installment sales are not contemplated.

If the extension of this plan meets with the approval of the Treasury Department, the War Department will immediately establish facilities for the issuance of United States War Savings Bonds of Series E in England, the Antilles and other foreign theatres as rapidly as such facilities are desirable and can be established.

It is understood that delivery of the bonds will not be made through the mail to purchasers in foreign countries. Where direct delivery of the securities by the bond issuing agent is impractical the bonds will be mailed by the disbursing officer to an address in the United States furnished by the purchaser. Wherever possible, the use of the War Department's Personal Transfer Account for the issuance of bonds to be delivered in the United States will be encouraged.

Consideration of this proposal by the Treasury Department at the earliest possible date will be appreciated.

Sincerely yours,

Henry L. Stimson

Secretary of War.

December 1, 1943.

Dear Mr. Kefauver:

I am replying to your letter of November 26 asking my opinion on your resolution which would provide for regular appearances of members of the Cabinet before the House in session to answer written and oral questions which members might desire to ask.

I have been much interested in your suggestion since I first read about it. What you have suggested is in essence, as I understand it, a proposal to improve contacts and understanding between the House of Representatives and the heads of the Executive Departments. I think that a highly desirable objective.

I would myself be happy to accept the invitation of the House to appear on such occasions, assuming, as I have no doubt would be the case, that the rules of the House would permit the representatives of the Administration the same freedom in discussion as is accorded to members.

One can not of course predict precisely the development of such an innovation, but it seems to me that an experiment of this kind is well worth trying. I think it might serve to promote other contacts between members of the House and the administrative departments which would be mutually helpful and tend to improve our governmental processes.

You have my permission to present this letter to the Rules Committee and I should be happy also to appear before that Committee when it discusses the resolution if circumstances permit and if the Committee should desire my appearance.

Sincerely,

(Signed) H. Morgenthau, Jr.

Secretary of the Treasury.

The Honorable Estes Kefauver
House of Representatives

RECEIVED

87
RECEIVED
VERNETTA G. GOSWAMI
BY HEWITT LAY

Congress of the United States
House of Representatives

FIELD REPRESENTATIVE
ROBERT S. BRADY
MADISONVILLE, TENNESSEE

Washington, D. C.

November
26
1943

Dorton
H.P.
11-26
1943

Dear Mr. Secretary:

On October 19 I introduced a resolution in the House of Representatives to amend the Rules of the House to provide for a question period at which heads of Executive Departments and independent agencies would be requested to appear and answer questions. A sympathetic debate on this resolution ensued in the House on November 12, one week before Secretary Hull made a personal report to Congress on the Moscow Conference.

This proposal for a question period has evoked so much interest and approval that I believe the Rules Committee of the House, to which it was referred, will give it an early hearing. The procedure is intended to be beneficial to both Congress and the Executive Departments, by bringing about an open and frank consultation. It is not intended to permit any immaterial or picayune questions - it is not to be a heckling period, but an honest effort to improve teamwork.

I am writing for your opinion of this suggestion. Would you be willing to appear in person before the Committee on Rules at the hearing or to write me a letter setting forth your views which I can use at the hearing?

With best wishes, I am

Cordially yours,

Elliott B. Leverson

Hon. Henry Morgenthau, Jr.
Secretary of the Treasury
Washington, D. C.

December 1, 1943.

Dear Mr. Wilson:

This will acknowledge receipt of your letter of November 24 in which you ask my opinion of the desirability of regular or occasional appearances of Cabinet officers before Congress.

I am in favor generally of any procedure which will lead to a better understanding of their mutual problems by the legislative and executive branches of the Government and which will tend to improve the working relationships between them. I think it quite possible that the fairly frequent appearance of members of the Cabinet before either or both houses of the Congress would be a desirable step in that direction. It would be for Congress to decide, of course, what form such appearances would take. One form is that exemplified by the recent appearance of Secretary Hull before a Joint Session at which, on invitation of the Congress, he reported on a mission of high international importance. Similar reports, I think, might usefully be made on other matters engaging the attention of Congress as to which the head of a department might be able to furnish enlightenment.

Representative Kefauver of Tennessee has recently introduced a resolution to provide for the regular appearances of Cabinet members before the House of Representatives to answer both written and oral questions. A bill, similar in its provisions, but applying to both houses of Congress, was introduced in the House a year ago by Representative Thom of Ohio. The possible usefulness of such a procedure is, I think, sufficiently attractive to warrant its most careful consideration by Congress. I have little doubt that heads of Departments would quite cheerfully appear regularly to meet questioning by members of either or both houses if their appearances were safeguarded, as no doubt they

- 2 -

would be, by rules which would permit them the same freedom of debate as is accorded members of the House and Senate.

Sincerely,

(Signed) H. Morgenthau, Jr.

Secretary of the Treasury.

Mr. Lyle C. Wilson
General Washington Manager
United Press Associations
National Press Building
Washington, D.C.

2-2-43
7-2-43
L-10-43

United Press Associations

INCORPORATED IN NEW YORK

GENERAL OFFICES
NEWS BUILDING NEW YORK CITY

November 24, 1943

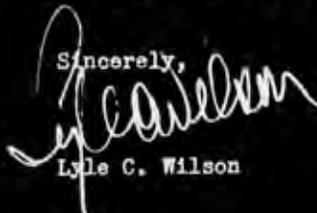
WILSON
ASSOCIATION MANAGER
NEWS BUILDING
WASHINGTON, D. C.

Dear Mr. Secretary:

The appearance of the Secretary of State before a joint session of the Congress last week has aroused a great deal of comment in this country. I am writing to all members of the Cabinet seeking a brief expression of opinion from each of them regarding the desirability of continuing the practice.

Do you feel that regular appearances of that kind by Cabinet officers would be useful? If you do not feel that there should be a commitment to regularity, do you feel that Cabinet members should appear before the Congress from time to time when issues of extraordinary importance especially related to their Departments are before Congress for consideration? For instance, when a tax bill is under consideration would the national welfare be served by having the Secretary of Treasury appear before the Congress instead of before the Ways and Means or Finance Committees?

Sincerely,



Lyle C. Wilson

The Honorable Henry Morgenthau, Jr.
Secretary of the Treasury
Washington, D. C.

THE SECRETARY OF THE NAVY
WASHINGTON

December 1, 1943

My dear Henry:

Thanks for your letter of November 30, receipt of which I acknowledge.

Whenever you have occasion to use a plane I hope you will not hesitate, so long as the Coast Guard remains under Navy supervision, to call on them to serve you. In case they do not have available a plane for your use, don't hesitate to ask me for one and I shall put one at your disposal.

Yours sincerely,

Frank Knox

Honorable Henry Morgenthau, Jr.
Secretary of the Treasury
Washington, D. C.

November 30, 1943.

Dear Frank:

Confirming our telephone conversation, I want to relinquish use of the transport plane which you have been so good as to make available to me through the Coast Guard.

There will probably be occasions when I shall need a plane for urgent official engagements at a distance from Washington. In those circumstances I should like to be able to call on the Coast Guard to provide transport for me, and if it is not available at the time I could then ask you or the Secretary of War to assist me.

I appreciate more than I can say your great courtesy in having made the plane available for my use since the wartime transfer of the Coast Guard to the Navy.

Sincerely,

(Signed) Henry Morgenthau, Jr.

Secretary of the Treasury.

The Honorable Frank Knox,
Secretary of the Navy,
Washington, D. C.



THE SECRETARY OF THE TREASURY
WASHINGTON

November 30, 1943.

Dear Frank:

Confirming our telephone conversation, I want to relinquish use of the transport plane which you have been so good as to make available to me through the Coast Guard.

There will probably be occasions when I shall need a plane for urgent official engagements at a distance from Washington. In those circumstances I should like to be able to call on the Coast Guard to provide transport for me, and if it is not available at the time I could then ask you or the Secretary of War to assist me.

I have taken the liberty of discussing the matter with Admiral Waesche and it is entirely agreeable to him that such a new arrangement be made. He tells me that frequently Coast Guard headquarters has use for an additional plane and if you see fit he would like to have both the plane I have been using and the one assigned to him left with the Coast Guard.

If this arrangement is satisfactory to you I should be greatly pleased if you would transmit the necessary instructions.

I appreciate more than I can say your great courtesy in having made the plane available for my use since the wartime transfer of the Coast Guard to the Navy.

Sincerely,

Secretary of the Treasury.

The Honorable Frank Knox
Secretary of the Navy
Washington, D. C.

FOR DEFENSE



BUY
UNITED
STATES
SAVINGS
BONDS
AND STAMPS



TREASURY DEPARTMENT
WASHINGTON



OFFICE OF
COMMISSIONER OF INTERNAL REVENUE

ADDRESS REPLY TO
COMMISSIONER OF INTERNAL REVENUE
AND REFER TO

DEC 1 - 1943

Memorandum for Mr. Sullivan,
Assistant to the Secretary.

This supplements the memorandums of November 10 and 19, 1943, relative to the current liquor shortage and the black market in taxpaid domestic whiskeys.

Since the communication of November 13, 1943, was directed to all districts, instituting a specific program for combating black market operations, personal conferences have been had with eight of the fifteen District Supervisors in order to further these investigations. Reports received from field offices indicate that the surveys being undertaken, both for the purpose of determining the extent of black market operations and securing basic data on which to predicate investigations, are well under way in all districts. Several districts are already in possession of specific evidence indicating major black market operations, and investigations have already been undertaken. A few cases growing out of black market operations, involving primarily violations of the internal revenue laws or Section 240 of the Criminal Code, the investigations of which were undertaken prior to the institution of the black market survey, have been completed and submitted to United States Attorneys for prosecution. Such cases are to be presented to grand juries in St. Paul, Minnesota, and Chicago, Illinois, this week. In both instances, the United States Attorneys have indicated that, incident to the presentation of these cases, an inquiry will be made into the cause of the "current liquor shortage." There is every reason to believe that the grand jury inquiry in St. Paul will have a very definite preventive effect in deterring black market transactions in the entire Pacific Northwest, inasmuch as the two syndicates under investigation, made up primarily of former prohibition violators, have been almost the sole source of supply in the black market in the States of Washington, Oregon, Idaho, and Montana.

Memorandum for Mr. Sullivan.

Page two.

A number of seizures involving substantial quantities of taxpaid liquor have been made recently by either Federal or state officers under circumstances indicating that the liquor was being handled in the black market. In Baltimore and New York seizures were made of 2,100 and 1,000 cases, respectively. A number of truck shipments, ranging up to 500 cases, have been seized. The liquor seized in New York was found in a specially constructed room in a wholesale plumbing establishment.

Investigations conducted to date indicate that racketeers outside the industry and unscrupulous dealers in the industry are, with varying degrees of success, resorting to numerous schemes to sell liquor above ceiling prices and still avoid violation of either the internal revenue laws or the Emergency Price Control Act. In Ohio and Michigan--both monopoly states--racketeers, posing as brokers, purporting to collect large sums of money from proprietors of barrooms, have arranged for the purchase of large quantities of liquor from wholesalers outside these states, and have imported the liquor into Ohio and Michigan through the state monopoly systems for the account of these retail outlets. These outlets are charged a commission of \$10 or more a case for this service. These groups have been able to purchase large quantities of liquor from rectifiers and wholesalers in Chicago and New York. Recently one of these groups, on being unable to purchase liquor from wholesalers in Chicago because of the existing shortage, made extensive purchases of warehouse receipts and arranged to have the ownership thereof transferred on paper only to qualified dealers. The retail outlets purchasing the liquor originally covered by the warehouse receipts were then required to pay the actual owners thereof a commission over and above the ceiling price.

In Cincinnati, Ohio, a bookmaker and gambler, finding that the barrooms in which he had his "horse race books" were unable to obtain sufficient liquor from the state store systems to supply the trade, arranged, in order to keep his books open, to purchase large quantities of domestic whiskies in the New York market. In handling these transactions, which were cleared through the Ohio monopoly system, the bookmaker purported to act under the guise of a broker for the purchasers (barrooms), collecting as a commission \$25 a case over the Ohio ceiling price. In this instance, the wholesaler in New York was paid \$20,000 as a bonus over and above the ceiling price. The fact that this liquor was purchased during the month of July is illustrative of the difficulties that state monopoly systems have encountered in supplying liquor for on-premise sales.

Memorandum for Mr. Sullivan.

Page three.

A typical scheme to defeat price ceilings was found in Chicago where two wholesalers would advise their regular customers (taverns) that their requirements could not be supplied because of the current liquor shortage, but would tip the customers off that their demands could be supplied at certain package stores, which, it developed, were owned by the wholesaler. This enabled the wholesaler to secure an additional \$10 profit over the wholesale ceiling price on an ordinary brand by selling the liquor at retail rather than at wholesale. In this connection, in certain sections of the country there is evidence that wholesalers are acquiring retail outlets in order to secure the advantage of the retail 33 1/3 per cent mark-up over wholesale prices permitted by OPA ceilings, thus doubling their profits on the limited stocks of domestic whiskies which they are able to acquire from distillers.

In New York another scheme apparently has been devised to defeat ceiling prices. Inasmuch as liquor can be exported outside the state direct from warehouses without payment of the state tax, wholesalers have found it more profitable to sell liquor at the New York ceiling price outside the state than in the state.

The survey has progressed to the point where it can be concluded that at the present time the demand for liquor in the black market is supplied primarily by the seventeen monopoly states and the states, particularly in the South, which have a substantial population located in counties that are dry by local option. As the result of this demand, a great deal of liquor is flowing from the license states into the monopoly and local-option states in the black market. This, of course, makes the shortage in license states more acute, and may ultimately tend to force the taverns in those states into the black market in order to supply their increasing requirements.



Commissioner.

Treasury Department
Division of Monetary Research

Date December 1, 1943 19

To: Secretary Morgenthau

From: Mr. White

I asked Bob Nathan to drop down to the office yesterday and had a chat with him.

He plans to be here for a couple of weeks and is then going to Arizona to try to get his back fixed up. After that he plans to work for McGraw-Hill Company, though he doesn't intend to work full time for them as he prefers to have time for other things. He would be pleased to work for the Treasury as consultant whenever you have need for him.

I mentioned the project you had in mind for immediate consideration and he thought he could give you a report on that in a few days if you wished inasmuch as he is quite familiar with the subject.

He is waiting to hear from us.

H.D.W.

ROBERT R. NATHAN

12/1/43
73

1931 Received B.S. in Economics from University of Pennsylvania
1933 Received M.A. from University of Pennsylvania
1938 Received LL.B. from Georgetown University
1938 - 1940 Graduate work at Georgetown University
Subjects studied: Economics, Statistics, Labor, Law, Finance,
and Brokerage.

Employment Record

	<u>Title and Salary</u>	<u>Duties</u>
1931 - 1933	Research Assistant (\$1,700) University of Pennsylvania	Directed unemployment surveys of Philadelphia.
1933 - 1934	Research Assistant (\$2,600) Department of Commerce	Made estimates of national increase.
June 1934 to Dec. 1934	Assistant Director of Research and Statistics, (\$3,600) Pennsylvania State Emergency Relief Board.	Prepared data and studies on relief problems in Pennsylvania.
1935 to 1940	Chief, National Income Division, (\$3,800 to \$5,600) Department of Commerce.	Prepared estimates and studies of national income.
May 1940 to Feb. 1942	Assistant Director of Research (\$6,500 to \$8,000) Office of Production Management.	Determined military and civilian requirements.
Feb. 1942 to May 1943	Chairman, Planning Com., (\$8,000) War Production Board	Determined policies for the War Production Board.
May 1943	Entered Military Service	
Nov. 1943	Disability Discharge	
Nov. 1943	Consultant, Committee on Economic Development, Department of Commerce	Preparing a report on "Manpower Demobilization and Reemployment"

Ann

Treasury Department
Division of Monetary Research

Date December 1, 1943.....19

To: Secretary Morgenthau

FOR YOUR INFORMATION

Our man in Cairo has informed us that there is urgent need for an additional man in Cairo and the cable states that Jim Landis and Mr. Kirk agree with his urgent request. We are therefore sending to Cairo one of the men now in Algiers, Patterson, whom we were about to call back to Washington.

H. D. W.

OK Kirk

MR. WHITE
Branch 2058 - Room 214½

December 1, 1943

My dear General Strong:

This will acknowledge receipt of your letter of December 1 transmitting further information on the Argentine situation. I find these weekly reports very helpful and shall appreciate your continuing to send them to me.

Yours sincerely,

(Signed) H. Morgenthau, Jr.

Major General George V. Strong,
A. C. of S. - G-2,
War Department,
Washington, D. C.

CONFIDENTIAL

76

WAR DEPARTMENT
WAR DEPARTMENT GENERAL STAFF
MILITARY INTELLIGENCE DIVISION G-2
WASHINGTON

December 1, 1943.

PT

The Honorable,

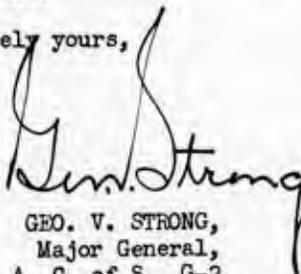
The Secretary of the Treasury.

My dear Mr. Secretary:

In accordance with your request for a weekly report on the Argentine reaction to the freezing of funds, the following is submitted:

It is said that the Argentine Government is watching developments in connection with the freezing closely, while awaiting such clarification of the situation as the future may offer. In the meantime, the Argentine public is generally not aware of the action already taken in blocking the two banks. Dollar exchange is said to be plentifully available through unblocked banks, and importers meet their requirements by purchase of exchange from banks not blocked.

Very sincerely yours,



GEO. V. STRONG,
Major General,
A. C. of S., G-2.



CONFIDENTIAL

DEC 1 - 1943

My dear Mr. McIntyre:

In accordance with your request of November 23, 1943, I am enclosing a proposed reply for the President's signature to the letter of Mr. Charles Engelhard, to the President, dated November 22, 1943.

Mr. Engelhard's letter is returned herewith.

Sincerely,

(Signed) H. Morgenthau, Jr

Mr. W. H. McIntyre,
Secretary to the President,
The White House.

Enclosures

SDS:mww:ls
11/30/43

Dear Mr. Engelhard:

This is in reply to your letter of November 22, 1943, commenting upon the recent Moscow Conference and upon Federal fiscal problems, and suggesting, in regard to proposals for new international banking institutions, that silver as well as gold should be used as a basis for international credit.

Your interest in submitting your views on these matters of public importance is appreciated. They have been brought to the attention of the officials concerned with the proposals for international monetary cooperation.

Sincerely yours,

Mr. Charles Engelhard,
30 Church Street,
New York, 7, New York.

SDS:mww
11/27/43

Private

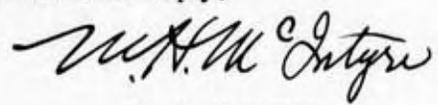
79

O

THE WHITE HOUSE
WASHINGTON

November 23, 1943

Respectfully referred to the
Secretary of the Treasury for
preparation of reply.



M. H. McINTYRE
Secretary to the President

D



CHARLES ENGELHARD
30 CHURCH STREET
NEW YORK 7

THE WHITE HOUSE
Nov 23 8 22 AM '43
~~November~~ 22, 1943.

My dear Mr. President:

I followed with profound interest, the results of the Moscow Conference, and I thought that the accomplishment of more satisfactory relations with Russia must have been directly traceable to the Lend-Lease policies, as initiated by you, Mr. President, because this is the language which the Russians do understand.

What is more, after the war, Russia can only recuperate upon the basis of a sound economic understanding with the United States.

No doubt our great Secretary of State, Cordell Hull, has made the fullest use of this opportunity, and I read with enthusiasm his report as given to both Houses of the Congress. It is to be hoped that full economic sovereignty for all European nations will be the result, and thus form the real basis for a lasting peace. I have no doubt, Mr. President, that you will insist that Finland will continue to be an independent nation without important curtailment of its boundaries, and if possible, the rest of the Baltic States should regain their independence.

I was thrilled when I read that the independence of Austria was agreed upon, and I SEE in this fact that the re-establishment of the Austro-Hungarian Empire would in itself be the foremost guarantee of a reasonable balance of power in postwar Europe.

As far as the rest of Germany is concerned, the best guarantee against a repetition of the Hitler outrages might be a monarchistic program, on the present English pattern. This should prevent a complete breakdown there, followed by chaos.

As far as our own future is concerned, it becomes more evident every day that America will be the predestined leader of the postwar world.

Furthermore, America will constitute the only major SOLVENT great power in the world IF WE CAN PREVENT INFLATION.

I had the opportunity to speak to a number of

CHARLES ENGELHARD

30 CHURCH STREET
NEW YORK

-2-

November 22, 1943.

people, prominent in finance and industry, in regard to the possibility that the Congress, under your leadership, Mr. President, might be induced to give consideration to the problem of granting favorable tax discounts to all those individuals and corporations, as well as estates, who hold a proportionate amount of war bonds in their respective assets, and everybody to whom I talked, became ENTHUSIASTIC about such an outlook.

It seems evident, if such a possibility could be brought about when the end of war is in sight, then there can be no question that inflation can be prevented, and the definite financial and economic leadership of the United States will be an ASSURED FACT. This all the more, if the unreasonable demands of labor can be kept within bounds.

I have read with intense interest the program of the proposed Bank for International Settlements, and I hope the seat of this all-important Bank will be in New York.

More than that, I believe it would be of immense advantage if Silver, NEXT TO GOLD, would find a place at the proposed Bank for International Settlements, as a basis for international credit, on the basis of the Silver Purchase Acts, which identical terms might be adopted concurrently by the Bank, to the greatest advantage of everybody.

Every day more influential people recognize that the Silver Purchase Acts as initiated by you, Mr. President, have been of immense benefit to our war effort.

The acquisition of half the silver of the world, at most favorable prices by Mr. Morgenthau, has been a financial achievement without a peer, and I agree with the statements of Mr. Brownell, Chairman of the Board of the American Smelting & Refining Co. that silver should become, next to gold, a basis for credit in the postwar world--this in face of the sharp criticism of the eighty Professors of the Economists' National Committee on Monetary Policy.

The Silver Purchase Acts have made it possible for China to finance THE THREE FIRST CRITICAL YEARS of her war with Japan.

The Silver Purchase Acts have contributed IMMENSELY through the liberal use of Treasury silver, to perfect our industrial machinery in the war effort, and to such a degree so that in many respects we are without competition.

CHARLES ENGELHARD
40 GEORGE STREET
NEW YORK

November 22, 1943.

When peace comes, if Japan can be made to return to China the huge quantities of silver of which she robbed her, then China will have a fine chance to re-establish her international credit, through the judicious use of her silver thus recovered.

In my humble opinion, silver should reach an international price of AT LEAST \$ 1.-- per troy ounce, as compared with the present price of gold of \$ 35.-- per troy ounce, particularly as this relationship of about 35 to one has been maintained between gold and silver on the open market for over forty years before the first World War.

Such an arrangement would prove of enormous benefit to the world at large, and in particular, to China, India, Africa, and above all, to the Western Hemisphere. It would help to make prosperous, Mexico, Peru, Canada and our Western States, and you, Mr. President, would reap the everlasting gratitude of the world at large, in their greatest hour of need, by your initiative as regards silver.

Believe me, my dear Mr. President,

Yours most faithfully,

Charles Engelhard

Hon. Franklin D. Roosevelt,
President of the United States,
The White House,
Washington, D.C.

GM
This telegram must be
paraphrased before being
communicated to anyone
other than a Governmental
agency. (BR)

Chungking

Dated December 1, 1943

Rec'd 9:42 a.m., 2nd.

Secretary of State,
Washington.

2297, December 1, 9 a.m.

TO SECRETARY OF THE TREASURY FROM ADLER.

Weekly economic.

Section One.

One. Chungking prices. September wholesale general 17,140 . food 10,660, retail general 13,330, food 9908; October 18,030, 11,350, 14,320 and 10,710. Increases from August to October 9, 7, 14 and 18 percent respectively. Average of retail price indices of leading cities August general 15,450, food 13,020; September 16,190 and 14,280. Apparent decline in rate of increase in prices due to adequate harvest, good military news from other theatres, tighter money policy of banks partly associated with selling out of United States dollar backed certificates and bonds, and favorable psychological effects of announcement of government purchase of gold from the United States. Since imposition of Chinese National currency three dollars per catty war time surtax on salt on October 1 price has risen from \$6.30 to \$9.60 per catty.

-2- #227, December 1, 9 a.m. from Chungking.

per catty.

Two. October payments of board to Central Bank under November 1 agreement: United States dollars 1,817,000, sterling 170,000. Central Bank's receipts of foreign exchange granted "special" rates from May to August United States dollars 6,483,000, sterling 681,000.

Three. Kunming black market rates November 20 United States dollars 84, Indian rupees 31. United States dollar backed savings certificates now selling at 53 per United States dollar if due and 37 if maturing on August 4, 1944.

Four. Selling price of gold per Chinese ounce highest in Kunming and Chengtu where it is over Chinese National currency 12,000. It is \$11,500 in Chungking and lowest in Heng where it is over 8,000.

Five. Receipts from land tax in kind 34,800,000 piculs and from compulsory purchases 31,200,000 up to October 15 or a total of 66,000,000, which is slightly above estimates. Szechwan accounted for about 1/4, Hunan for 1/6 and Kiangsi for 1/10 of total.

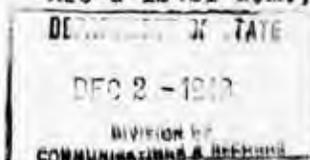
GAUSS

EAK
 This telegram must be
 paraphrased before being
 communicated to anyone
 other than a Governmental
 agency. (80+00)

Chungking

Dated December 1, 1943

Rec'd 12:21 a.m., 2nd



Secretary of State
 Washington

2298, December 1, 10 a.m.

One. Kung wrote to their man November 23 in-
 structing board to stop purchase and sale of foreign
 exchange from November 30 and informing him that
 business previously transacted by board will in future
 be handled by Central Bank and Exchange Control Com-
 mission. Understand latter body is being organized
 with Kung as chairman, K. P. Chen (if he will accept)
 and Okyui as vice chairman, Jianchen, Pei, Kwok and
 Tai of Ministry of Finance as members and Dr. ^{G. J. Chi} ~~G. J. Chi~~
 as General Secretary.

Two. Board at meeting of November 29 decided to
 wind up its affairs subsequent to receipt of instruc-
 tions from Kung; From Adler to Secretary of the Treasury.
 Re your 1690, November 24, some doubt existed at meeting
 as to whether affairs could be wound up by year end and
 I'm accordingly suspending judgment as to date of
 resignation until matters clearer.

GAUSS

EDA

CONFIDENTIAL

For security reasons the
text of this message must
be closely guarded.

KEM

This telegram must be
paraphrased before being
communicated to anyone
other than a Governmental
agency. (SC-00)

Chungking

Dated December 1, 1943

Rec'd 12 a.m., 2nd.

Secretary of State,

Washington.

2299, December 1, 2 p.m.

ONE. Notes in circulation September CN
60,450,000,000, October CN 64,377,000,000. Increase
from August to October (*) 14%.

FROM ADLER TO SECRETARY OF TREASURY, (SECTION TWO
of Embassy's 2297).

TWO. Details with regard to sell out of United
States dollar backed bonds publicly announced end of
October obscure. On October 12 Y.C. Koo informed me
that subscriptions for bonds totaled United States
18,000,000 and amount actually bought United States
11,000,000. On October 13 rumor got out that Govern-
ment was about close sales and there was a rush to buy.
On October 15 sales ceased. According K.K.Kwok entire
issue was sold out. According to Kung entire issue of
bonds was sold out but an amount in neighborhood of
United States 30,000,000 was being held presumably by
Central Government - for purpose

rehabilitating

-2- #2299, December 1, 2 p.m., from Chungking
rehabilitating finances of certain provincial
governments but he did not want this news to get
out lest he be deluged with appeals from other
provincial governments.

THREE. Budgetary revenues April to September
C N 2,040,000,000 of which revenues from taxation
accounted for 572,000,000 (pecuniary valuation for
receipts from land tax in kind is inexplicably small)
monopolies 373,000,000, miscellaneous revenues
53,000,000 and unclassified 1,042,000,000. Expend-
itures in same period totalled 15,485,000,000 of
which military expenditures accounted for between
60 and 66%. Okyui informed me on November 26 that
expenditures for 1943 would total 50,000,000,000
while revenues would be less than 20,000,000,000;
preliminary estimates for 1944 are expenditures
over 70,000,000,000 and revenues over 30,000,000,000.

FOUR. Mr. Kwok informs me that government is
selling small amounts of gold through agents in
Chongtu, Kunming, Chungking, Kweilin, Kweiyangshan
and Hongyang. Sales heaviest in first 3 towns and
least in last; gold being sold in 10 and 20 Chinese
ounce bars to jewelers and hoarders. Net sales in
last 2 months include amount originally held in

China

3- #2299, December 1, 2 p.m., from Chungking

China before recent imports, i.e., under 50,000 ounce and small part of gold newly flown in. But government is chary of pushing down price and is both buying and selling to control market.

FIVE. Learn from reliable source that China and United Kingdom have agreed that part of sterling 50,000,000 coin be allocated to a hydro-electric project near Kunming.

GAUSS

(*) apparent omission

EEC

EDA

~~DEC~~
~~DEC~~ 1 1943

To: Mr. Lacey

From: Mr. White

Will you please send the following cable to
the American Embassy, Chungking, China.

FOR ADLER FROM THE SECRETARY OF THE TREASURY

1. Treasury has been informed by Ambassador Wei
that prices in China are no longer rising
and in fact have begun to decline because
of gold sales.
2. Please send Treasury views and comments on
this matter.

INW/cfs 11/30/43

OFFICE
SECRETARY OF TREASURY

1943 DEC 2 PM 3 21

OFFICE

U.S. TREASURY DEPARTMENT

BRITISH MOST SECRET

NOT TO BE RE-TRANSMITTED

COPY No. 12

OPTAL No. 393

Information received up to 10 A.M. 1st, December, 1943

1. MILITARY

Italy To noon 30th. The 8th Army have broken deeply into the main portion of the enemy's winter line and in spite of fierce resistance have captured the whole of the high ridge which overlooks and dominates the SANGRO VALLEY. FOSSACESIA has been occupied by the 78th Division and ROMAGNOLI by 8th Indian Division. On 5th Army Front activity confined to artillery.

Burma 28th. Indian Troops who raided Japanese positions on the ridge 8 miles North East of FORT WHITE met strong opposition but inflicted many casualties on the Japanese.

2. AIR OPERATIONS

Western Front 30th. 80 escorted fortresses dropped 214 tons at SOLINGEN in cloudy weather: some results unobserved, others reported good. enemy casualties 1:2:1 for 7 fighters and 2 bombers missing. Typhoons on diversionary sweep shot down 6 enemy fighters without loss.

Beaufighters of Coastal Command made 8 hits on a 3,000 ton ship and 8 more hits on a 1,500 ton ship in an escorted convoy off South West Norway.

30th/1st. Aircraft despatched: BSB 4, Mosquitoes; Sea-mining 44; Leaflets 13.

Italy 29th. 319 fighters operated over the Eastern battle zone and 212 medium and light bombers attacked enemy positions and communications along the East Coast. The Airfield and Railway Centre at GROSSATO were bombed by 93 heavy and medium bombers, 1 missing. Heavy bombers dropped 44 tons in the FURBANA area.

Lybia 28th/29th. 15 JU. 88 and D0217 attacked a convoy off BENGAZI slightly damaging one large transport. enemy casualties by fighters 1:1:1.

Yugoslavia 28th. Mitchells dropped 36 tons at SARAJEVO. Spitfires, 2 missing, attacked the airfield at MOSTAR with cannon fire destroying 4 enemy aircraft on the ground and damaging 6 others: one German fighter shot down.

December 2, 1943
9:30 a.m.

WAR BONDS

Present: Mr. Bell
Mr. Paul
Mr. Smith
Mr. Gamble
Mr. Gaston
Mr. Speck
Mr. Coyne
Mr. White
Mrs. Klotz

H.M.JR: Everybody is here.

Now, Bell, where is that letter? Who has got the letter?

MR. SMITH: I have a letter here on the economy thing to Byrd, if that is what you mean. That is just on economy, though.

(See letter from the Secretary to Senator Byrd, dated December 2, 1943.)

H.M.JR: This is all you have written?

MR. BELL: I never have seen it.

MR. SMITH: This is all I wrote last night after we discussed it. Just talking to Byrd about the economy angle - period. Not saying anything else about the bill.

(The Secretary read the letter to himself.)

H.M.JR: It is all right with me.

- 2 -

MR. BELL: Good letter. Did you see Byrd this morning?

H.M.JR: No, but I talked to him, and he said if it came over this morning he would send it over to both Doughton and Willis Robertson right away this morning.

MR. SMITH: That paragraph in there about the bond advertising not costing us anything now almost has to go in because of the evidence that was presented before the House. They held up - maybe you read it - a beer advertisement which said, "Don't wait until after the war to buy beer." It was all about beer, and then a little ticket on the bottom said, "Buy War Bonds."

They held it up and said, "Look, this is the kind of war Bond advertising they are getting now, and the Treasury pays ninety percent."

The inference was that because they had the ticket in, the Treasury would pay ninety percent.

MR. BELL: The Treasury would pay ninety percent if they took out the ticket.

MR. SMITH: As a matter of fact, if you read those hearings, the Senate did exactly what it should do on the basis of the evidence. You couldn't make up your mind any other way.

MR. BELL: That report that the Senate Committee submitted to the Senate was terrible. This whole bond program has been a failure, according to that report.

H.M.JR: What do you think, Herbert? Is that all right?

MR. GASTON: Yes.

MR. GAMBLE: I think it is very good.

H.M.JR: Has the General Counsel any suggestions or objections?

- 3 -

MR. PAUL: I think that is a good letter. I don't know anything about the merits of the bill.

MR. BELL: This point I would like to make: Mr. Speck went up yesterday to talk to the Clerk of the Ways and Means Committee in order to get a Treasury hearing, and he was kind of surprised that we were asking for a hearing. He said that the Under Secretary might come up, and they were even more surprised at that.

Now, maybe there isn't a chance for this bill in the House Ways and Means Committee. If there isn't, maybe we shouldn't dignify it, but just write a letter.

MR. PAUL: You mean if we weren't up there to oppose it they might pass it?

MR. BELL: No, but you draw it out in the open.

MR. SMITH: I talked yesterday to a guy from the Advertising Council who said that George Benson was going to talk to the Ways and Means Committee. He said that without a question of a doubt it was going to be unanimously approved by the Ways and Means Committee.

MR. SPECK: They have only got four witnesses lined up. They had more than twenty before the Senate and had extensive hearings for four solid days.

H.M.JR: Is it going to be four days in the House?

MR. SPECK: No, they are trying to push it through Friday.

MR. PAUL: They did have four days in the Senate.

MR. SMITH: I think they are trying to sneak it through before people wake up to what is happening, the way they did in the Senate. These guys in Alabama ran the thing through quietly and none of the people against it paid any attention to it.

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MR. PAUL: Did you see the Senate vote on it? Did you see who voted for it?

H.M.JR: Yes.

(Miss Chauncey entered the conference.)

H.M.JR: (To Miss Chauncey) Send this out by special messenger. I will call Senator Byrd.

(Miss Chauncey left the conference.)

MR. BELL: Who voted against it?

MR. PAUL: Byrd.

MR. SPECK: But Barkley and Hill and Pepper and Mead and Wagner all voted for it - and Hayden.

H.M.JR: Did you have a chance to talk to this fellow in Virginia?

MR. COYNE: I did, sir. I talked to him yesterday afternoon. He was going to call Senator Byrd, and his State Chairman from Virginia was going to protest the bill and point it out as being vicious legislation and designed to bring politics into the War Bond program, and as State Chairman, he felt pretty bitter about it. I didn't know an awful lot about the bill before I spoke to him, but he agreed with the position we take. He said that he could, entirely without embarrassment, do that.

H.M.JR: He could?

MR. COYNE: Yes, that Byrd's son had been at the University and enjoyed a very pleasant and warm relationship with him. Also talked to South Carolina, and Christie Benet was going to talk to Maybank yesterday afternoon.

H.M.JR: We need it in the House. More republicans, I think, voted against it than Democrats.

- 5 -

MR. BELL: Yes. There is an array of people here (referring to Congressional Record) not voting - twenty-one.

MR. PAUL: In the Senate.

H.M.JR: Have you looked over the list? What do you do, anyway, on a bill like this, about trying to keep it from going through?

MR. SPECK: On this bill we didn't do any active lobbying, sir. A decision was made at one point during the course of the hearings that we not even testify on the strength of your letter.

H.M.JR: Here Mr. Paul says he doesn't even know anything about the merits of the bill.

MR. BELL: The bill was handled by Mr. Lynch.

MR. PAUL: He is sick today. He has been in touch with you, hasn't he?

MR. GAMBLE: Oh, yes. He has been working on the bill. We have a complete report on this one.

I might say, Mr. Secretary, it was almost our unanimous decision here not to do anything about the bill that was before the Senate.

MR. BELL: Other than write the letter.

MR. GAMBLE: Other than support your letter and say that was the official Treasury position. We were invited by Bankhead to appear before the Committee. Bankhead's statement to me was, "Well, we would like, as a matter of courtesy, to invite you. The bill has already passed."

H.M.JR: Cannon is a member of his Committee.

MR. BELL: Yes, and so is Doughton.

(The Secretary held a telephone conversation with Senator Byrd, as follows:)

December 2, 1943 96
9:42 a.m.

HMJr: Hello.

Operator: Senator Byrd.

HMJr: Hello.

Senator Byrd: Hello, Henry.

HMJr: Harry?

B: Yeah.

HMJr: That letter ought to be up to your office within the next thirty minutes.

B: All right, sir.

HMJr: And I just wanted to remind you -- you said you'd send it over to Doughton and Willis Robertson.

B: Yeah. You bet.

HMJr: And, if agreeable to you, I wish you'd give it out to the press.

B: Yeah. All right.

HMJr: Would you do that?

B: Yes, I will.

HMJr: And will you also send it to Chairman Cannon?

B: Yeah. Well, I'll -- I'll send it to all the members of our Committee over there, you see? And then....

HMJr: Yeah.

B:to anybody else you can suggest.

HMJr: Oh, Cannon would get it, being a member of your Committee?

B: Yeah. He's a member of the Committee.

HMJr: Well, I think if the members of your Committee got it and if you gave it out to the press, I think that would help us.

B: All right, sir. I'll do it right away, Henry.

HMJr: Thank you so much.

B: All right.

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MR. PAUL: Is there any danger if we appear there that they will get into this whole question of advertising deductions?

MR. BELL: Possibly.

H.M.JR: Well, this always trying to look so far ahead, I personally don't agree with that, and I think we should appear. I think that Mr. Bell should appear.

I asked you (Gamble) to take the responsibility of this thing, and I frankly don't see much evidence of what has been done.

MR. GAMBLE: Let me tell you what has been done, Mr. Secretary.

H.M.JR: The thing is always dumped on me at the last minute.

MR. GAMBLE: This isn't dumped on you at the last minute. What you are doing is undoubtedly helping us, but we have a complete program for better and worse.

H.M.JR: Whatever you have done hasn't been very effective.

MR. GAMBLE: We didn't have anything to do with the Senate bill. On the advice of Mr. Gaston, Mr. Bell, Mr. Paul, and so forth, we left the Senate bill alone.

MR. GASTON: That is right. As far as I was concerned we would ride on the letter and not attempt to appear before the Senate, especially in view of the fact that it was pointed out to us as hopeless. I was afraid of the extensive argument Paul speaks about - the argument on the whole advertising policy.

H.M.JR: And so what?

MR. GASTON: I don't think the case is too good on advertising.

- 7 -

MR. PAUL: There are two million dollars of advertising expenses and it costs the Government, except for this argument in the next to the last paragraph, about a billion two hundred million.

MR. GAMBLE: That is a statement to be made before the Committee, and that is the evidence. The statement is all there, complete. (Hands notebook to Secretary.)

H.M.JR: The statement will help, but I don't know - about twenty-five or twenty-six - how many members of the Ways and Means?

MR. PAUL: Twenty-five.

H.M.JR: What have some of our chairmen done?

MR. GAMBLE: Following your suggestions, I have this letter from Mr. Adams that he has sent to Mr. Rayburn asking for his help on this bill.

H.M.JR: I suggested that?

MR. GAMBLE: That is correct. I have talked to the Advertising Council. They have reversed the position they took. They said they were requested by the Ways and Means Committee. They will come and testify. They spoke to Mr. Benson. They have him coming down here tomorrow. He is well prepared to resist the bill. It was my idea to have Dewey or someone invite the Council to come down and be represented before the Committee hearings.

H.M.JR: Is this important?

MR. GAMBLE: The bill? I think it is tremendously important.

H.M.JR: Then might I say, with the exception of calling Adams who got in touch with Speaker Rayburn, it isn't worth a damn.

MR. GAMBLE: Then we are on the wrong track.

- 8 -

H.M.JR: I think the thing to do is to get your State Chairmen to call up Mr. Byrd and get your twenty-six members of the Ways and Means Committee. Where you have Chairmen, I think that you or Mr. Coyne should get on the phone today and get your State Chairmen and say, "If there is any power in your community, will you contact the Congressman who is on the ways and Means Committee from your State and tell them you don't want it." Now that may get some results. But you have awfully little time, Ted.

MR. GAMBLE: I expect we have about twenty States who have contacted their own Congressmen - not the Ways and Means.

Well, we only knew four days ago that the Ways and Means was going to have this bill. I didn't think the Committee part of it was as important as stopping the Congressmen, because I have been told - and I don't know on how good authority - that this bill is going to go through the House Ways and Means Committee like that, and is all set. Senator Bankhead told me what the vote was going to be on the Senate Committee, and that is what it was.

H.M.JR: I still think I would like you or Coyne to get on the phone right away, today, and call up these people and, say, "Pennsylvania, you have got a member on Ways and Means. This is the situation: Would you or somebody who knows him get in touch with him right away and say that Pennsylvania doesn't want this bill!" See?

MR. GAMBLE: Yes.

H.M.JR: I am not saying it is going to help, but it is the only way to do the thing. The most effective way would be if the publisher of a newspaper in the district would call this fellow.

MR. PAUL: In addition to that, if you really want to go to work on it, you can see a lot of those members today.

H.M.JR: We do want to go to work on it.

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MR. PAUL: Apart from contacting them through their constituents?

H.M.JR: We want to defeat it, Randolph - get all the help we can.

MR. PAUL: I think, if you want to defeat it, various people should see these members personally.

H.M.JR: I told you (Gamble) a couple of weeks ago that I would look to you to handle it.

Now, what can you fellows do to help?

MR. PAUL: I suppose I can see some of my personal acquaintances and say that is your strong desire. I mean, some of them may be on the fence. I am not persona grata to some of the Ways and Means Committee now on account of my statement.

H.M.JR: I would rather not have it come from me. The ideal way would be a newspaper publisher in the district. That would be the ideal way. The next important thing would be to get the most influential Republicans or Democrats in the district to call.

MR. GAMBLE: Yes.

H.M.JR: Bell, do you disagree?

MR. BELL: No, I was just trying to think of an influential Republican in the District. I suppose Eugene Meyer--

MR. GASTON: He means in the Congressman's district.

MR. BELL: I thought you meant the District of Columbia.

H.M.JR: No, no, no. You take Hamilton Fish, for instance. If the Gannett newspapers - you have got two papers there - would call up a fellow from Newburgh who would say, "Now look, Ham, we don't want this," it would have more influence on Fish than anything else.

- 10 -

MR. BELL: I think you are right.

H.M.JR: I know it would. I know how he would react.

MR. SMITH: Through the Council you could get the A.N.P.A. together and they could give you almost all the publishers in anybody's district in a couple of hours.

MR. GAMBLE: That wouldn't work, Fred. I think we have to go to our top people.

We have done that, Mr. Secretary, in about twenty States. We have not singled out the House Ways and Means Committee.

H.M.JR: That is the place to stop it.

MR. GAMBLE: That we haven't done and can do in a matter of three or four hours.

MR. PAUL: If it is practically unanimous vote in the Ways and Means Committee, it is not very likely that the House Floor will turn it down.

H.M.JR: Yes, but you don't know that. They are going to have hearings how many days?

MR. SPECK: Until Friday.

H.M.JR: We have only got one day.

MR. GASTON: What Ted has done might be very useful on the Floor, of course.

H.M.JR: Not if you get unanimous House Ways and Means, it is nothing.

O.K.

MR. GAMBLE: The thing we did, Mr. Secretary - and I am sorry we apparently didn't do it the way it should

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have been done - we have built a case for the Treasury that is a damned good case and will stand up any time. We didn't have that before.

H.M.JR: You kept it so secret nobody knows about it.

MR. GAMBLE: We just finished it at nine o'clock this morning.

MR. BELL: That was a good letter you sent to the Senate, but they didn't put that in their report.

MR. GAMBLE: I understand that, Mr. Bell, but we didn't have the case we now have. We have documented our case. I think Mr. Speck and Mager and two or three others have built an excellent case.

H.M.JR: I still say it is a secret.

MR. GAMBLE: Well, I think it should be presented to the Committee.

H.M.JR: That is what I think.

MR. GAMBLE: That is what it was prepared for.

MR. PAUL: Has anybody contacted McCormack on it?

MR. GAMBLE: No.

H.M.JR: I don't know. I turned the thing over. I ought not to have this meeting. I said to Ted, "Will you take this responsibility and see it through." I mean, I haven't gone around and asked everybody in the Treasury what they have done.

MR. GAMBLE: The only thing we haven't done, Mr. Secretary, is to contact the House Ways and Means Committee through our States.

H.M.JR: Yes, but the only person who pushed me on

- 12 -

this thing is Fred Smith. And Bell spoke to me about it yesterday - what should we do?

Now, I think, Bell, as between you and Gamble, who should present this thing?

MR. GAMBLE: I think Mr. Bell should present it.

H.M.JR: I think Gamble should present it.

MR. PAUL: I agree with you that Gamble should. Bell has to go into a lot of details he is probably not familiar with.

H.M.JR: If they ask you about all these tax features you can say you are selling bonds and don't know. Bell can't do that.

MR. GASTON: That is, of course, pretty vital to the argument on the thing.

MR. BELL: I don't see that that has anything to do with the bill at all. If you want to hit the tax thing, that is another thing.

If you want to go after the taxes that these people escape as a result of charging advertising as business expense, and then go after it and tax them, then you have a proposition of going to Congress and getting an appropriation to pay for your advertising.

It seems to me it is separate and distinct from the Bond bill.

MR. PAUL: I think I wrote a letter to Doughton on this bill some time ago, opposing it for the same reason as in this letter.

H.M.JR: My own feeling is that Ted should.

MR. BELL: It is all right with me.

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H.M.JR: You (Bell) would have to learn all this stuff. You ought to be up with me tomorrow, anyway.

MR. BELL: I have got to go with you tomorrow morning. We probably could put this off until tomorrow afternoon.

H.M.JR: Will you arrange, please, that Gamble have a chance to appear?

MR. PAUL: That is all arranged.

MR. SPECK: Yes, it is all a matter of who should appear.

MR. BELL: Do you have the hour?

MR. SPECK: Ten-thirty. Well, we can fix the exact hour for him. There are four witnesses.

MR. BELL: He can be last.

H.M.JR: How did you leave this last night?

MR. COYNE: I liked it very much and our people liked it, and we are getting a print of it today. Ted will see it, and if he agrees with us, we will get as many prints as we can. We will get it on sixteen and get it on thirty-five.

MR. BELL: You mean the war picture?

MR. COYNE: Yes.

MR. BELL: I thought it was terrible. It was the most overdone thing I have ever seen, switching from a very optimistic atmosphere to one that is very pessimistic, all of a sudden - I don't think the American people will believe it - this sudden switch.

MR. COYNE: We had a pretty big demand, Mr. Bell, for just that type of propaganda, because the reports show so much complacency. I agree it puts it on pretty heavy.

- 14 -

H.M.JR: For you people who want my background, here is General Strong's speech on September 27.

MR. GASTON: Yes, this reflects General Strong's speech, and I have the same objection as Dan has to the film, and as Dan has to the speech. I think it would have made a good film by some editing of the scoring.

H.M.JR: All right. Do you want to be on your way?

MR. GAMBLE: I am in no hurry.

H.M.JR: Well, as long as Paul is here, I want to talk to him. I want to talk to the rest about something else.

MR. SMITH: How about Gamble at your press conference this morning? Do you want Fourth War Loan press conference, or do you have something else to tell them?

H.M.JR: I have nothing to tell them.

MR. SMITH: That is what I thought. I was wondering - while Gamble is here you had better corral him.

MR. GAMBLE: I can work over here.

H.M.JR: Have you something to tell?

MR. GAMBLE: Not specially, no.

MR. SMITH: I thought you had something on the Fourth War Loan.

MR. GAMBLE: We have, Fred, but what we have on the Fourth War Loan--

H.M.JR: Let's cancel out. I have nothing.

MR. SMITH: You wouldn't want to do anything on this?

H.M.JR: No.

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MR. GAMBLE: The things that we have to say we would rather say next week because of regional meetings.

MR. SMITH: I thought you said a couple of days ago you were thinking of a press conference on the Fourth War Loan.

MR. GAMBLE: No.

- 15 -

MR. GAMBLE: The things that we have to say we would rather say next week because of regional meetings.

MR. SMITH: I thought you said a couple of days ago you were thinking of a press conference on the Fourth War Loan.

MR. GAMBLE: No.

December 2, 1943

My dear Senator:

On November 14, 1941, I made to the Joint Committee on Reduction of Non-Essential Federal Expenditures, of which I am a member, a number of recommendations for reducing non-essential Government costs. Most of these recommendations were taken, and resulting savings are noted in your recent report.

I should like now to call the attention of the Committee to another potential waste of Government funds which, in my estimation, should be stopped in its tracks. I refer to the \$15 million subsidy to certain small newspapers, recently voted by the Senate in the Bankhead Bill. A companion bill now in the House, calls for a similar subsidy of \$30 millions.

At this time, when your Committee and most of the rest of us are seeking ways of curtailing non-essential Government spending, I think this proposal to distribute a sizable amount of the taxpayers' money in such a way that it will not contribute to winning the war, or to any legitimate requirement of our economy, is inexcusable.

Ostensibly, this proposal was made in an effort to help sell War Bonds. I should like to have it on the record that it will not help sell War Bonds, and as a matter of fact, it is likely to prove an almost insurmountable hurdle to the continued promotion of War Bonds.

As you know, we now depend upon cooperation by advertisers, publications, radio, and the advertising industry generally, to provide, without cost to the Treasury, the huge amount of advertising space and time required to reach and convince 130 million people. By this means we are amply reaching all the important

markets that would be available through this subsidy. The added impact, if there is any, would be of doubtful value.

So far, our cooperative plan has worked very successfully. Had the Treasury paid for the advertising used during the three weeks of the Third War Loan, it would have cost \$30 millions. This includes the value of only those advertisements, radio programs, or billboards given over to War Bond promotion; it does not take into account the innumerable "reminders" in advertisements for products.

But we cannot continue this method if we pay some of those cooperating, and leave the others in status quo. Either we must pay all or none. And it certainly seems wasteful to pay any of them as long as the vast majority are willing to continue supporting Bond drives on a patriotic basis.

At the Senate hearings on this Bill, it was indicated that firms advertising Bonds can, as a result, take certain credits on their tax liabilities which are not otherwise available. This is untrue. Under present regulations, a firm is permitted to regard a reasonable amount of advertising, if this has been its custom in the past, as legitimate business expense. Advertising used to promote War Bonds represents conversion of publication or billboard space, or radio time, which the advertiser would use otherwise to promote his products or to keep his trade name alive during the war. It cannot be said, therefore, that the Treasury is paying for Bond advertising even indirectly.

I think it might be wise for your Committee to lend its weight now in stopping this proposal from becoming law, rather than waiting until it has become law, and then attempting to curtail the funds involved. Judging by any standards, the money involved in this useless and dangerous subsidy represents non-essential spending.

Sincerely,

Senator Harry F. Byrd
United States Senate
Washington, D. C.

December 2, 1948
10:00 a.m.

RENEGOTIATION OF CONTRACTS

Present: Mr. Bell
Mr. Gaston
Mr. Paul
Mr. Smith

H.M.JR: Paul, what's all this going on about renegotiation of contracts?

MR. PAUL: There is a memorandum that is on its way to you--not quite finished. The House bill contained quite a number of very--I mean, the people against renegotiation tried to get a lot of provisions through the House.

H.M.JR: Are you familiar with this?

MR. BELL: No. I know there is a provision in there.

MR. PAUL: Before the House bill they had long hearings on renegotiation. Everybody came down and said, "Let's get rid of it, make it non-retroactive; let's provide for a court hearing." Those are the principal things we objected to.

Well, we kept out a great many of the things that were objectionable--War and Navy and Maritime Commission and the RFC--, and we all lined up together on it. We had a lot of meetings about it. Karker was a sort of joint witness in the Ways and Means, representing the views of a couple of meetings. I went up and testified on a couple of phases of it.

Another thing we objected to particularly was having renegotiation after taxes.

Another thing in it was reserves for post-war conversion.

Well, we kept a lot of those things out of the bill, but still there are some things in the bill that are very objectionable to everybody, particularly the pro-

- 2 -

vision that takes all these thousands of cases--I think there are about eight now--and provides for a review, de novo. They'd go all over it again--open up all the settlements.

MR. GASTON: In the Tax Court.

MR. PAUL: I objected to that in my statement the other day.

Now, we have a memorandum which is just coming through War. We all agreed on it--War and Navy and the whole bunch of us. That is being mimeographed as of yesterday afternoon, and is supposed to be over here now. Yesterday morning we had a big meeting, and then this meeting--Justice came in as well as the other departments.

General Greenbaum was over yesterday morning. We all agreed on this statement, and agreed that this would be the best procedure.

H.M.JR: What would be?

MR. PAUL: What I am about to tell now. We thought we might have to do it today, but it was put off until Saturday or Monday--to have Shea, Assistant Attorney General, testify first on some of the administrative law angles we object to and give broad testimony; and Patterson, then Forrestal, then have MacIntosh - no, Dodge, the Chairman of the Joint Board, testify. No, before Dodge, have Jones make a very short statement.

H.M.JR: Jesse?

MR. PAUL: Yes. He testified in the other hearing. And then have a letter from Admiral Land and you, just generally supporting the statement.

MRS. KLOTZ (to The Secretary): Did you call off the press conference?

MR. SMITH: I just did.

H.M.JR: I don't see any sense in having the press when we have nothing to say--do you?

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MR. SMITH: No.

MR. PAUL: That program is lined up now to have this appearance by all these people as a completely united front. That was what I was working so hard on, to get them all together to agree on something, so there wouldn't be one fellow presenting one thing and another fellow disagreeing with him. Now we have this statement on which everybody is agreed.

MR. BEAL: Who is going to make the statement-- Jesse?

MR. PAUL: No, the first statement will be made on the administrative mix-up of the administrative law angle. These are things that ought to be settled administratively and not in the courts, or else it would be interminable. One will be made by Frank Shea; he was selected partly because he is very familiar with administrative law and partly because they can't ask him a lot of questions and he will say, "I don't know." There are a lot of questions about the things that aren't in the bill that we don't want to talk about until they are brought out in the open, the things that they tried to get out in the Ways and Means.

Then Patterson will testify. He will read the statement which is mimeographed which we have agreed on. Then Forrestal will make a few remarks in support of that. Then Jones will, too. And then the thought was to have Admiral Land, who never testifies, apparently--or at least they didn't seem to think they could get him to do anything--have a letter from him read and a short letter from you supporting it. Riley is preparing that letter from you now.

H.M.JR: Riley?

MR. PAUL: Over at the Bureau. Joe O'Connell has been doing a lot of the work on this, but he went up to New York for Thanksgiving vacation and spent it in bed. Then his wife came down, and she is still in bed now. He isn't back yet.

H.M.JR: Okay.

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MR. PAUL: It is very bad. It is not as bad as it was when they started, but it is still bad.

MR. BELL: There are other provisions that we want to propose.

MR. PAUL: Exemption of standard products--whatever they are, nobody knows.

MR. BELL: One in there requires all of the disbursing officers of the Government to send to the Comptroller General the name of all people who travel.

MR. PAUL: It would double the work of the GPO.

MR. BELL: It requires about a hundred people in the Treasury to take care of that--a large disbursing office.

MR. PAUL: And how many in the Army! They are crazy there. Every time a man takes a trip his name and expenses -

MR. BELL: Where he went and everything.

H.M.JR: We are all Government personnel travellers - is that it?

MR. BELL: That is in the tax bill. They have put it in under the guise that they wanted the information with regard to the taxes that are paid on these travelling trips.

H.M.JR: It is good Hull is back!

MR. BELL: Really. That was in the law up until 1928. Each department had to submit a report on travel. It was cut out for economy reasons in 1929.

H.M.JR: Who is trying to get that out?

MR. BELL: That is one of the things we have got to take to the Senate and ask them to take it out.

MR. PAUL: It is annoying, but it is by no means the worst in there.

- 5 -

H.M.JR: Are you going to try to get the travel thing out?

MR. PAUL: Sure, the War Department is very much exercised about it.

MR. BELL: And the Budget is writing a letter on it, and the Appropriations Committee is a little exercised about it. You see, they got this tax bill through when a great many people were away at the Ditter funeral. All of the Appropriations Committee, including the Clerk, were up at the Ditter funeral. Nobody saw this provision until it went through.

H.M.JR: I understand Scripps-Howard is backing it.

MR. BELL: We ought to get it out. It is expensive, bothersome, and terrible. If they want to stop travelling, they can cut down the appropriations.

H.M.JR: All right, gentlemen.

12/2/43

D

This memo was written by Mr. Paul but not submitted before Secretary called the meeting at 10 a.m. It covers all the points discussed in that meeting.

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE
December 2, 1943TO Secretary Morgenthau
FROM Randolph Paul

For some time conferences have been held between the Army, Navy, Maritime Commission, and the Reconstruction Finance Commission in regard to the renegotiation provision of the tax bill. These conferences had to do at first with suggestions before the Ways and Means Committee which were objectionable to all departments. A great many proposals were kept out of the bill passed by the Ways and Means, but certain objectionable features remain.

After many conferences, a statement has been agreed to for submission to the Senate Finance Committee, presenting the objections to what is now in the bill. On December 1st, I called a conference in the Treasury with respect to procedural aspects of presenting testimony to the Senate Finance Committee. It was agreed that the principal objections should be to the scope and method of court review provided for in the House bill, and to other features of the bill as set forth in the attached statement. The first witness will be Frank Shea, Assistant Attorney General, who will be followed by Undersecretary Patterson. The latter will read the attached statement. He will be followed by Undersecretary of the Navy Forrestal who will say a few words in agreement. Undersecretary Forrestal will be followed by Secretary Jones of RFC who will concur briefly.

It is planned to follow Secretary Jones' statement by reading into the record a letter from Admiral Land and from you, stating the Treasury agreement with the memo presented by Patterson and the objections of Shea.

If necessary, depending upon what questions are asked, Mr. Dodge, Chairman of the War Department Price Adjustment Board, will testify as to proposals not now contained in the bill, but which have previously been presented to the Ways and Means. It is hoped to confine the testimony before the Senate Finance Committee to objections to the bill as it stands.

Attachment.



JOINT PRICE ADJUSTMENT BOARD
Washington, D. C.

2 December 1943

STATEMENT OF THE JOINT PRICE ADJUSTMENT BOARD FOR THE INFORMATION OF THE SENATE FINANCE COMMITTEE WITH RESPECT TO THE PROVISIONS OF THE PRINTING REVENUE ACT OF 1943 (H. R. 3687) EMBODIED IN TITLE VII - RENEGOTIATION OF WAR CONTRACTS

The Joint Price Adjustment Board, comprising representatives of the several Departments concerned with renegotiation of war contracts and authorized by the Secretaries of the War, Navy and Treasury Departments, the Chairman of the Maritime Commission and Administrator of the War Shipping Administration, and the Reconstruction Finance Corporation Price Adjustment Board to formulate and adopt statements of purposes, principles, policies and interpretations binding on the several Departments, has carefully considered the provisions of H. R. 3687, Title VII - Renegotiation of War Contracts - and submits the following comments with respect thereto for the information of the Senate Finance Committee:

(1) Scope and method of judicial review - The Departments concerned with renegotiation have repeatedly stated that they had no objection to the making of some statutory provision for judicial review and, in fact, have expressed the opinion that such right of review exists under the present law. There has recently been brought to the attention of the Joint Price Adjustment Board the strong objections of the Treasury Department and the Department of Justice to the proposed granting of jurisdiction over renegotiation review to the Tax Court of the United States. The strength of these arguments is recognized by the other Departments concerned and in the light thereof the Joint Price Adjustment Board agrees that jurisdiction over appeals from renegotiation determinations should be assumed by the Court of Claims in order that the Tax Court of the United States may be kept free for exclusive attention to tax matters.

With respect to the scope of review, the Joint Price Adjustment Board agrees with the position of the Department of Justice, as expressed to the Joint Board, to the effect that any determinations of the Secretaries of the Departments or of the proposed War Contracts Price Adjustment Board should be final and conclusive except to the extent that the contractor can establish on the basis of the record made by the contractor in the court review proceeding that the determination was the result of a mistake of law, fraud, arbitrary or capricious

action, or was so grossly erroneous as to imply bad faith. This is the traditional procedure which has been adopted in connection with court review of similar governmental determinations.

(2) Review by the War Contracts Price Adjustment Board - The proposed bill gives the contractor an absolute right to require review by the newly-created Board, and the Act specifically provides that the Board may not delegate "the power, function and duty to review orders determining excessive profits" [subsection (d)(4), page 118]. It is respectfully submitted that in the light of contemplated provisions providing for review by a court in those cases where no agreement can be reached, it is entirely unnecessary and would constitute a very real administrative burden to provide for another review by the War Contracts Price Adjustment Board. The Joint Price Adjustment Board, created by voluntary action of the interested Departments, is now functioning satisfactorily for the purpose of setting up uniform purposes, principles, policies and interpretations, and there is no reason why a similar Board should not be established by legislative action. But the requirement that such Board should review all orders determining excessive profits would require the creation of a substantial administrative staff, and would impose burdens and duties upon the individual members of the Board which would interfere with the performance by them of their duties in connection with current renegotiations in the various Departments for which they are responsible.

(3) Review of Closed Agreements - The proposed bill provides for court review of past and future determinations of excessive profits [subsections (e)(1) and (e)(2), pages 119 to 122]. Included in this review are determinations

"made prior to the date of the enactment of the Revenue Act of 1943 with respect to a fiscal year ending before July 1, 1943, . . . whether or not such determination is embodied in an agreement with the contractor or subcontractor."

The Joint Price Adjustment Board is opposed to this provision which would render subject to court review thousands of voluntary bilateral agreements under which excessive profits refunded or to be refunded and specific price reductions on articles delivered or to be delivered will aggregate (without giving consideration to the effect of taxes) upwards of \$5,000,000,000. This provision would not only create a potential administrative burden, which might be literally impossible of effective accomplishment, but might be construed to invalidate the bilateral character of the agreements in such a manner as to jeopardize the right of the Government to retain the refunds which have been made and to collect the refunds which are to be made thereunder.

There might also be placed in jeopardy the provisions of the agreements providing for past and future price reductions. Many renegotiation agreements include clauses providing generally for the elimination of excessive profits

likely to be realized in the future through price reductions without specifying the amount of the reductions to be made on specific articles or contracts. Total reductions and refunds under such clauses may well represent an amount equal to or greater than the recoveries and specific price reductions referred to above. The proposed review of closed agreements would render uncertain the status of such clauses and frustrate present conscientious efforts to keep procurement on a current basis and to avoid the lengthy litigation between the government and contractors such as resulted from the last war.

The refunds and price reductions provided for under these voluntary agreements were made as a part of a repricing policy which was in fact inaugurated sometime prior to the passage of the original Renegotiation Act of April 28, 1942; and, if the Act had not been available for this purpose, there is no doubt that the Departments concerned would have endeavored to effect similar results through the use of other war powers relating to the placing and cancellation of contracts and the subsequent modification thereof. In no case have the Departments accepted agreements which are made conditional on the validity of the Renegotiation Statute or which, under their terms, could be effected by subsequent legislation or court decisions. These agreements represent accepted transactions between the Departments concerned and the contractors.

It is respectfully submitted that to reopen these agreements would provide a procedure by which contractors with clearly excessive profits could delay indefinitely repricing and other corrective action. It would be wasteful administratively and clearly prejudicial to the best interests of the Government.

In addition to the foregoing matters which involve major questions of policy, there is attached hereto as Exhibit A a list of certain additional suggested revisions which it is believed are consistent with the general purpose and intent of the bill but which would operate to clarify or improve, from an administrative standpoint, certain specific provisions of the bill as noted.

JOINT PRICE ADJUSTMENT BOARD

By *J. P. [Signature]*
Chairman

Incl.
Exhibit A

EXHIBIT A

ADMINISTRATIVE OR CLARIFYING AMENDMENTS OF TITLE VII-RENEGOTIATION OF WAR CONTRACTS OF THE REVENUE ACT OF 1943, H. R. 3687, SUGGESTED FOR CONSIDERATION OF THE SENATE FINANCE COMMITTEE BY THE JOINT PRICE ADJUSTMENT BOARD

A. Centralization of all repricing authority under the Secretaries of the Departments - The provisions of the act defining the powers of the Secretaries, as distinguished from the powers of the Board, with respect to all matters affecting repricing should be modified so that the Secretaries would be given all powers relating to repricing or exemption of individual contracts and subcontracts. The proposed bill creates a clear distinction between repricing of individual contracts with respect to which authority and responsibility is centered in the Secretaries of the Departments and overall retroactive renegotiation with respect to which authority and responsibility are vested in the War Contracts Price Adjustment Board. The suggested revisions make it clear that this distinction or division of responsibility should be maintained in all of its phases and, in this connection, it is further suggested that it should be expressly provided that unless specifically exempted adjustments of prices made from time to time under the repricing power should not preclude the Board from considering profits derived from such contracts in connection with subsequent overall renegotiations on a fiscal-year basis.

B. Raw material exemption [subsection (b), pages 124 and 125]- In order to make it clear that this exemption does not prohibit the renegotiation of management or operating contracts for Government plants to be used for processing, refining or treatment of exempted raw materials, it is requested that the following clause should be added at the end of the raw material exemption [page 125, line 3, after the word "use"]:

"except that this provision shall not be construed to eliminate from renegotiation any contract or arrangement otherwise subject to renegotiation with one of the Departments (a) for services performed on a fee or cost-plus-fixed-fee basis with respect to any such products or (b) for the use or operation of a plant or facility by a Department for the production, processing, treatment, manufacture or transportation of any such products."

C. Special cost allowance in the case of integrated producers - The attention of the Committee is further directed to an apparent error in connection with the provision of the bill relating to the allowance of market value as an element of cost in the case of a producer processing an exempted product "to or beyond the first form or state" [page 126, lines 14 and 17], at which the exemption terminates. It is believed that the word "and" should be substituted for the word "or" in the above-quoted phraseology so that it would be clear that the allowance of market value would apply only to the producer who processes the exempted product to and beyond the exempted stage and would not apply to a producer who purchased the product at the exempted

Exhibit A (continued)

stage at a cost which might vary materially from the market value at the time of its use.

D. Authorization of individual contract renegotiation under special circumstances - It is believed that the provisions of the Act requiring overall renegotiation on a fiscal-year basis [subsection (c), pages 109 and 110] should be modified in order to give the Board authority to require renegotiation either on an individual contract basis or on the basis of classes or types of contracts. This provision will be necessary in the case of certain classes or types of contracts or subcontracts, such as shipbuilding or other long-term construction contracts, various types of profits-limitation contracts, or contracts which have not been completed during the fiscal year in question or with respect to which it is not practicable for accounting or other reasons to conduct renegotiation on an overall fiscal-year basis.

In this connection attention is further directed to the fact that there should be some provision for the relaxation of the provision of the bill requiring completion of renegotiation within one year from the date of commencement where the nature of the contract is such that it is impossible to reach an accurate and final result on the basis of a yearly fiscal period. Long-term shipbuilding contracts are an example of contracts falling in this category.

E. Limitation of mandatory requirement for insertion of repricing clause in all contracts [subsection (b), page 107] - The bill in its present form directs the Secretary of each Department to insert in all contracts entered into after thirty days after the enactment of this Act certain terms which are specified in the legislation. It is suggested that the insertion of such terms should be made mandatory on the Secretaries only in the case of contracts in excess of \$100,000 as provided in the existing law, since it is manifestly impracticable to include such a clause either directly or by reference in the many thousands of small contracts and purchase orders which constitute a large proportion of the total number of contracts entered into by the Departments although representing in the aggregate only a relatively small dollar volume.

It is suggested that consideration be given to the possible elimination of the provision specifying the type of renegotiation clause to be inserted in all contracts, since the bill specifically provides that the required contractual provisions shall be "binding, only if the contract or subcontract, as the case may be, is subject to subsection (c)" [page 109, lines 1 and 2] and if subsection (c) is valid there would appear to be no necessity for a supplemental contractual commitment.

F. Retrospective application of new exemptions and related provisions - It is suggested that the exemptions of charitable contracts [subsection (i)(1)(D), page 125, line 25] and of subcontracts under exempt prime contracts [subsection (i)(1)(E), page 125, line 3] and the provision for special

Exhibit A (continued)

cost allowances at the exemption line in the case of exempted products used by integrated companies [subsection (1)(3)] should be added to the list of provisions of the Act which are made effective as though they had been made a part of Section 403 on the date of its enactment, April 28, 1942 [See subsection (4) effective date, page 130, line 7].

G. Exemption of seasonal canners - Since the Committee on Ways and Means completed action on the bill, an investigation has been made of the possible effect of the provision which would exempt "any contract or subcontract for canned, bottled or packed fruits or vegetables (or their juices) which are customarily canned, bottled or packed in the season in which they are harvested". This investigation indicates that substantial excessive profits may have been realized in this field and that such contracts should not be included in the agricultural exemption [subsection (1)(1)(C), page 125, lines 10 to 13].

H. Definition of subcontracts - The attention of the Committee is directed to the fact that the definition of "component article" embodied in subsection (5)(1)(ii) [page 104, line 21] does not clearly evidence the intention of Congress with respect to products, portions of which do not actually appear as a part of the end product ultimately acquired by the Government because of the fact that they either disappear or are reduced as the result of intermediate processing, refining or treatment. If it is the intent of Congress that contracts for all such articles which enter into the end product or a component part thereof at any stage of the manufacturing process should be subject to renegotiation, it is suggested that the phrase "in whole or in part, directly or ultimately, or in the same or some other form" should be inserted immediately following the word "which" in the second line of the definition of component article [line 22, page 104].

The attention of the Committee is further directed to the fact that the revised definition of subcontract embodied in the proposed bill will result in the exclusion from renegotiation of a very large field of subcontracts for both durable products used directly for war production purposes, such as all types of machinery and equipment and also large volumes of expendable supplies and equipment, such as grinding wheels, acetylene torches and all types of mill supplies. It is estimated that the total recoveries of excessive profits from contracts of this character subject to renegotiation under the existing law were very substantial for fiscal periods ending on or before the proposed effective date of the new Act, June 30, 1943. There is attached hereto an exhibit setting forth a number of refunds secured from companies which would be exempted under the new provisions. These examples indicate the increased cost of the war which will necessarily result from this exclusion from renegotiation of large numbers of contractors who have profited largely and directly from war business. The exemption of these contractors is also going to make it more difficult to close voluntary agreements with other contractors who will necessarily feel that there has been

some discrimination based on artificial concepts of subcontract rather than on participation in the war effort.

I. The attention of the Committee is directed to the requirement that the Board, at the request of the contractor, furnish him with a statement of the determination of excessive profits, of the facts used as a basis therefor, and of its reasons for such determination [page 110, lines 24 and 25; and page 111, lines 1 to 6].

In complying with this requirement it will be necessary to set out in writing to the contractor a statement of the facts and factors, unfavorable as well as favorable, of his efficiency, ability, contribution to the war effort, risk and other elements necessary in the determination of excessive profits. This material can not be flattering in all cases. We can anticipate a greater dispute and dissatisfaction from the detail of reducing these criteria to writing, even though they may be generally understood as between the contractor and the negotiators in informal discussion, than over the amount of settlement itself. We do not believe this requirement, on balance, will be of sufficient benefit to contractors to outweigh the harm it may do in inspiring the informal stockpiling in which these renegotiation proceedings are conducted and agreements are reached in the great majority of cases.

J. Under the present law, it is clear that patent royalty contracts and other agreements involving intangible property rights are subject to renegotiation. The House bill, in defining "subcontract" and "excessive profits" raises a substantial question as to whether contracts of this type are renegotiable. This question should be resolved by clarifying the definition of a contract "article" by adding the words "tangible or intangible" immediately following the phrase "other personal property".

K. Miscellaneous technical changes - In addition to the foregoing, it is believed that the bill would be clarified and that administrative problems thereunder considerably lessened if the following changes are made:

1. Page 102, line 5, strike out the word "raw". There is no reason for confining this factor to the use of raw materials.

2. Page 102, line 8, strike out the word "and", and in line 9, after the word "earnings", insert "and comparison of war and peacetime products". A contractor now manufacturing a product substantially different from his peacetime product should have this important factor fully considered.

3. Page 103, line 15, after the word "subcontract", insert "or to such contracts or subcontracts as a group." This change would clarify the situation where the costs in question are not chargeable to any particular contract or subcontract but like items of overhead are chargeable to a broader scope of business done.

4. Page 103, line 25, after the word "agency", insert "established prior to January 1, 1942". This change would prevent the abuse of this provision by the nominal establishment of such an agency solely for the purpose of avoiding this test.

5. Page 111, line 12, after the word "them" insert "through whichever of the following methods the Secretaries or any of them so

Exhibit A (continued)

directed deem desirable". While the Board is given the power to determine the excessive profits, the Secretaries have the obligation to eliminate the excessive profits so determined. Because of the Secretary's close familiarity with the situation in the various cases it would seem best to allow him to choose the method best suited to the facts in each case.

6. Page 112, lines 18 and 19, strike out the word "determining" in line 18 and insert, in lieu thereof, "eliminating"; and in line 19 strike out "to be eliminated" and insert, in lieu thereof, "determined". This change is necessary to correct a technical error. Under the bill, the Board determines the excessive profits while the Secretary eliminates them.

7. Page 121, line 9, change "(d)" to "(c)". This change is necessary to correct an erroneous cross-reference.

8. Page 126, lines 4 and 5, strike out "excepted from the provisions of this section, or". The present language is ambiguous. The change is needed to make it clear that the subcontracts to which the provision relates are only those under prime contracts or subcontracts exempted by reason of subsection (1)(1).

9. Page 119, line 24, after the comma, insert "or after the entry of the order of the Secretary under subsection (f), as the case may be,". This clerical change is needed to clarify the time limit in which a petition to the Tax Court may be filed in a repricing case.

Incl.
refunds

EXHIBIT TO PARAGRAPH H - DEFINITION OF SUB-CONTRACTS, SETTING FORTH RE-
 FUNDERS SECURED IN CONNECTION WITH RENEGOTIATION OF COMPANIES WHICH WOULD
 BE LARGELY OR ENTIRELY EXCLUDED FROM RENEGOTIATION UNDER THE HOUSE BILL.

FINISHABLE TOOLS	BASE PERIOD		1942 RENEGOTIABLE#		AMOUNT RECOVERED
	SALES	PROFIT BEFORE TAXES IN % OF SALES	SALES	PROFIT BEFORE TAXES & RENEGOTIATION IN % OF SALES	
CO A	70,000	Deficit	2,193,000	38.7	630,000
" B	3,234,000	9.0	10,307,000	25.4	2,130,000
" C	2,115,000	11.1	4,989,000	20.8	525,000
" D	16,657,000	20.6	49,377,000	32.6	11,000,000
" E	149,000	2.7	7,484,000	34.3	1,900,000
" F	406,000	26.1	5,213,000	44.2	1,900,000
" G	134,000	18.0	2,446,000	54.2	1,200,000
" H	3,047,000	20.5	13,152,000	46.3	5,000,000
<u>MACHINE TOOLS</u>					
CO A	1,365,000	22.6	5,922,000	23.9	959,000
" B	3,930,000	14.3	24,267,000	25.0	3,200,000
" C	1,503,000	11.5	9,838,000	29.2	2,000,000
" D	2,882,000	14.5	20,846,000	37.1	5,400,000
" E	3,756,000	16.6	12,575,000	28.7	2,038,000
" F	288,000	23.6	3,194,000	43.4	1,088,000
" G	7,465,000	24.9	20,157,000	38.8	5,500,000
<u>GAMES</u>					
CO A	159,000	6.9	3,869,000	34.0	900,000
" B	489,000	2.7	4,437,000	18.4	545,000
<u>MACHINERY COMPONENTS</u>					
CO A	9,148,000	24.2	21,995,000	25.1	3,100,000
" B	567,000	11.0	11,311,000	30.8	2,250,000
" C	951,000	5.8	1,918,000	26.2	350,000
" D	410,000	8.8	3,571,000	26.4	500,000
" E	37,632,000	21.5	67,099,000	34.8	16,000,000
<u>MACHINERY</u>					
CO A	(Incorporated 1940)		4,333,000	23.0	685,000
" B	2,176,000	8.5	4,231,000	30.9	1,053,000
" C	1,448,000	3.1	14,756,000	19.1	1,336,000
" D	554,000	15.5	10,870,000	43.7	3,950,000
" E	19,537,000	22.5	27,932,000	31.1	4,000,000
" F	1,043,000	1.2	4,534,000	23.4	736,000
" G	16,269,000	21.7	30,639,000	34.3	5,335,000
" H	(Incorporated 1940)		4,854,000	28.7	900,000
" I	457,000	16.8	3,042,000	48.3	1,265,000

In addition, most of these companies had substantial amounts of non-renegotiable business.

December 2, 1943
11:30 a.m.

Operator: Colonel Sexton.

HMJr: Hello. Colonel Sexton?

Col. W.T. Sexton: Yes, Mr. Secretary.

HMJr: Good morning.

S: Good morning, sir.

HMJr: I just want to tell you that Colonel Hull and Captain Talbert that you sent over here have been doing a good job for me.

S: Well, fine.

HMJr: They just left here. But I would like to, along about December 14th, come over once more to the Air Room over there.

S: All right, sir.

HMJr: Because I'd like to be brought up to date on how many planes the United Nations have got; what kind of planes and where they are....

S: Yes, sir.

HMJr: ...and the same for the enemy.

S: All right, sir.

HMJr: Yeah. I go over there about once in three months.

S: Yes, sir.

HMJr: Now, I don't know whether they like it better in the morning or the afternoon, but I could do it on the 14th, either the morning or the afternoon.

S: When would be the most convenient to you, Mr. Secretary?

HMJr: Uh -- I would say the morning.

S: In the morning?

HMJr: I could go there directly, say 9:00 o'clock.

S: All right, sir. Well, I'll arrange it on that basis then.

HMJr: And that's -- you get what I want?

S: Yes, sir. Well, I'll tell him.

HMJr: And I explained to Colonel Hull and he also knows.

S: All right, sir.

HMJr: Thank you.

S: All right, sir. Bye.

December 2, 1943
11:44 a.m.

HMJr: Hello.

Operator: Secretary Stimson.

HMJr: Hello.

Henry L.
Stimson: Hello, Henry.

HMJr: Good morning. I just wanted to tell you, for your own information, that I'm going to go away Friday afternoon for a week and I had some unfinished business -- this matter of the Army asking us -- consulting with us about sending some financial experts to England.

S: Yes.

HMJr: And I just wanted to let you know. I mean I haven't heard from you or from Harrison....

S: Well....

HMJr: And since I've talked to....

S:I haven't been able to take it up since I talked with you.

HMJr: Well -- uh -- you have not?

S: I may be -- uh -- the -- well, I was waiting for some news on various possibilities.

HMJr: Well....

S: I may have some in today.

HMJr: Well, anyway....

S: You -- when do you go?

HMJr: Late tomorrow afternoon.

S: I see. Well, if I do, I'll communicate with you.

HMJr: You -- uh -- you mean, when you say news on possibilities, do you mean on....

S: Yes.

HMJr:people?

S: Some -- yes, I've been looking into several candidates.

HMJr: I see. Well, of course, I don't know who you're looking into but -- uh -- but you're doing it personally?

S: I've been doing that, personally yes.

HMJr: I see.

S: All right.

HMJr: Okay.

December 2, 1943
11:47 a.m.

HMJr: Hello.

Dan
Bell: Hello.

HMJr: Dan, I just called up Mr. Stimson to tell him that I was going away late tomorrow for a week.

B: Uh huh.

HMJr: And did he have any -- and I just wanted news, you see, for me in regard to sending somebody to England.

B: Yep.

HMJr: So he said, "No. No," he said, "I just haven't got around to it." He said, in effect, that he personally was looking up several candidates.

B: I see.

HMJr: I said, "Are you doing this personally?" And he said, "Yes, I'm doing it personally."

B: Oh. (Laughs).

HMJr: Now, in other words, they're going to find somebody and then they're going to put it up to us.

B: Yeah.

HMJr: Now, I just want to tell you, while I'm away, if anything happens on this front, I want to handle it personally.

B: Okay.

HMJr: Because they're not asking -- they've changed the whole situation. They're going to suggest somebody and have me say, "No." You see?

B: Uh huh.

HMJr: Well, I'm not going to cross the bridge 'till I come to it but....

B: Well, I think that's right.

HMJr:if they're going to do what I think they're going to do, it will just have to be something that the President will have to do. It's -- it would have to be between the President and Stimson.

B: Yeah.

HMJr: But evidently, what Harrison did was -- went up to New York to find somebody, you see?

B: Uh huh. Well, I don't know but Stimson is going to try to find somebody himself?

HMJr: Himself.

B: Well, that would be -- that will probably be Harrison working under cover. Don't you think?

HMJr: Uh -- I wouldn't be surprised.

B: Sure, if he's going to find somebody, it will still have to be somebody doing it for him and....

HMJr: Yeah.

B: ...he isn't going to run around trying to find somebody.

HMJr: Yeah.

B: Yeah.

HMJr: But....

R: If they call up here, then you want....

HMJr: I don't want....

B: -- to call you?

HMJr: I don't -- yeah, if they call you, and I've told this to White, that if anything happens on this front, I want to handle it personally.

B: Uh huh.

B: That is, you want it delayed until you come back or just refer....

HMJr: No.

B:it up there?

HMJr: You can call -- you or White can get together and the two of you can call me on the farm.

B: Yeah.

HMJr: I mean if Stimson is going to handle this personally, I want to say -- anybody they out....

B: Well, we -- you don't want it delayed, you just want us to handle it here and then contact you as to what's done and what we're going to do in the way of approval....

HMJr: No.

B:or disapproval?

HMJr: No. I don't want you to say -- if you get a call on this, I want you to simply say, "Well, this is something that Mr. Morgenthau is handling personally and I will relay it to him."

B: Uh huh. Why, don't you want us to consider it here at all?

HMJr: No.

B: I mean, between....

HMJr: No, I don't....

B:White and me?

HMJr: No, I just want the two of you to get together and call me on the phone.

B: Okay. Well....

HMJr: I mean, I just want you to say -- in other words, any message that comes from anybody at the War Department on sending somebody to England, I want you to say, "Mr. Morgenthau is handling this personally and I will relay it to him."

B: Okay.

HMJr: Right?

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B: Yeah. Sure, I got that.

HMJr: Thank you.

B: All right.

December 2, 1943
11:51 a.m.

HMJr: Yeah.

Ted
Gamble: Mr. Secretary, two things I wanted to ask you
about.

HMJr: Yeah.

G: One. First, I might tell you that I have
personally lined up five members of the House
Ways and Means Committee already.

HMJr: How have you done that?

G: I have talked to them myself and gone completely
into the problems about this bill and have gotten
a definite commitment from them. Would you like
to know who they are?

HMJr: Yes, I would.

G: Congressman Dewey from Illinois.

HMJr: Yeah.

G: Congressman Simpson from Pennsylvania, Congressman
McLean from New Jersey.

HMJr: Yeah.

G: Maloney from Louisiana.

HMJr: Yeah.

G: And Forand from Rhode Island.

HMJr: Yeah. You mean you have talked to them on the
phone?

G: I have talked to them myself. I know them. I've
gotten a firm commitment from them. They'll vote
against the bill.

HMJr: Yeah.

G: And I've gotten two of them to agree to do some
work on it in addition to that.

HMJr: Yeah.

G: And before the day is over I hope to be able to tell you I have gotten thirteen of them....

HMJr: Wonderful.

G:which will be a majority.

HMJr: Have we got a good man in North Carolina?

G: No, we don't. We have a good man. We have -- uh -- one of Bob Haynes' assistants down there, Lineback, and I thought I'd have Lineback talk to Doughton, and after that I thought I'd talk to Doughton myself.

HMJr: Oh, I see.

G: Because I can tell these people things about the bill that other folks can't tell them.

HMJr: That's right.

G: And I can tell them what it means to our program.

HMJr: Right.

G: And I had no trouble with these five gentlemen at all.

HMJr: Well, I'm glad you've unlimbered yourself.

G: Well, my worry, Mr. Secretary, was: I felt, ultimately, I'd catch this ball and I have had a staff for a week working on a very comprehensive statement to deliver before that Committee.

HMJr: Yeah.

G: And one that I think tells the story.

HMJr: Yeah.

G: And we have everything documented to present to that Committee for their executive meeting.

HMJr: Yeah.

G: And I don't know how in the devil they can get away from it because it's the first time that we have ever gone into anything as thoroughly as that.

HMJr: Yeah.

G: And that, really, is what we have devoted our time to. I had planned today -- I've had to run on a clock schedule -- and I had planned, today, to do some of this work we are now doing.

HMJr: Yeah.

G: But I thought I'd let you know how well I was getting along this morning.

HMJr: I'm delighted.

G: Now, the second thing: you sent me back a telegram to Pennsylvania.

HMJr: Yeah. I won't do that.

G: You didn't want to do that?

HMJr: No, I think it's undignified for the Secretary of the Treasury to do that.

G: Well, I, perhaps, should have explained it to you.

HMJr: I'm not going to tele -- I'm not going to beg the people to do it. I mean Henry Morgenthau is unimportant. As the Secretary of the Treasury I'm not going to go on record....

G: Well, I agree with that, Mr. Secretary, and I wouldn't have written the wire if I felt it did that. I thought you ought to know that Roberts...

HMJr: Yeah.

G:who was our Chairman there....

HMJr: Yeah.

G:was the new president of this company.

HMJr: Yeah.

G: He came to Pennsylvania and the first thing he did was to take this job.

HMJr: Yeah.

G: And he worked every day and every night during the Third War Loan, and he felt when the drive was over, as a new man it was incumbent upon him to go back to his Company.

HMJr: Yeah.

G: He, personally, would like to stay.

HMJr: Yeah.

G: It isn't a question of begging him, but he is a new man with the Company and Al Williams, the President of the Federal Reserve Bank up there, who has been, of all the Federal Reserve Bank Presidents, the most helpful to us....

HMJr: That's right.

G:had suggested that this is the procedure himself.

HMJr: Well, I can't let my name be used for that, Ted. I'm sorry. I go along with you 99% of the time....

G: I know you do.

HMJr:but there's a limit.

G: And....

HMJr: And that's the limit.

G: Well, we won't do it then.

HMJr: I'm sorry.

G: Well, I'll send it myself and see if it works.

HMJr: That's all right.

G: All right, sir.

HMJr: Thank you.

G: Thank you.

December 2, 1943
2:37 p.m.

HMJr: Hello.

Randolph
Paul: Yeah.

HMJr: Paul, would you please assign Joe DuBois to me
to do something for me specially?

P: Sure.

HMJr: And have him come now to my office?

P: Well, I assume he's in. I'll have him come if
he's in.

HMJr: Well, when would you....

P: I'll try to find out where he -- if he's out, well,
he might be anywhere -- State or....

HMJr: Oh.

P: But he probably is in.

HMJr: Well....

P: If he isn't....

HMJr:if I don't hear from you, I'll expect him.

P: All right.

HMJr: Thank you.

December 2, 1943
2:38 p.m.

HMJr: Hello.

Operator: Go ahead.

HMJr: Ted.

Ted
Gamble: Yes, sir.

HMJr: I sat next to Ernest Lindley at lunch....

G: Yes.

HMJr:and asked him whether he'd be interested
in helping us fight this newspaper advertising.

G: Yes.

HMJr: He said he'd be very glad to and I said that you
would contact him.

G: I certainly shall.

HMJr: Now, he wrote a column through which he criticised
us for making people in this country feel that
when they bought a bond, they were as good as a
soldier in the Solomons.

G: Yes.

HMJr: And I told him to talk to you about that. He thought
we went too far in our copy.

G: Well, he'll like our Fourth War Loan then....

HMJr: And....

G:because we are telling them it isn't a sacrifice.

HMJr: Well, that's what he likes so....

G: Yes.

HMJr:will you contact him?

G: I'll call him immediately, sir.

HMJr: How are you getting along with your lobby?

G: Well, I'm very pleased with everything we have been able to do.

HMJr: Yes.

G: I've been able to get someone to contact every person, Mr. Secretary, excepting Gearhart of California and I just took him on myself.

HMJr: Yes.

G: And -- uh -- he's the only fellow that I've talked to that I didn't get a firm commitment out of.

HMJr: I see.

G: But I got the impression from him that he's in our corner.

HMJr: I see.

G: I think we can beat this in the House Ways and Means Committee.

HMJr: Well, that's the place to beat it.

G: Yes, sir. Well, I think we can do it.

HMJr: Well, I'm glad. I got a little excited this morning.

G: (Laughs) When they hear this statement we have for them, why....

HMJr: Yeah.

G:they all agree that we'd be making a serious mistake not to appear before this Committee and go definitely on record.

HMJr: Well, you also agree with me that this is the way to do it?

G: That's correct.

HMJr: Right.

G: You're 100% right.

HMJr: And it would be terrible to have Paul do it.

G: Well, that is 1000% right. (Laughs)

HMJr: Well, I realize that you've got lots to do.

G: Yes.

HMJr: Anyway, we're on our way.

G: That's correct.

HMJr: Because if we can defeat this, it will be most helpful.

G: Fine. Tomorrow afternoon, late -- not too late, because we're going to Memphis tomorrow afternoon at five o'clock....

HMJr: Yeah.

G:but tomorrow afternoon after these hearings are out of the way, I could show you....

HMJr: Well, my....

G:a good deal of our Fourth War Loan.

HMJr: My boy, I'll be on my way to the farm. I'm leaving on the four o'clock.

G: Well, that's good. We can do it the first of the week because we'll be back Monday, too.

HMJr: Well, I'm going to be gone for a week.

G: Going to be gone for a week?

HMJr: Yeah.

G: If I'd known that, we'd have taken on a couple more of our Regional Meetings.

HMJr: I'll be gone for a week.

G: Well, we can -- maybe we can shift one of them around. Now a good part of our crew, Mr. Secretary, is going to be gone Saturday and Sunday.

HMJr: Yeah.

G: But we're taking the week-end so that we won't miss any time here.

HMJr: All right.

G: But you won't find our shop very well populated on Saturday and Sunday....

HMJr: Well, I....

G:with top people.

HMJr: Oh, I won't be here.

G: All right, sir.

HMJr: Thank you.

G: Good bye.

December 2, 1943
3:45 p.m.

DEFERMENTS

Present: Mr. Thompson
Mr. Gaston
Mr. Wilson

MR. THOMPSON: Here are three plate printers.

H.M.JR: How many?

MR. THOMPSON: Three. Pre-Pearl Harbor.

H.M.JR: (To Wilson) How do you do?

MR. WILSON: Very well, thank you, sir.

H.M.JR: This is a plate printer, Earl T. Ponceti?

MR. THOMPSON: Yes, sir.

H.M.JR: O.K. (The Secretary signed the deferment application of Earl T. Ponceti.)

A regular run on plate printers.

MR. THOMPSON: Well, they have had no deferments heretofore, and they have lost so many they are really in a jam, now.

MR. WILSON: There aren't many left, though, that are within draft age; most of them are over forty-five. So this will pretty nearly clean them up.

MR. GASTON: How many do they have down there?

MR. WILSON: About six hundred.

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H.M.JR: Edward J. Donahue. (The Secretary signs deferment application of Edward J. Donahue.)

Six hundred plate printers? My God! How many hours do they work?

MR. WILSON: Forty-eight.

MR. THOMPSON: No, fifty-four hours. They are on a nine-hour shift.

MR. WILSON: Well, they had two shifts; they may be back on fifty-four now. They were forty-eight.

H.M.JR: I would like to know.

Alfred J. DeBenedictis. (The Secretary signed deferment application of Alfred J. DeBenedictis.)

Do they shut down?

MR. WILSON: They do twenty-three hundred sheets a day and then they quit. That is sort of a union agreement.

MR. THOMPSON: You see, the union dominates.

H.M.JR: Won't let them do more than twenty-three?

MR. THOMPSON: The slowest man is the day's work, according to the union.

H.M.JR: I would like to have William Green in sometime and tell him the facts, and say we want more production.

MR. THOMPSON: Personally, I think they could have more production, but the union won't permit them.

H.M.JR: Do you remember when Green came in one day?

MR. THOMPSON: Yes.

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H.M.JR: Why don't you get the story?

MR. WILSON: Mr. Green will be in soon, I think. We are recommending that their request for wage increases be turned down. I think Mr. Green plans to appeal that to you.

H.M.JR: Why not get me the facts on this production business?

MR. GASTON: They are in the union - the Plate Printers' Union?

MR. WILSON: Yes, twenty-five crafts.

H.M.JR: Here is Harold Mager.

MR. THOMPSON: Ted Gamble talked to me twice today about that, and he asked me to ask if it was your personal desire to keep him. It would be a very serious and definite loss for this next drive. He has been around a little more than a year, and he is pretty sound. He knows departmental policies.

H.M.JR: What is his draft status?

MR. THOMPSON: One-A and about to be called. Ted said he definitely would like to have him.

MR. GASTON: That is the case I hesitated on. We called Norman in to talk about it. It is only on the basis of Ted's plea that he is desperately in need of him that I--

H.M.JR: Why not ask for three months?

MR. THOMPSON: We could ask for three months. The Boards usually give six. Six is the limit under the regulations and they don't like to do less. But we could ask for three. They will probably give six if we ask for three; that is their practice. But if you prefer we will do it on that basis. We have, for others. That would carry us through this drive.

- 4 -

MR. WILSON: I believe that would be better. I had some doubts about that case, myself.

MR. GASTON: We all did. It is the kind of a case that we wouldn't have considered, of course, six months ago, but the situation is somewhat different.

H.M.JR: Let's talk a minute. Supposing they call Fred Smith; he is thirty-five. Of course, physically, I don't think he would pass.

MR. GASTON: I don't know that Harold Mager will pass, either.

H.M.JR: Or let's take Ted Gamble.

MR. THOMPSON: I should think, under present conditions, the changed conditions, knowing there isn't the present need, these flat feet, so to speak - the older men - I think the picture has changed to the point where you are justified in granting deferments. It wouldn't have been the case a year ago.

MR. GASTON: Certainly, if it were a young, active man, fit for battle training, I would say that we shouldn't consider him for a moment, but here is a man thirty-five years old, and he is going to be, certainly, a limited-service man if they take him in--

MR. THOMPSON: That is the way I feel.

MR. GASTON: The question is whether he is more useful as a desk man in the Army for the next six months, or on this job on war Savings.

H.M.JR: I would feel happier about it if it were ninety days.

MR. THOMPSON: Then let's make it ninety days. Write it in for ninety days on the request when we send it in.

(Harold Mager, ninety-day deferment, signed by the Secretary.)

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December 2, 1943
4:44 p.m.

HMJr: Hello.

John L.
Sullivan: Hello, Mr. Secretary.

HMJr: John, I'm sorry I haven't got around after....

S: Well, that's....

HMJr:I asked you to do something.

S: That's perfectly all right. There's nothing pressing about this.

HMJr: What's on your mind?

S: Well, you know, you asked -- sent in that editorial....

HMJr: Yeah.

S:criticizing our forms.

HMJr: Yeah.

S: I've started the machinery in motion and I'm having every form that goes to the public reviewed....

HMJr: Good.

S:from the point of view of warming them up....

HMJr: Yeah.

S:and so on and so forth.

HMJr: Right.

S: The criticism is valid.

HMJr: It is?

S: Have you seen the demand?

HMJr: No.

S: Well, I have one here whenever you want to see it.

HMJr: Well, send one in to Fitz and tell him to let me have it. Will you?

S: Yeah. Well, the one I have is my own. I'll give it to him.

HMJr: Oh. Is anything written on it?

S: Well, it's just what I owe.

HMJr: Oh, then I wouldn't do it.

S: I'll show it to you when I see you.

HMJr: Well, can't you get a copy of one?

S: Yeah, I can get a copy of one.

HMJr: Get a copy of one and send it in tomorrow.

S: Yeah.

HMJr: I don't want to know how much you owe. I might burst out into tears.

S: Well, gosh, I thought if, after you saw it, you might start taking up a collection.

HMJr: Okay.

S: Are you going up tomorrow?

HMJr: Tomorrow night.

S: I see. Well, I'm going up, too.

HMJr: I'll be seeing you in the morning.

S: Righto, sir.

HMJr: Bye.

[Handwritten signature]

MEMORANDUM

December 2, 1943.

TO: The Secretary
FROM: Mr. Sullivan *JHS*

I am attaching Form 1124 which the Collector uses to notify taxpayers of the amount and due date of income tax installment payments. As I told you over the phone I believe this is unnecessarily abrupt. I have asked Commissioner Hannegan to review all forms which are sent to the general public and to attempt to invest them with a more cordial approach.

DEMAND FOR INSTALLMENT OF INCOME AND VICTORY TAX
ESTIMATED ON DECLARATION FOR TAXABLE YEAR
Quarterly Installment Plan

150

A taxpayer may pay the estimated tax for a taxable year in equal installments, the number of which is equal to the number of quarters remaining in the taxable year, beginning the quarter in which the declaration is filed. Penalties are provided in case of failure to pay an installment when due. Demand is made for the installment due on the date indicated.

LAST CREDIT

TOTAL UNPAID BALANCE

This installment must be paid on or before

COLLECTOR'S PAID STAMP

TO INSURE PROPER CREDIT,
return this form with remittance to
Collector of Internal Revenue at

Here is a memorandum you might
want to look on the war movie.
I am enclosing an extra copy for
General G. I think he
would appreciate your interest.

Fred Smith
Room 2504

Mr. Gamble

December 2, 1943

Secretary Morgenthau

I think we ought to plan to have a gala opening for General Greenbaum's war film. We ought to take over a theater in Washington and have high Army and Navy officials and high Government officials in attendance. It ought to be a serious occasion, with a couple of short speeches that would point up the message in this film. The publicity people ought to do a good job on the opening, and ought to distribute stills from the movie to the newspapers. This way we could greatly increase the value of the film, and could make it do double duty by serving as a peg for national publicity, before it is actually distributed through the country.

I think we have a great opportunity, and I think we ought to make the best of it.

initialed "A.M.G." "

Cc: General Greenbaum

FS:gr
12-2-43

TO:

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Secretary Morgenthau

D

War Bonds want another letter
to newspaper publishers for ad-
vertising in the Fourth War Loan.

11

Fred Smith
Room 2904

12-1-43

TO ALL NEWSPAPER PUBLISHERS:

Again in the Fourth War Loan, we are going to depend heavily upon the newspapers, and upon the businesses who sponsor newspaper advertisements, to carry our urgent message to the American people.

As in the past, these industry-sponsored advertisements will again prove the backbone of our promotional campaign.

I hope you will pass this information along to those businesses and industries in your community who can and will help sponsor this vital local newspaper advertising.

The job gets more and more difficult as we increase the amount of money to be raised from individuals. We must reach and convince an increasing number of citizens. We need the help of a good newspaper campaign more now than ever.

Sincerely,

W. H. C. Henry Morgenthau, Jr.

Secretary of the Treasury.

FS:gr
12-1-43



VICE OF STATE CHAIRMAN

TREASURY DEPARTMENT

WAR FINANCE COMMITTEE
536 Union Commerce Building
Cleveland 14, Ohio

December 2, 1943

Hon. Henry Morgenthau, Jr.
Secretary of the Treasury
Washington, D. C.

Dear Henry:

Thank you very much for your very nice letter of December 1.

While I still think that Ted Gamble could have picked a better man and so told him, inasmuch as I seem to be his choice, I can assure you that I will assume this new responsibility and give it my very best efforts.

Be assured that whatever I do, I will always have in mind that I represent the Secretary of the Treasury in this State, and will not let him down.

Sincerely,

A handwritten signature in cursive script, appearing to read "Phil".

PJT:ml



December 1, 1943

Dear Phil:

I was delighted to learn that Ted Gamble wanted to appoint you Chairman of the Ohio War Finance Committee, and I was pleased to concur in his recommendation. I am confident that you will make a great success of your new responsibility.

Sincerely yours,

(Signed) Henry

Mr. Philip Trounstine,
War Finance Committee,
536 Union Commerce Building,
Cleveland, Ohio.

TREASURY DEPARTMENT

157

INTER OFFICE COMMUNICATION

DATE

TO Secretary Morgenthau

December 2, 1945

FROM Fred Smith JS

Charlie Shaeffer is a little unhappy because he discovered that he cannot get a raise for thirty months, and then it will be limited to two hundred dollars.

This is due to the fact that he was raised from \$4,800 to \$5,600 last June. At that time, he reports that you wanted to give him \$6,000, but it could not be done without putting him a grade ahead of Schwarz.

Schwarz received \$6,200.

The only way Shaeffer can get a raise to go with his promotion would be to raise him from grade thirteen to grade fourteen, which begins at \$6,500. — OK. /mm z

For your information, here is a list of salaries paid to men holding down his job in other agencies:

Commerce	\$9,000	Justice	\$8,000
Agriculture	8,250	Labor	7,500
State	8,000	Federal Reserve	12,500

DEC 2. 1943

MEMORANDUM FOR THE PRESIDENT

You may be interested in knowing how we handled the Lazard Freres matter, concerning which I spoke to you some time ago.

An investigation by the Foreign Funds Control disclosed that in the autumn of 1940 remittances totaling \$1,825,000 had been made without license from New York by a Panamanian corporation in which the French partners of Lazard, Paris, had a substantial interest. The remittances were to a Swiss banking firm and the explanation given was that they represented the liquidation of a Swiss interest in the Panamanian corporation. This explanation was not convincing and we took steps with respect to the Swiss firm's accounts in this country calculated to elicit from it the ultimate destination of the funds. At the same time, we advised Lazard, New York, that we were not satisfied with the explanation and informed them of the steps we had taken. Meyer and David-Weill thereupon admitted that there never had been any Swiss interest in the Panamanian corporation and that the remittances were, in fact, transfers of credit by Meyer in New York to David-Weill in Chatel-Guyon, then unoccupied France. The Swiss banking firm was merely an intermediary in effecting the transaction. In fuller explanation of why the remittances were effected, David-Weill and Meyer testified in substance as follows:

Upon the fall of France, Lazard, Paris, moved to Chatel-Guyon. Although the firm was technically in a sound position, a substantial part of its assets was in commercial bills and credits that could be discounted only in the occupied zone. David-Weill, who was then in charge of the office at Chatel-Guyon, felt that Laval, who bore a grudge against Lazard because he believed its partners had opposed him politically, might take action to cause a run on Lazard Freres and force its public failure, thereby accomplishing the dual objective of punishing a political enemy and discrediting "international Jewish bankers." Indeed, depositors were already withdrawing their funds at a rapidly increasing rate.

- 2 -

Consequently, David-Weill communicated with Meyer, who had recently arrived in the United States, and asked that funds be sent to the French firm to enable it to meet its obligations. Deeming it imperative that David-Weill obtain the funds promptly, Meyer arranged to have the \$1,825,000 remitted to David-Weill via Switzerland. David-Weill has testified that he used the proceeds of the remittances solely to meet legitimate business obligations of Lazard, Paris. Information presently available does not establish that Frank Altschul or any other direct partner of Lazard, New York, knew of the remittances.

After full consideration, we decided to permit Lazard, New York, to continue to operate provided that the firm gave adequate guarantees of the truthfulness of David-Weill's explanation as to his use of the \$1,825,000 and that the freezing order would be complied with in the future by the firm and its partners.

Accordingly, on November 10, 1943, Lazard, New York, deposited \$2,000,000 in Government bonds with the Federal Reserve Bank of New York. By the terms of a consent, simultaneously executed by the firm, these bonds may be vested and become the property of the United States if Lazard, or any of its partners, should engage in any material violation of our financial controls or if it should be determined that David-Weill's testimony as to his disposition of the \$1,825,000 is untrue. Thereupon, a license was issued to Lazard authorizing it to admit David-Weill and Meyer as partners.

We have also referred this matter to the Attorney General for such action as may be appropriate.

Wendell Henry Morgenthau, Jr.

Lesser:Ball:Schmidt:cps 11-27-43

TREASURY DEPARTMENT

160

INTER OFFICE COMMUNICATION

DATE December 2, 1943

TO Secretary Morgenthau
FROM Mr. White

The British Treasury, the Army and the Exiled Governments are pressing for a decision on invasion currency problems.

We had postponed final discussions and decision until the terms of the French currency had been settled. But it now looks as though no further official discussions with the French Comite on currency matters are to be permitted to take place for the present. We are preparing plates for a French currency without waiting for final decision.

I don't think we can appropriately postpone a decision with respect to the Dutch, Belgian, and other exiled government currency questions. The British and the U.S. Army and State persist in favoring the use of the local currencies which the Exiled Governments have already prepared. We believe we do not have enough grounds to insist on an Allied Military currency (similar in character to the one used in Italy) in preference to their local currency. I think we ought to go along with them. If you agree with this position there remains one question which must be answered:

1. Shall we ask those Exiled Governments to turn over their currencies to us without our making any commitment as to terms or conditions of repayment,

or

2. Shall we do as the British and U.S. Army prefer that we do: namely commit ourselves now to redeem in dollars in the future such local currency as are used for the payment of troops without saying anything about the remainder of the currency used.

We in the Treasury prefer procedure (1). I have asked Mr. Fitzgerald for an appointment with you if possible before you leave to discuss this matter inasmuch as it is getting embarrassing for the Treasury to delay the decision any further.

FEDERAL RESERVE BANK
OF NEW YORK

December 2, 1943

CONFIDENTIAL

Dear Mr. Secretary: Attention: Mr. H. D. White

I am enclosing our compilation for the week ended
November 24, 1943, showing dollar disbursements out of the
British and French accounts at this bank and the means by
which these expenditures were financed.

Faithfully yours,

/s/ L. W. Knoke

L. W. Knoke,
Vice President.

The Honorable Henry Morgenthau, Jr.,
Secretary of the Treasury,
Washington, D.C.

Enclosure

COPY

TREASURY DEPARTMENT
OFFICE OF THE SECRETARY

December 3, 1943

CONFIDENTIAL

Received this date from the Federal Reserve Bank of New York, for the confidential information of the Secretary of the Treasury, compilation for the week ended November 24, 1943, showing dollar disbursements out of the British Empire and French accounts at the Federal Reserve Bank of New York and the means by which these expenditures were financed.

AMB

ANALYSIS OF BRITISH AND FRENCH ACCOUNTS
(In Millions of Dollars)

Week Ended November 24, 1943 Strictly Confidential

PERIOD	BANK OF ENGLAND (BRITISH GOVERNMENT)								BANK OF FRANCE				
	DEBITS				CREDITS				Net Incr (+) or Decr. (-) in \$ Funds (d)	Total Debits (e)	Total Credits (e)	Net Incr. (+) or Decr. (-) in \$ Funds (d)	
	Total Debits	Gov't Expendi- tures (a)	Transfers to Official Canadian Account	Other Debits	Total Credits	Proceeds of Sales of Gold	Securities (Official) (b)	Transfers from Official Australian Account					Other Credits (c)
First year of war (a) War period through December, 1940	1,793.2	605.6	20.9	1,166.7	1,828.2	1,356.1	52.0	3.9	416.2	+ 35.0	866.3(f)	1,095.3(f)	+299.0
Second year of war (b) Third year of war (1)	2,782.3	1,425.6	20.9	1,335.8	2,793.1	2,109.5	108.0	14.5	561.1	+ 10.8	878.3	1,098.4	+220.1
Fourth year of war (j)	2,308.0	1,792.2	3.4	1,071.4	2,189.8	1,193.7	274.0	16.7	705.4	- 13.2	38.9	8.8	- 30.1
1943	1,235.6	904.8	7.7	223.1	1,361.5	21.8	5.5	57.4	1,276.8	+ 125.9	18.5	4.4	- 14.1
Sept. 2 - Sept. 29	764.0	312.7	170.4	280.9	1,072.3	-	0.5	155.1	916.7	+ 308.3	10.3	1.0	- 9.3
Sept. 2 - Sept. 29	46.3	15.5	10.6	20.2	78.1	-	-	14.0	64.1	+ 31.8	-	-	-
Sept. 30 - Nov. 3	59.5	35.3	0.1	24.1	128.4	"	"	41.5	86.9	+ 68.9	"	"	"
Nov. 4 - Dec. 1													
Dec. 2 - Dec. 29													
Week Ended:													
November 3	21.2	19.9	0.1	1.2	29.2	"	"	17.5	11.7	+ 8.0	-	-	-
November 10	24.5	12.7	5.7	6.1	26.5	"	"	"	26.5	+ 2.0	-	-	-
November 17	12.6	7.4	"	5.2	21.9	"	"	"	21.9	+ 9.3	"	"	"
November 24	6.4	2.9	0.1	3.4	26.5	"	"	2.0	24.5(N)	+ 20.1	"	"	"

See attached sheet for footnotes.

Break of War
\$3.6 million
\$27.6 million
England (June 20, 1940 to March 12, 1941) \$54.9 million
England (since March 12, 1941) \$20.6 million

- (a) Includes payments for account of British Ministry of Supply Mission, British Supply Board, Ministry of Supply Timber Control, and Ministry of Shipping.
- (b) Estimated figures based on transfers from the New York Agency of the Bank of Montreal, which apparently represent the proceeds of official British sales of American securities, including those effected through direct negotiation. In addition to the official selling, substantial liquidation of securities for private British account occurred, particularly during the early months of the war, although the receipt of the proceeds at this Bank cannot be identified with any accuracy. According to data supplied by the British Treasury and released by Secretary Morgenthau, total official and private British liquidation of our securities through December, 1940 amounted to \$334 million.
- (c) Includes about \$85 million received during October, 1939 from the accounts of British authorized banks with New York banks, presumably reflecting the requisitioning of private dollar balances. Other large transfers from such accounts since October, 1939 apparently represent current acquisitions of proceeds of exports from the sterling area and other accruing dollar receipts. See (k) below.
- (d) Reflects net change in all dollar holdings payable on demand or maturing in one year.
- (e) For breakdown by types of debits and credits see tabulations prior to March 10, 1943.
- (f) Adjusted to eliminate the effect of \$20 million paid out on June 26, 1940 and returned the following day.
- (g) For monthly breakdown see tabulations prior to April 23, 1941.
- (h) For monthly breakdown see tabulations prior to October 8, 1941.
- (i) For monthly breakdown see tabulations prior to October 14, 1942.
- (j) For monthly breakdown see tabulations prior to September 29, 1943.
- (k) Includes \$ 5.2 million apparently representing current and accumulated dollar proceeds of sterling area services and merchandise exports, \$15.0 million to be held for credit of U. S. armed forces abroad, and \$2.2 million transferred from the Reserve Bank of New Zealand at this bank.

ANALYSIS OF CANADIAN AND AUSTRALIAN ACCOUNTS
(In Millions of Dollars)

Week Ended November 24, 1943

Strictly
Confidential

PERIOD	BANK OF CANADA (and Canadian Government)								COMMONWEALTH BANK OF AUSTRALIA (and Australian Government)							
	DEBITS			CREDITS					DEBITS			CREDITS				
	Total Debits	Transfers to Official British A/C	Others Debits	Total Credits	Proceeds of Gold Sales	Transfers from Official British A/C		Other Credits	Net Incr. (+) or Decr. (-) in \$Rnds (a)	Total Debits	Transfers to Official British A/C	Other Debits	Total Credits	Proceeds of Gold Sales	Other Credits	Net Incr. (+) or Decr. (-) in \$Rnds (e)
First year of war (a)	323.0	16.6	306.4	504.7	412.7	20.9	38.7	32.4	+ 181.7	31.2	3.9	27.3	36.1	30.0	6.1	+ 4.9
War period through December, 1940	477.2	16.6	460.6	707.4	534.8	20.9	110.7	41.0	+ 230.2	57.9	14.5	43.4	62.4	50.1	12.3	+ 4.5
Second year of war (b)	460.4	-	460.4	462.0	246.2	3.4	123.9	88.5	+ 1.6	72.2	16.7	55.5	81.2	62.9	18.3	+ 9.0
Third year of war (c)	525.8	0.3	525.5	566.3	198.6	7.7	-	360.0	+ 40.5	107.2	57.4	49.8	112.2	17.2	95.0	+ 5.0
Fourth year of war (d)	723.6	-	723.6	958.8	47.1	170.4	-	741.3	+ 235.2	197.0	155.1	41.9	200.4	-	200.4	+ 3.4
1943																
Sept. 2 - Sept. 29	46.4	-	46.4	65.1	-	10.6	-	54.5	+ 18.7	15.8	14.0	1.8	4.8	-	4.8	- 11.0
Sept. 30 - Nov. 3	31.5	-	31.5	83.9	-	0.1	-	83.8	+ 52.4	44.9	41.5	3.4	41.7	-	41.7	- 3.2
Nov. 4 - Dec. 1																
Dec. 2 - Dec. 29																
Week Ended:																
November 3	7.2	-	7.2	16.8	-	0.1	-	16.7	+ 9.6	19.5	17.5	2.0	0.7	-	0.7	- 18.8
November 10	5.0	-	5.0	47.2	-	5.7	-	41.5	+ 42.2	0.1	-	0.1	1.0	-	1.0	+ 0.9
November 17	2.9	0.1	2.8	16.1	-	-	-	16.1	+ 13.2	1.0	-	1.0	0.9	-	0.9	- 0.1
November 24	4.9(f)	-	4.9	13.8(g)	-	0.1	-	13.7(h)	+ 8.9	2.0	2.0	-	0.4	-	0.4	+ 1.6

Monthly Deposits for

Third year of war 13.9 million.
Fourth year of war 13.9 million.
Fifth year of war (through November 24, 1943) 7.6 million.

6.2 million.
8.9 million.
10.1 million.
13.9 million.
7.6 million.

- (a) For monthly breakdown see tabulations prior to April 23, 1941.
- (b) For monthly breakdown see tabulations prior to October 8, 1941.
- (c) For monthly breakdown see tabulations prior to October 14, 1942.
- (d) For monthly breakdown see tabulations prior to September 29, 1943.
- (e) Reflects change in net deposits in one year.
- (f) Does not reflect deposits of \$4.9 million deposited in one year.
- (g) Includes \$ 4.9 million deposited in one year and 47.6 million received from New York accounts of Canadian War

MISSION MILITAIRE FRANÇAISE
AUX ETATS-UNIS
WASHINGTON 9. D. C.

TELEPHONE DECATUR 7935
1759 R STREET

December 2nd, 1943.

Dear Mr. Morgenthau:-

Following our conversation of yesterday,
I send you herewith a memorandum on our planes and armaments
purchases in the United States of America in 1939-40.

I trust that my recollections are correct
although I ~~must~~^{might} have mixed up some dates. As I told you I kept
a diary at the time which is in a safe place in France and which
gives a more detailed account of the facts.

I take this opportunity to thank you once
more for the help you gave us in those critical days; you were
so kind to me then that I really thought that I was one of the
family.

Yours very sincerely,

Paul Ferry, Franklin

Mr. Henry Morgenthau, Jr.,
Secretary,
Treasury Department.

11 December 2nd / 1945. 167

FRENCH PURCHASES OF PLANES AND ARMAMENTS IN
THE UNITED STATES IN 1939-40.

On the 26th of August 1939, Mr. Paul Reynaud, French Finance Minister, called me to Paris from the country and told me that I had to leave at once by plane for Washington, as war was unavoidable. Mr. Bullitt, the American Ambassador to France managed to find a seat for me on the clipper which was leaving Marseilles the next day. Bad weather delayed us three days in Lisbonne and we arrived in New York on the 1st of September, the day Germany invaded Poland. I flew immediately to Washington, and went to see the Secretary of the Treasury, Mr. Henry Morgenthau, Jr. I told the Secretary that the French Government had instructed me and Colonel Jacquin, head of the Air Mission, to purchase all the planes and engines that could be found on the market, and that we were willing to finance the expansion of planes and engine plants whenever necessary. As the Neutrality Act which prohibited all sales of war material from the United States to the belligerent countries was still in force, I asked the Secretary whether he thought that we could nevertheless place our contracts. He told me to go ahead and to handle things as quickly as possible.

At the end of September, we had already contacted United Aircraft Corporation, Curtiss-Wright, Douglas and Glen Martin for the purchase of over two thousand planes and five thousand engines. These firms asked down payment of 25 to 60% of the amount involved to buy the raw materials and expand their plants. At the beginning of October, I got a cable from the French Treasury expressing their anxiety to pay cash such large sums of money when we were not sure to get the delivery

of the goods as the repeal of the Arm's Embargo was still doubtful. I answered that I was convinced that the Act would be repealed.

At the same time, I received the visit of my colleague, Mr. Pinsent, Financial Adviser to the British Embassy who told me that the British Ambassador Lord Lothian was worried that we should go on placing contracts for airplanes before the repeal of the Arm's Embargo. Lord Lothian feared that Congress might hear of our doings and that the Administration might be accused of complicity in the violation of the Neutrality Act, and that the repeal of the said Act could then be jeopardized.

I told my colleague that we were in dire need of planes, and that we could not wait until the Act was repealed. A delay of two or three months in the delivery of the planes might change the fate of the war. Mr. Pinsent insisted so much that I thought proper to talk the matter over with the Secretary of the Treasury. I saw Mr. Morgenthau on the 6th of October. He told me that he thought we were acting very smartly, and added that he would talk to the President about the question, and asked me to see him on the next day. When I went in his office the following day he looked in very high spirits and told me: "You have the green lights. You can go on placing your contracts." Mr. Morgenthau said that if I had any trouble whatsoever I should come and see him, and he insisted that I should do so every week on Wednesday morning, because he lunched usually with the President on that day, and could thus bring matters to his attention without loss of time. Mr. Morgenthau added that as the Press Representatives were always around I should take his private elevator and get into his office through his secretary's entrance. I

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did so during the whole months of October and November and found always the Secretary most helpful and kind.

During the second week of October, we were instructed from Paris to try and get some searchlights and anti-aircraft guns from the American Army. The French General Staff were greatly impressed by the appalling damages brought to Warsaw and other Polish cities through air bombardments and they feared that the Germans might start bombing the French cities during the winter. I went to Mr. Morgenthau, and insisted upon the fact that we needed those searchlights and anti-aircraft guns to protect our civilian populations. He was extremely impressed by our request and told me that he would take the matter in hand with the President during the weekend, as he was going to Hyde Park. "We shall need the President" - he told me - "as most of the fellows in the War Department have not yet understood that you are fighting our war." On the following Sunday morning, I received a call from Mr. Morgenthau's secretary asking me to come to his office in the Treasury Department. When I arrived there I was told that Mr. Morgenthau would talk to me on his private line from Hyde Park. Mr. Morgenthau called and said in a very cheerful voice that everything was o.k.'ed and that we would have the searchlights and the anti-aircraft guns.

In December 1940, after the repeal of the Neutrality Act, the French Purchasing Mission was reorganised. An Anglo-French Supply Board was set up in London under the chairmanship of Mr. Jean Monnet, the American Branch of the Board was headed by Mr. Purvis for the British and Bloch Leine for the French. The American administration

- 4 -

set up a Committee to deal with the Allies on purchasing problems, and our contacts with Mr. Morgenthau became less frequent.

In June 1940, after the French Government had called for an armistice the British asked us to turn them over all our armaments and airplane contracts in the United States, the total value of which exceeded 1100 million dollars. We were then completely cut off from France as the Government kept moving from one town to another while the Germans advanced. Mr. Bloch Laine, Colonel Jacquin and myself held a meeting during the night of the 16th of June and we decided to accept the British proposal and to turn them over all our contracts. I worked on the financial clauses of the agreement on the 17th. It was most important from a legal point of view that the agreement should be signed before the Armistice had been formally concluded and while we had still the power to act as representatives of the French government.

To make things easier for the British we agreed that we would not claim the reimbursement of the down payments we had made to the American firms which exceeded 400 million dollars until the goods were delivered to the British.

On the 18th of June a meeting took place in Mr. Morgenthau's office between the British and French representatives and many officials of the Treasury Department including Mr. Harry White and Mr. L. Bernstein. Mr. Morgenthau who strongly favoured the deal, asked whether everything was settled. He looked very pleased when he heard that the agreement was signed.

Thus the British eventually benefited of the planes which we had ordered with the Administration's approval before the repeal of the Neutrality Act. Several hundred of these planes took part in the

Battle of Britain during the autumn of 1940.

Paul Leroy-Beaulieu,
Financial Attaché to the French Embassy in USA
~~Government~~
1937-1940.

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE Dec. 2, 1945

TO Secretary Morgenthau

FROM Mr. White *JDW*

Subject: Treasury representative in China.

1. The State Department has raised informally the question of the desirability of appointing Adler to the post of Financial Attache to the Embassy in China. State says that this suggestion came from the Embassy itself and that the reason for this suggestion is that appointment to this post would give Adler diplomatic status.
2. As Financial Attache, Adler would be on the payroll of the Treasury, but it is uncertain whether he would be able to preserve his independence as a representative of the Secretary of the Treasury.
3. We had planned to appoint Adler as Treasury representative in China, making it clear that he was the representative of the Secretary of the Treasury, subject to his instructions, reporting to him, appointed and subject to removal by him. We had also planned to request diplomatic status for him.
4. Mr. Bell and the members of the Legal Division agree that we ought to strive to make Adler a Treasury representative with diplomatic status.
5. If you approve, we would like to insist on Adler's being made a Treasury representative with diplomatic status.

PARAPHRASE OF TELEGRAM SENT

FROM: Secretary of State, Washington
TO: American Embassy, Chungking
DATED: December 2, 1943, 1 p.m.
NUMBER: 1731

FOR ADLER FROM THE SECRETARY OF THE TREASURY

1. Treasury has been informed by Ambassador Wei that prices in China are no longer rising and in fact have begun to decline because of gold sales.

2. Please send Treasury views and comments on this matter.

NOT TO BE RE-TRANSMITTEDU.S. SECRETCOPY NO. 12BRITISH MOST SECRETOPTEL No. 394

Information received up to 10 A.M. 2nd December, 1943.

1. NAVAL

Aircraft from one of H.M. Escort Carriers shot down a Focke Wolf near an outward convoy in South West approached yesterday. Two of H.M. Destroyers and a Motor Gun Boat carried out a diversionary bombardment as part of a feint landing on the Adriatic coast on 28th/29th in conjunction with 8th Army attack. Allied patrol craft intercepted 5 E-Boats minelaying off CORSICA on 29th/30th. During a brief encounter some E-Boats were damaged also 1 Allied patrol craft.

2. MILITARY

Italy to Noon 1st. 8th Army. 30th further advance beyond FOSSACCELIA and capture of a village a mile North West of that place. No confirmation of reported capture of LANCIANO, CASALFRANCO and CASOLI. Germans have been unable to stop our advance in spite of determined counter attacks, they have suffered heavy casualties and have been forced to abandon many guns and much transport and equipment; about 1,000 prisoners taken so far.

3. AIR OPERATIONS

Western Front 1st. Total of 282 escorted Fortresses and Liberators out of 302 despatched attacked SOLINGEN dropping 694 tons with unobserved results. 176 escorts Marauders dropped 226 tons on 3 Airfields in NORTHERN FRANCE with fair results. Mitchells dropped 34 tons on an Aero-Engine works near ALBERT. Enemy casualties reported 29:17:14 for loss of 19 fortresses, 6 Liberators and 13 Fighter-Bombers and Fighters. 4 Mosquitoes destroyed 3 Ju 88 over BAY OF BISCAY; 1 Mosquito missing.

1st/2nd. 31 aircraft sent sea-mining; 2 missing, 1 crashed. 4 enemy aircraft sent over South East ENGLAND, 2 penetrating LONDON Area.

Italy 30th. Liberators dropped 24 tons on FIORE. Marauders dropped 44 tons on railways north and North West of ROME. 102 Light Bombers and 296 Fighters operated over the battle area.

4. HOME SECURITY

1st/2nd. Anti-aircraft shells caused 2 fatal casualties in LONDON Area. 1 of our aircraft crashed on a farm house in NORTHUMBRIA killing 5 persons.

December 3, 1943
9:42 a.m.

HMJr: Hello.

Operator: Congressman Doughton.

HMJr: Hello.

Robert Doughton: All right.

HMJr: Henry talking.

D: All right.

HMJr: Henry talking.

D: All right, Henry. How are you?

HMJr: Fine. How are you?

D: I didn't think you'd speak to me any more. I hadn't heard from you in about a month and a half. I didn't know what got the matter.

HMJr: Well -- (Laughs)

D: You came back from Australia and had never shown me the courtesy of calling me up or anything.

HMJr: Oh, I thought -- haven't I talked to you since I'm back?

D: Positively no -- not a word.

HMJr: Well....

D: Paul -- he -- Paul -- he -- it was his opinion, I reckon because I can't exactly agree with you in tax matters, you think I'm an outlaw.

HMJr: (Laughs) Well, there -- you've got a telephone, too, you know.

D: How's that?

HMJr: I might say you hadn't called me about anything.

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- D: That's true, but I didn't -- you weren't handling anything for us and we were trying to handle a matter in which you were interested. I -- well, that's all right. I don't take any exception to it. I know that -- I was just a little surprised that I hadn't heard from you anyway about anything connected with our work, but that's perfectly all right.
- HMJr: Uh.
- D: What did you have on your mind, Henry?
- HMJr: Well, it's about this 15 million subsidy to newspapers.
- D: Yeah. Yeah. They're all here in great array this morning. One of my best friends and a publisher right in my home county and adjoining county's here heading a committee that's working on it.
- HMJr: Well, which way is he for?
- D: Oh, he's -- oh, he's overwhelmingly for it, of course. Then there's a lady here that runs a big newspaper down there in Morrison's District -- uh -- I think she's connected with the National -- uh -- not National Administration -- the Democratic organization.
- HMJr: Well, I just wanted to go on record with you personally. I'm 100% opposed to it.
- D: Well, are you coming down?
- HMJr: No, but Ted Gamble will be there to represent me.
- D: Well, I had the -- I had Greer to call you up -- the Treasury, and see if they wanted to be heard.
- HMJr: Well, Gamble will be up there.
- D: Yeah.
- HMJr: But, personally, I'd rather give the money to the starving Chinese. I think it would do more good. And....

D: Well, it's one of those very embarrassing things with me.

HMJr: And....

D: Now, I -- I feel -- as a general proposition, I feel like you feel about it. I -- it's a misfortune it was brought up, I think.

HMJr: Well, if....

D: Looks like selfishness to me.

HMJr: Sure. You and I are interested in economy and this is just throwing \$15 million away.

D: How's that?

HMJr: You, who are so interested in economy....

D: Yes.

HMJr:I say, this is just throwing \$15 million away.

D: Well, yes, that's -- there's no question about that -- ain't no question about it.

HMJr: Well, I just wanted to register with you personally, that I'm absolutely opposed to it and we don't need it.

D: I think there's a letter down here, something that you sent some time ago. Do you want that to go in the record?

HMJr: Yeah, but there's a more important letter which I sent up to you this morning which I....

D: Will it be for the record?

HMJr: Yes -- which I sent to Harry Byrd as Chairman of the Economy Committee.

D: I see.

HMJr: And I told him to be sure and get a copy in your hands.

D: Well, I'll be very glad to offer it for the record.

HMJr: Yeah -- a letter which I wrote to Harry Byrd yesterday.

D: Yeah. I think -- I think I'll have -- if it comes to me, I think I'll have the clerk to read it off for the record.

HMJr: Will you do that?

D: I will.

HMJr: Harry Byrd promised to send you a copy yesterday.

D: Well, we haven't got it.

HMJr: Well, anyway....

D: I'll -- now, Mr. Greer, the clerk of our Committee, may have it.

HMJr: Well....

D: At least he hasn't called it to my attention if he has.

HMJr: All right.

D: I'll get in -- how are you feeling, Henry?

HMJr: I'm feeling fine. How are you?

D: Oh, excellent. All right.

HMJr: Okay.

D: A little low in spirit, but I'm fine in body.

HMJr: All right.

D: Be in -- over to see you someday.

HMJr: I'd like to see you.

D: Thank you. Good bye.

179
December 3, 1943
12:33 p.m.

Operator: She's coming right on.

Miss
Hackmeister: Hello.

HMJr: Miss Hackmeister?

H: Yes, Mr. Secretary. How are you?

HMJr: Good afternoon.

H: Very well, thank you.

HMJr: Mr. Stimson wants me to call him through the
White House. Can you do that?

H: Yes, indeed. I'll connect you right up.

HMJr: I'll hang on.

H: Yes, indeed. Thank you.

(Pause)

Henry
Stimson: Hello.

HMJr: Henry speaking.

S: Well, Henry....

HMJr: Yes.

S: I have not been able to settle my case that I --
so that I could talk very intelligently with
you on that matter.

HMJr: I see.

S: But I am considering several people.

HMJr: Uh huh.

S: And I did want to ask you about them before I
took my final decision.

HMJr: Yes.

S: The -- uh -- I was thinking of one -- a man that has been very highly recommended and I think would come. That's Allan Sproul. You know him, of course?

HMJr: Yes. Well, his name was suggested to us some time ago and we felt that he ought to stay and run the Federal Reserve Bank of New York.

S: Well, I hadn't heard that but I hope you'll release him if he does find -- if he does -- is willing to come.

HMJr: Well, Mr. Bell was contacted, I think, by Mr. Harrison and he told him that.

S: Oh, I didn't -- when was -- that must have been recently because....

HMJr: Last week some time. Bell told him that -- I know Bell told somebody. It was either to Harrison or Hilldring, one or the other, that he felt that Sproul, as a fiscal agent for us in New York, was doing far too important work to be released.

S: Well, won't you reconsider that?

HMJr: Well, of course, you've changed -- the War Department has changed its tactics, evidently, because heretofore they have asked us to make suggestions to them and that was when McCloy was handling it, but I gather, now, that you want to pick the people and then just have me....

S: Well, I did want -- you're putting it a little bit more, perhaps, bristly than I would.

HMJr: Well, I don't mean to be bristly -- I mean -- you and I always -- I mean I'm trying to be factual. I mean....

S: Yes.

HMJr:the situation evident....

S: Oh, I didn't know that was the different way.

- 3 -

HMJr: Oh, quite different. And it's since Har....

S: Well, frankly -- I mean, frankly, the trouble was that I understood that Mr. Foley was -- yours -- was the suggestion.

HMJr: Not by me.

S: Well....

HMJr: Not by me.

S: I....

HMJr: I never suggested Mr. Foley.

S: And I....

HMJr: As a matter of fact, I have never suggested anybody. My record is 100%. I have yet to make a suggestion for England. The only suggestion that I made for England was for a different position, and I did suggest, for the head planner over there, General Greenbaum.

S: Well, the trouble is with Greenbaum, he's....

HMJr: Yeah.

S:he is so important to Judge Patterson....

HMJr: Yeah.

S:that I can't cripple him by taking him.

HMJr: But, Harry, please get this thing -- the record absolutely straight, for the financial position in London I have recommended nobody.

S: Well, all right, then that eases up that situation. I -- I spoke frankly because I....

HMJr: Yeah.

S:understood that was it and I....

HMJr: No.

S:thought I could be frank with you.

HMJr: Yes, but the thing that I did -- the way that McCloy has been working with me up to now, he has -- and Hilldring -- have been asking us to make recommendations. Now, it seems, that the situation has reversed and it's wholly within your right to proceed any way that you want to. Well, I just want to -- uh -- just....

S: Well, I'd be very glad of any suggestions you want to make other than that one.

HMJr: But I want to....

S: I said, and the reason was simply -- not -- nothing against Foley himself.

HMJr: Yeah.

S: But I wanted to have someone....

HMJr: Yeah.

S:that was not connected with any other Department....

HMJr: Well....

S:principally. I thought -- I thought one from outside would be probably better.

HMJr: Well, Mr. Sproul gets three-quarters of his revenue from the Treasury and is the fiscal agent for the Treasury and 75%, or more, of his work is for the Treasury.

S: Yes.

HMJr: So, if you want somebody that hasn't a Treasury....

S: Well....

HMJr:taint....

S: Well, he wouldn't be -- wouldn't be....

HMJr: If he hasn't got....

S: He wouldn't be relieved, I take it.

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HMJr: Well, Mr. Foley was relieved when he went to the War Department over a year ago....

S: Yes.

HMJr:when he went to work for you.

S: Yes.

HMJr: So -- but Mr. Sproul is definitely, there, doing -- at least three-quarters of his time....

S: Well, a Federal Reserve Bank is a quasi-independent organization.

HMJr: Uh....

S: Although, I didn't....

HMJr: Well, of course....

S:consider it that way.

HMJr: Well, anyway....

S: If you have any other suggestions, I'd be glad to get them. I am taking your suggestion in regard to Jay Crane.

HMJr: What is -- what is my suggestion?

S: That you thought he might be disqualified.

HMJr: Oh, on account of his....

S: Yeah.

HMJr:Standard Oil connection?

S: Yes.

HMJr: You see, Harry, the way it's going now, it puts me in a very uncomfortable position. If you and Harrison are going to put up a lot of people and I have to knock them down. And I've got to work with these people. Now, Harrison, I'm confident, spoke to -- approached the President of the First National Bank -- uh -- Leon Frazier, and different people like that and I don't want to

HMJr:
Cont'd

get in -- I've got to sell bonds to these people and I don't want to get it all through the street that we're....

S: Well, perhaps, we'd better not -- better not bother you.

HMJr: Perhaps, you'd better not what?

S: Bother you.

HMJr: That's wholly up to you.

S: I don't want to appoint someone who is persona non gratis with you.

HMJr: Well, I personally feel that this is a very, very important position.

S: Yes.

HMJr: And I told Jack McCloy this, as far back as sometime in August, that if they were going to go ahead and appoint a strictly Wall Street man, with no governmental experience, and no technical training....

S: I have suggested one who is a little different from that.

HMJr: All right -- but may I finish?

S: Sproul.

HMJr: Yeah, but I'd like to finish and say what I said to McCloy -- that I would reserve the right to protest to the President on it, because I have felt that all of this maneuvering that has been going on as to who should be the header for England -- uh -- I'm sorry to say this, but I think that there's something else than just getting somebody to do a good job for the War Department. And you might just as well know it.

S: Oh, well, now that -- I -- if you're going to put it that way, I can't help you. I mean, I don't....

HMJr: Uh....

S: You evidently -- I don't think that's quite fair.

HMJr: Well, this has been going on now for over four months, at least, and....

S: Who do you mean? Who -- who are you making the charges against?

HMJr: I'm not making any charges.

S: That's what it seems to be.

HMJr: And I'm not making any charges, but this is a very simple thing.

S: Well, you've considered an expert when you said Wall Street men.

HMJr: Well, I mean the people that have been suggested....

S: You've got to get people -- I mean....

HMJr: Well, I'll get down -- the suggestion of Wolff -- I don't know what happened to it but Mr. Wolff, the Vice President of the National City Bank is a perfectly respectable citizen but I don't think in this very important position where the finances of Europe are going to be settled, that his training fits him for that job. I don't know.

S: Well, that's why -- I am quite alive to reasons like that....

HMJr: Yeah.

S: Perhaps that's one reason why my first choice was Sproul.

HMJr: I don't know whether Wolff was subsequently appointed or not. I have never been told.

S: Who?

HMJr: Wolff.

S: He hasn't been under my thumb at all.

HMJr: And then I made what I thought was a reasonable

HMJr:
Cont'd.

request that if there were any cables from General Devere asking for anybody or suggesting anybody, that I be given the benefit, at least, of....

S: He's made no suggestion that's under consideration. I'd be glad to show them to you.

HMJr: Well, I'd be glad to see them.

S: Well, they -- I know -- but they haven't -- he hasn't made any.

HMJr: Hasn't made any suggestions?

S: No.

HMJr: Well....

S: So I am informed.

HMJr: I see. Well, as I say, the fact that we dis....

S: When you spoke to me the other day, I asked....

HMJr: Yeah.

S:about them.

HMJr: Well, -- you are now recommending Sproul. Is that right?

~~HMJr:~~ S: Very strongly. Well, I am if I can -- he still has -- this is confidential between you and me -- he is still confirming it with one of his family in regard to whether he could come or not.

HMJr: Well, it would -- as I say -- I....

S: Although, he hasn't seen me and I haven't committed myself.

HMJr: Yeah.

S: But I tell you that he is the best man, in my opinion, that has been put before me.

HMJr: Yeah. Well....

S: I knew his brother.

HMJr: Yeah.

S: I think -- I am told that he's a man rather better than his brother.

HMJr: Well, I'd like to have a chance at thinking it over and I can't understand that while Sproul was considering it, that he hasn't called us up to talk to us about it. It seems....

S: Well, perhaps....

HMJr: It seems unbelievable.

S: Well, don't tackle him in that way because he's been only -- he was -- he was looking up certain things to see whether he could do it in his own personal affiliations.

HMJr: Does he put on a uniform when he goes over?

S: I don't know yet. I don't know whether it will be necessary -- my own impulse would be against it.

HMJr: I suppose he could get a leave of absence. Is that the idea?

S: Yes. Yes, I think not. My own impression was that it was not at all.

HMJr: Well, so that you say -- I wondered....

S: I hadn't considered that fact yet.

HMJr: Well....

S: My own -- I'm trying to keep everybody that I can out of uniform.

HMJr: Out of uniform?

S: Yes.

HMJr: Well, you'd....

S: Because I....

HMJr: You're not -- if you don't mind my saying it -- you're not very consistent.

S: What?

HMJr: You're not very consistent because....

S: I know I'm not consistent but it's not been my fault.

HMJr: But when the President wrote you and you wrote me about sending men to sell bonds....

S: Who?

HMJr:right to sell bonds over there, you said that the place was cluttered up with civilians. You didn't want any more of them.

S: No, they are cluttered up with civilians in uniform.

HMJr: Well -- yeah -- but the suggestion, I think, the President made, was to send a civilian over to assist the Army to sell bonds, and....

S: What?

HMJr: To assist the Army to sell bonds.

S: Oh. Well, that's -- oh.

HMJr: And you wrote me back....

S: That was on the war front with the troops. The position I am talking to you about is in London.

HMJr: Yeah. I know.

S: It's a wholly different situation.

HMJr: Yeah.

S: You must understand that.

HMJr: Yeah. Well....

S: I don't want civilians at the front.

HMJr: Yeah.

S: I kept away myself when I was over there.

HMJr: Yeah. Well, all I can say is this: that the way I've been handled on this thing -- the whole London thing -- leaves me in a very unhappy frame of mind. And I don't think that the War Department has treated me right on this thing.

S: Well, I'm very sorry about that.

HMJr: Yeah.

S: Particularly as it comes in when I have been trying to fill gaps caused by absences.

HMJr: Yeah. I don't think I've been treated at all right on the thing.

S: Well, I'm sorry.

HMJr: And....

S: Because, if so, it's been my fault.

HMJr: Well, I don't know. It's been, as I say, between McCloy and myself.

S: It's what?

HMJr: It's been between McCloy and myself up to now.

S: That you haven't been treated right?

HMJr: Well, I mean, this -- no -- this whole -- this whole thing -- I mean, the thing could have been settled in one day about last July or August. And I never understood why it wasn't.

S: In regard to this position I am talking to you about now?

HMJr: Yes, sir. In regard to this position. This has been....

S: Why, it wasn't in existence then.

HMJr: Oh, I beg your pardon. McCloy....

S: It may have been contemplated. Yes.

HMJr: Well, McCloy had taken it up with me sometime -- I know in September once, and I know he took it up once or twice previous to that. I think it goes back as far as July. But anyway, let me think the thing over.

S: Well, all right. But I hope you will think of it favorably.

HMJr: Well....

S: All right. Good bye.

STATEMENT BEFORE
HOUSE APPROPRIATIONS COMMITTEE.
Dec. 3, 1943.

Mr. Chairman:

I am pleased to have this opportunity of appearing before your Committee for the purpose of discussing the Treasury Department's appropriation requirements for the fiscal year 1945.

The estimates now before you have been prepared by the Department and approved by the Bureau of the Budget on the assumption that the War will continue throughout the next fiscal year. With the winning of the War as our objective, we have sought, at the President's direction, to eliminate any expenditure, however desirable and essential during days of peace, that might be dispensed with during the present emergency.

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Since the Treasury is essentially a service agency, subject to the requirements of practically the entire Federal establishment in such operations as raising funds, accounting, procurement, disbursement, and the clearance of checks, we obviously have not found it possible to curtail any of our principal functions. We have, in fact, found it necessary in some instances to expand our activities. As I have pointed out upon several occasions in recent years, the War-time increase in the operations of other departments and agencies is immediately reflected in the volume of disbursing, procurement, accounting, and other services which the Treasury is required to render.

- 3 -

In addition to these, the Treasury is called upon to perform other major tasks, such as collecting the internal revenue and the sale, issue and retirement of bonds. The scope and volume of these operations have increased tremendously during the past year, and will reflect even greater increases during the months that lie ahead. Under these circumstances, therefore, the Treasury has been compelled in some instances to request increased appropriations for the next fiscal year as compared with the funds currently available.

Before discussing the additional funds required in 1945, I should like to call the Committee's attention to certain economies and savings which the Treasury has been able to accomplish in recent months in connection with its operating functions.

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When we consider the magnitude of some of these operations, as, for example, the volume of work involved in the issue and retirement of War Bonds, or in the examination and clearance of millions of paid Government checks, it will be realized how necessary it is that these tasks be performed at the lowest possible unit cost consistent with full protection of the Government's interest. We cannot afford, of course, to take "short-cuts" that might later prove ill-advised, but we clearly recognize, on the other hand, our responsibility for keeping operating costs to the absolute minimum level.

I should like to refer to just a few of the more significant items of savings which we have been able to accomplish in recent months.

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Let me explain, however, that in most instances the volume of work involved in these operations is continually increasing, and as a result these savings have not in every case had the effect of actually reducing our net requirements for 1945 as compared with the current year's appropriations. But they have nevertheless made it possible for us to reduce by millions of dollars the funds that we would otherwise have had to ask you to appropriate.

In the Bureau of the Public Debt, shipment of War Savings Bonds by ordinary mail instead of registered mail has resulted in a reduction of Treasury appropriations estimated at \$4 million a year.

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This Bureau has made certain changes in administrative procedure, eliminated duplication, provided for a joint audit between the Bureau of the Public Debt and the Treasurer of the United States of paid Savings Stamps, and has reduced the size of Series E War Savings Bonds by one-half their former size, thus saving paper and handling costs, the savings from all of which aggregate more than \$2,700,000 a year.

The Bureau of Engraving and Printing has effected important economies in its production methods which, together with the personnel savings resulting from the reduced size of "E" War Savings Bonds, will yield on the basis of current output a total saving of over \$7 million a year.

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In the Office of the Treasurer of the United States, there will be substantial savings through the decentralization of check-clearance operations through the Federal Reserve Banks.

In addition to the savings resulting from changes in operating or production methods, the Treasury has found it possible to effect substantial economies in other branches of its work. For example, in the Department's Bureau of Accounts, a system has been established whereby individual income ~~taxes~~ withheld by employers are required to be deposited in the Federal Reserve banks each month instead of on a quarterly basis, thus enabling the Treasury to avoid payment of interest charges on funds equivalent to such advance deposits.

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This earlier receipt of taxes into the Treasury will result in savings in interest charges of a minimum of approximately \$1 million yearly.

In citing these examples of savings and economies, I have not intended to imply that they constitute the only instances in which Treasury bureaus and divisions have been able to reduce expenditures. There are, for example, those cases where the cost of overtime or automatic salary increases has been absorbed to an appreciable extent by the bureaus and divisions themselves, while throughout the entire Department there has been a constant and earnest effort to curtail expenditures.

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The Treasury's 1945 estimates of annual appropriations aggregate about \$1,023,000,000, of which \$227,329,000 represents the Department's operating expenses and the balance of over \$795 million represents its non-operating expenses. The 1945 requirements for operating expenses, compared with similar appropriations in the amount of \$188,415,000 available for this year, show a net increase of about \$38,900,000. This increase, for the most part, is necessary to carry out the provisions of Public Law 49, which will require during the fiscal year 1945 the expenditure of approximately \$31 million for the payment of overtime compensation. No funds for these overtime payments have as yet been made available for the current fiscal year.

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In addition, about \$660,000 will be required in 1945 to permit payments for automatic promotions authorized by Public Law 200. The balance of \$7,200,000 represents the increased operating requirements of certain bureaus, aggregating about \$10,800,000, which are offset to the extent of approximately \$3,600,000 by decreases in other bureaus.

The gross increase in operating expenses for 1945 of \$10,800,000, exclusive of the cost of overtime and automatic promotions, includes the additional requirements, in the amount of about \$7,700,000, of the Bureau of Internal Revenue.

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Accelerated operations, in most instances directly related to the War effort, are anticipated next year in the Foreign Funds Control, the Division of Disbursement, the Bureau of Engraving and Printing, the Bureau of the Public Debt, the Bureau of the Mint, and the Procurement Division. The additional requirements of these bureaus, together with small increases for certain others, account for the balance of approximately \$3,100,000.

Before taking up the specific items of increase in the estimates of our various bureaus, I should like to explain that in each case the amounts referred to are exclusive of the additional appropriations required to pay overtime compensation and provide for automatic promotions.

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They represent, in other words, those increases which are due to additional operating responsibilities.

FOREIGN FUNDS CONTROL

The 1945 estimate for Foreign Funds Control represents a net increase of approximately \$600,000 over the amount for the current fiscal year. It should be noted that the Treasury expects to reduce expenditures for the regular financial warfare programs of the Foreign Funds Control during 1945. However, the greatly increased demands upon the Department for exercising fiscal, financial, banking, property control and related functions in foreign countries arising out of the military operations of the United States require a substantial stepping up of that work. The requested increase is essential to the carrying out of that responsibility.

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BUREAU OF ACCOUNTS
Division of Disbursement.

Funds currently available to the Division of Disbursement were appropriated on the basis of an estimated work-load of 51 million checks and collection items. It is now estimated that more than 64 million checks and other items will be handled by the Division during the present year, and that a like number will be handled in 1945. This accounts for an increase of about \$467,000 for next year as compared with the current appropriation.

BUREAU OF THE PUBLIC DEBT

The estimated requirements of the Bureau of the Public Debt for 1945 under the appropriation "Salaries and Expenses, Bureau of the Public Debt", are approximately \$675,000 more than the 1944 funds.

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This increase is necessary to provide additional personnel to handle the increased proportion of bond work that will be chargeable to the Bureau's annual appropriation. Since the indefinite appropriation "Expenses of Loans" is restricted to the handling of bond transactions up to the close of the fiscal year following the year in which the bonds were issued, it follows that from year to year the funds required under the annual appropriation will increase.

The establishment of increased reserve stock has enabled the Bureau of the Public Debt to reduce the quantity of distinctive paper to be purchased in 1945 for the printing of United States currency. This accounts for a reduction of about \$300,000 in next year's estimate under this heading.

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EXPENSES OF LOANS

For the current fiscal year, under existing legislative authority, expenditures from the indefinite appropriation "Expenses of Loans" are limited to \$105,700,000. For the next fiscal year the Bureau of the Budget has approved a limitation in the amount of \$112,500,000. Included in the latter total are funds in the amount of approximately \$5,400,000 to provide for overtime compensation and automatic promotions, leaving a net increase for next year of about \$1,400,000.

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This increase covers the additional operating requirements of the Bureau of the Public Debt itself, in the amount of over \$900,000, and additional reimbursements to the Federal Reserve banks amounting to \$1 million, which increases are partially offset by a reduction of \$380,000 in the amount available to the War Finance Division and a reduction of over \$100,000 in the amount to be allocated to other Treasury offices. The estimated needs for bond transactions for the fiscal year 1945 are based on the issue of 499 million pieces in bonds and other securities, and the redemption of over 60 million pieces.

Your Committee recognizes, I am sure, the difficulty of estimating at long range the exact amount to be required to meet the cost of handling the great War Loans.

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A complete program for the sale of these bonds to millions of people cannot be formulated, in exact detail, eighteen months in advance, nor can we accurately predict the size and scope of the operating transactions affecting the Bureau of the Public Debt. While I cannot, therefore, give unqualified assurance that the amount of the limitation proposed for next year under the appropriation "Expenses of Loans" will prove adequate, I can promise you that we shall, as in the past, do everything within our power to keep expenditures down to the lowest possible figure, consistent, of course, with the accomplishment of our undertaking.

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OFFICE OF THE TREASURER OF THE
UNITED STATES

The Office of the Treasurer of the United States will require about \$3,989,000 for 1945, exclusive of funds for overtime compensation. This compares with requirements of \$4,265,000 for the current year, or a reduction of about \$276,000, accomplished despite a substantial increase in the number of checks to be cleared. This reduction is a direct result of a change in procedure whereby some of the check-clearance operations are handled through the Federal Reserve Banks.

BUREAU OF INTERNAL REVENUE

The 1945 estimate for "Collecting the Internal Revenue" is in the amount of \$144,900,000.

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This includes approximately \$21 million for overtime compensation and nearly \$400,000 for automatic promotions. Exclusive of these items, the Bureau of Internal Revenue is requesting about \$7,700,000 more than the amount of the current year's appropriation. Funds available this year, which aggregate over \$115 million, provide for additional personnel and other facilities required to perform the Bureau's new duties under the Revenue Act of 1942 and the Current Tax ~~Payment~~ Act of 1943 for only a portion of the fiscal year 1944. The increase of \$7,700,000 for next year is necessary to provide for such personnel and facilities on a full year's basis.

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BUREAU OF ENGRAVING AND PRINTING

The Bureau of Engraving and Printing will require about \$350,000 additional next year, as compared with this year's funds. This increase is due largely to estimated additional requirements of cigarette and tobacco stamps, offset to some extent by reductions in the estimated production of currency and checks.

BUREAU OF THE MINT

As approved by the Bureau of the Budget, the 1945 estimate for operating the Mints and Assay Offices includes about \$253,000 more than the current year's operating funds. At the time this estimate was prepared it appeared that production of the zinc-coated steel penny would have to be continued during the next fiscal year.

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However, we have meanwhile been able, with the cooperation of the War Production Board, to adopt methods of producing copper coins by using as a base certain material salvaged by the military authorities from expended cartridge cases. This material will be recovered at the various proving grounds, firing ranges, and other training areas, and it will enable the Mints shortly to resume coinage of one-cent pieces made of a copper alloy. As you know, the public as a whole did not take kindly to the war-time cent, - the chief complaint being that the zinc-coated coins, when new, have caused confusion with the 10-cent coin.

The appropriation required to produce pennies of copper alloy will be somewhat larger than that required to manufacture the zinc-coated coins.

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For this reason, it is possible that the Mint Bureau's 1945 estimate, now pending before your Committee, will prove to be inadequate. The advantages of the copper pennies will, however, completely justify the additional expenditure involved.

PROCUREMENT DIVISION

The estimate for "Salaries and Expenses, Procurement Division" for 1945 is \$289,000 more than the appropriation available this year. Eleven regional offices have been established to supervise the expanded activities of the Division outside the District of Columbia.

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This expansion includes additional functions and responsibilities relating to the consolidated warehousing program as well as the increased volume of other work, all of which will make it necessary to increase the Division's administrative staff.

During the past year the Procurement Division entered into a program for the utilization and disposition of surplus Federal property. Congress has already recognized the merit of this undertaking which, I may add, has within a few months already demonstrated its value in the conservation and utilization of Federal property. The value of surplus property estimated to be turned over to the Procurement Division this year is about \$155 million.

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While it is impossible to make an accurate prediction as to next year's volume, it has been estimated at not less than \$161 million. The additional funds requested for next year, as compared with the current appropriation, are approximately \$228,000. They will provide for the anticipated increase in volume of work, and will also furnish certain facilities which this year have been made available on merely a part-year basis.

REFUND OF CUSTOMS COLLECTIONS

With respect to the estimate for "Refunds and Drawbacks, Customs", the Bureau of the Budget has approved the Treasury's recommendation that this appropriation be changed from an annual definite to an annual indefinite fund.

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This change will not only enable the Customs Service to serve the public more promptly, but will have the further advantage of eliminating the existing necessity for deficiency appropriations year after year, due to the impossibility of estimating, months in advance, the amount of money which the Bureau of Customs will ultimately be called upon to refund. I recommend, therefore, that your Committee give favorable consideration to the proposed change in the status of this fund.

INTEREST ON THE PUBLIC DEBT

The 1945 requirements for interest on the public debt, on the basis of information now available, will be something over \$4 billion. A more definite estimate will be furnished in the 1945 Budget.

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This concludes my general statement, Mr. Chairman.

I have given you the outstanding items of increase and reduction contained in the Treasury's 1945 estimates. The heads of the several branches of the Department are prepared to present detailed justifications of their estimates, and a number of them have, I believe, already concluded their hearing. If you should need any additional information in connection with these estimates, I shall be pleased to see that it is promptly furnished.

12/3/43

TO THE RADIO STATIONS OF AMERICA

The Treasury Department is deeply appreciative of your invaluable contributions to the success of the War Bond effort and War Loan Drives.

At this time, preliminary to the 4th War Loan Drive, I want to assure you that your help is needed more than ever so that we will be successful in raising the Drive's goal of \$14,000,000,000 between January 18 and February 15.

The 4th War Loan Drive is a vital part of our effort to help finance this war the American way, the voluntary way.

The Treasury Department looks forward to receiving the continued cooperation of the radio industry and the radio advertisers of America in the 4th War Loan.

Sincerely,

(Signed) Henry Morgenthau, Jr.

DEC 3 - 1943

My dear Mr. Chairman:

There has been called to my attention the statement of the Joint Price Adjustment Board, dated December 2, 1943, with respect to the provisions of the pending revenue bill (H.R. 3637) which relate to renegotiation of war contracts.

This Department is represented on the Joint Price Adjustment Board, and through its representative took part in the preparation of the statement. One of the matters discussed in the statement, that is, the provision in the House bill giving to the Tax Court of the United States jurisdiction of appeals from renegotiation determinations, was fully considered by Mr. Randolph Paul in his testimony before your Committee. This particular provision was stressed by the Department because of its serious affect on the revenue system.

As this Department is also one of the several Departments concerned with renegotiation of war contracts it likewise believes that the other provisions discussed in the Joint Board statement are of great importance as respects renegotiation procedure and therefore fully urges the adoption of the suggestions therein contained.

Very truly yours,

(Signed) H. Morgenthau, Jr.

Secretary of the Treasury.

Honorable Walter F. George,
Chairman, Senate Finance Committee,
United States Senate.

SSS.REP/kfa

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE
December 3, 1943

TO Secretary Morgenthau

FROM Randolph Paul

Attached hereto is an opinion in favor of
the constitutionality of a tax on increases in
individual incomes.



Attachment.

*Original prepared
by [unclear]
for General [unclear]
1943*

December 3, 1943

MEMORANDUM FOR SECRETARY MORGENTHAU:

In re: Constitutionality of
taxation of increases
in individual incomes.

It is assumed that the tax in question is of the kind described in the Treasury's State-ment entitled "Taxation of Increases in Individual Incomes," which is printed (at page 67 et seq.) in Hearings Before the Committee on Ways and Means, House of Representatives, 78th Congress, First Session, on Revenue Revision of 1943, Unrevised, (October 4, 1943) Part 1. It is assumed further that, as indicated in the study just referred to, the tax would be limited to "wartime increases in income."

For an analysis of the constitutional questions and a clear indication of the answers to those questions, it is not necessary to go beyond the opinion of the Supreme Court in La Belle Iron Works v. United States (1921) 256 U.S. 377. That case involved the "war excess profits tax" imposed by the Revenue Act of 1917 (Act of October 3, 1917) upon corporations, partnerships and individuals engaged in trade or business, with certain exceptions. There was a deduction from income measured by certain percentages of invested capital. In passing upon the construction and application of the deduction provisions and sustaining the constitutionality of the Act as construed and applied, the Supreme Court stated:

"The great war in Europe had been in progress since the year 1914, and the manufacture and export of war supplies and other material for the belligerent powers had

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stimulated many lines of trade and business in this country, resulting in large profits as compared with the period before the war, and as compared with ordinary returns upon the capital embarked. The United States had become directly involved in the conflict in the Spring of 1917, necessitating heavy increases in taxation; at the same time manufactures and trade of every description were rendered even more active, and in certain lines more profitable, than before, so that the unusual gains derived therefrom formed a natural subject for special taxation.

* * * *

"It is urged that this construction, defining invested capital according to the original cost of the property instead of its present value, has the effect of rendering the act 'glaringly unequal' and of doubtful constitutionality; the insistence being that, so construed, it operates to produce baseless and arbitrary discriminations, to the extent of rendering the tax invalid under the due process of law clause of the Fifth Amendment. Reference is made to cases under the equal protection clause of the Fourteenth Amendment; *** but clearly they are not in point. The Fifth Amendment has no equal protection clause; and the only rule of uniformity prescribed with respect to duties, imposts, and excises laid by Congress is the territorial uniformity required by Art. 1, sec. 8. *** That the statute under consideration operates with territorial uniformity is obvious and not questioned.

* * * *

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"Nor can we regard the act--
 in basing 'invested capital' upon
 actual costs to the exclusion of
 higher estimated values--as produc-
 tive of arbitrary discriminations
 raising a doubt about its constitutionality
 under the due process clause of the
 Fifth Amendment. The difficulty of
 adjusting any system of taxation so
 as to render it precisely equal in
 its bearing is proverbial, and such
 nicety is not even required of the
 States under the equal protection
 clause, much less of Congress under
 the more general requirement of due
 process of law in taxation. Of
 course it will be understood that
 Congress has very ample authority to
 adjust its income taxes according to
 its discretion, within the bounds of
 geographical uniformity. Courts
 have no authority to pass upon the
 propriety of its measures; and we deal
 with the present criticism only for the
 purpose of refuting the contention,
 strongly urged, that the tax is so
 wholly arbitrary as to amount to con-
 fiscation." Underscoring supplied.

As is pointed out in the above quotation the
 only requirement of the uniformity clause ("all
 Duties, Imposts and Excises shall be uniform
 throughout the United States") of Article 1, sec-
 tion 8, is territorial uniformity. In other
 words, intrinsic uniformity is not required but
 merely geographical uniformity; the tax is uniform
 when it operates with the same effect in every place
 where the subject of it is found. Billings v.
United States, (1914) 232 U. S. 261, 282; Patton v.
Brady, (1902) 184 U. S. 608, 622; Florida v. Mellon,
 (1927) 273 U. S. 12, 17. The tax under considera-
 tion clearly would not involve any lack of geographical
 uniformity.

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So far as the due process clause of the Fifth Amendment is concerned, it is difficult to see any more arbitrariness in the tax under discussion than in the 1917 excess profits tax involved in the La Belle Iron Works case. (See Allied Agents v. United States, (1939) 26 F. Supp. 98, 100). It is true that the 1917 tax was limited to incomes from trade or business whereas the tax under consideration would extend to wages and salaries, among other things. Nevertheless, the statutory method as applied to taxable persons under the 1917 Act caused different results depending upon invested capital and also, in part, upon incomes over those of the pre-war period. (See A. A. Ballantine, Some Constitutional Aspects of the Excess Profits Tax, (1920) 29 Yale L. J. 625). Similar differences with respect to increases in salaries and wages would seem to be equally "natural." There is nothing peculiar about employment so far as constitutional limitations are concerned. In this connection the social security tax cases are helpful. Steward Machine Company v. Davis, (1937) 301 U. S. 548; Helvering v. Davis, (1937) 301 U. S. 619. The Steward Machine Company case involved the validity of the tax imposed by Title IX of the Social Security Act on employers of eight or more persons. The Act was assailed on grounds which included the contentions that it was not an excise tax and that its exceptions were so many, arbitrary and discriminatory as to violate the "due process" provisions of the Fifth Amendment. In overruling those contentions and upholding the validity of the tax upon employers, the Court stated (at pages 579-585):

"An excise, we are told, imports a tax upon a privilege; employment, it is said, is a right, not a privilege, from which it follows that employment is not subject to an excise. Neither the one appeal nor the other leads to the desired goal. * * * *"

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"We learn that employment for lawful gain is a 'natural' or 'inherent' or 'inalienable' right, and not a 'privilege' at all. But natural rights, so called, are as much subject to taxation as rights of less importance. An excise is not limited to vocations or activities that may be prohibited altogether. It is not limited to those that are the outcome of a franchise. It extends to vocations or activities pursued as of common right. What the individual does in the operation of a business is amenable to taxation just as much as what he owns, at all events if the classification is not tyrannical or arbitrary. 'Business is as legitimate an object of the taxing powers as property.' * * * Employment is a business relation, if not itself a business. It is a relation without which business could seldom be carried on effectively. The power to tax the activities and relations that constitute a calling considered as a unit is the power to tax any of them. The whole includes the parts. * * *

* * * *

"Second. The excise is not invalid under the provisions of the Fifth Amendment by force of its exemptions.

"The statute does not apply, as we have seen, to employers of less than eight. It does not apply to agricultural labor, or domestic service in a private home or to some other classes of less importance. Petitioner contends that the effect of these restrictions is an arbitrary discrimination vitiating the tax.

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"The Fifth Amendment unlike the Fourteenth has no equal protection clause. * * * But even the states, though subject to such a clause, are not confined to a formula of rigid uniformity in framing measures of taxation. * * * They may tax some kinds of property at one rate, and others at another, and exempt others altogether. * * * They may lay an excise on the operations of a particular kind of business, and exempt some other kind of business closely akin thereto. * * * If this latitude of judgment is lawful for the states, it is lawful, a fortiori, in legislation by the Congress, which is subject to restraints less narrow and confining. * * *

* * * * *

"The act of Congress is therefore valid, so far at least as its system of exemptions is concerned, and this though we assume that discrimination, if gross enough, is equivalent to confiscation and subject under the Fifth Amendment to challenge and annulment."

Although the question whether arbitrary discrimination exists is one of degree, I am of the opinion that a taxing statute could be drafted along the lines of the tax described in the Treasury's Statement which would not violate the due process clause of the Fifth Amendment. For reasons stated above, any violation of the uniformity clause of Article 1, section 8 could easily be avoided.

(Signed) Randolph Paul
General Counsel

MEMORANDUM FOR THE SECRETARY.

December 3, 1943.

Mail Report

Publicity concerning tax hearings before the Senate Finance Committee brought the inert tax mail to life kicking! Now and then a correspondent upheld the Treasury's end of the tax argument, but 99% of the writers insisted that the majority of the American people have no excess spending power, and in view of increased living costs cannot bear additional taxation. A few offered an excess profits tax on individual incomes as an alternative, but the most common suggestion was sharp retrenchment in Government spending. Comment on Federal waste was exceptionally bitter this week. There were a number of abusive, unsigned communications. The Declaration of Estimation and the returns due December 15 brought many unfavorable reactions, particularly from farmers and those dependent on investment. The phrase, "Demand Is Made" greatly riled a number of taxpayers who protested this method of starting the notices sent out by Internal Revenue offices. In general, the citizenry seems in an irritated and antagonistic mood, which applies both to the larger aspects of the situation, and to small matters like the wording of a routine notice.

Church officials and laymen continued their drive for enactment of H.R. 3472 which allows deduction for gifts prior to the levying of the withholding tax. Support for this measure came as near to being a campaign as any group in the week's mail.

A sharp increase in Bond mail included a small rise in complaints. From personnel of the War Department there were 30 reports of failure to receive Bonds, and while most of these referred to payroll deductions of 1942, a few concerned current payments. There were 10 complaints of nonreceipt of interest due.

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Memorandum for the Secretary.

December 3, 1943.

Ideas for compulsory savings or for a savings tax had an unusually strong support this week. It was suggested that all luxury purchases be matched by an equal investment in War Bonds, or that a sales savings stamp be used in lieu of a sales tax. A number of writers proposed that Christmas bonuses and salary increases be given in Bonds not redeemable until maturity. In all such communications, fear of inflation was strongly reflected.

There continues to be a heavy mail in regard to control of foreign funds. This contains formal and informal reports of foreign-owned property, and a number of inquiries in regard to the census.

During November we received from the White House 377 letters. This was almost the low figure since records have been kept, 1939 having reached the bottom with 366. Last year we had 535 during November, and the all time high for the month was in 1941, with 833.

G. F. Forbush

General Comments

Letter addressed to the President by Hannah Brown, Route A, Santa Maria, Calif., and referred to the Treasury by the White House. We are indeed glad to hear you using those three words, "Curtailment of Spending". We like the idea, and, believe it or not, we are putting it in practice! Are you? Is the Government? Has the Government done away with "cost plus" war contracts? Has the Government cut down on its paper bill? Has the Government cut down on its duplication of various reports, War contracts, employment contracts, Civil Service papers, etc., etc.? Have the members of the White House curtailed their travelling expenses? Are Government offices in Washington and throughout the country still filled to the brim with "workers" twiddling their thumbs? * * * If we have to pass on a debt to burden future generations, we at least want a clear conscience about what we have done. We want to pass on an honest debt, honestly arrived at. * * *

Copy of letter addressed to the War Production Board, by B. C. McCurdy, Consulting Engineer, Belleville, Ill. Visit St. Louis and you will see contractors busily engaged in the cleaning of the exterior masonry walls of large buildings, using up man power, air compressors, hose, etc., and the building owners getting set to charge off the cost as "operating costs" in this year, when earnings are greatest and taxes highest. This same device is being widely used by utilities and railroads. Railroads rights-of-way were cleared of brush this year, the first time in years. Does this make sense when we all look forward to unemployment in the post-war years? Why not be reasonable and allow owners to take credit for deferred or accumulated maintenance charges?

Letter addressed to the President by Capt. Granville Parker, C.E., A.P.O. 627, c/o Postmaster, New York,

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New York, and forwarded to the Treasury. (Letter sent from China.) It is at the suggestion of a fellow officer that I am addressing you with this account of stupidity which is so typical of the several reasons Latin America has for disliking to do business with the United States. * * * In peacetime I live and work in Colombia. My wife and daughter are in our home there now, awaiting my return at the end of the war. We are a bi-lingual family, and have many friends among the Colombians. We have always sought, to the total extent of our abilities, to promote friendship between the Latins and North Americans. * * * I am in this war purely as a volunteer; I am forty-three years old and served in the first World War. When I succeeded in obtaining acceptance for service, it made quite an impression on our wide circle of Colombian friends; a number of other "South American Hands" had gone into some branch of the Armed Forces. The United States goes up in the estimation of Latin Americans in direct relation with the conduct of those North Americans they have known personally for years. * * * Here in China I receive many letters from these old friends. They honor me by writing that they like to consider me as their representative in this war. * * * Finally they decided there was one thing they could do, and that was to send a carton of my favorite cigarettes, of Colombian manufacture. My wife investigated at the local Pan American Airways office; they informed her that of course they could ship the carton of cigarettes to me here in China. In her next letter, my wife wrote me that she had sent the package. The monetary value is, of course, negligible, but the thought, friendship and affection that were sent along with it gave me a new lease on life. Today I received the attached papers from the combined Pan American Airways and Railway Express Agency. Both firms, by their letterheads, are engaged in foreign air express. The Railway Express Agency tells me to call in person at a room in the New York Customs House, within 48 hours of date of notice, otherwise, my package will be sent to the warehouse by U. S. Customs, at my risk and for my account. They are not intelligent enough

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to translate the simple Spanish word "cigarillos" correctly. Apparently, they believe that an A.P.O., c/o the Postmaster, New York City, indicates that the addressee lives within commuting distance of New York City. During the years that I have been employed by American firms in Latin America, there have been so many cases similar to this, of sheer stupidity on the part of both U. S. Customs officials and firms engaged in foreign trade that the situation really seems quite ridiculous. It will be extremely embarrassing if I have to write my wife and Colombian friends that their inconsequential but so thoughtful little package is indefinitely tied up in the New York Customs Warehouse because I cannot call for it personally and pay the measly sum of \$1.25 duty. I hate to admit that we have such stupidity in our principal air express system between the United States and South America. * * * We Americans who live in Latin America like to consider ourselves as permanent "Ambassadors of Good Will". We hate to have to apologize for such acts of ignorance and inefficiency. Then, too, those of us overseas like to have a little more consideration than was demonstrated by the organization that handled the package.

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Favorable Comments on Bonds

C. A. Atherton, Troy, N.Y. As an American citizen I feel it is my duty to write you in regard to the next Bond issue, which I understand is coming in the early part of 1944. My family, in the past, considered it a duty and an honor to purchase Bonds to help hasten the day of final victory for us all. For several years I worked for an employer who in the lean days went bankrupt. I, with others, worked for him for less pay than the prevailing scale just so he wouldn't have to close his doors. * * * Every Representative and Senator who has voted, or who is going to vote against the Government subsidies bill has violated his oath of office, and in the eyes of the American people he is nothing less than a hypocrite; when he or she votes against this subsidies bill, it is a vote against the interests of the majority of the people and a vote for the special interest groups. We American people appreciate what President Roosevelt has done in regard to subsidies, but he is a good man, and there are a few more honest men who represent us in Washington, but the majority of our Representatives and Senators are nothing less than a bunch of cads, chisellers, liars and hypocrites, looking out for their own or some other special interests of little groups. * * *

Harvey F. Fireside, New Brunswick, N.J. * * * I am only three years in this country, before which time I lived in Nazi-occupied Vienna, Austria. You can imagine how happy I was when I arrived in New York harbor and saw the Statue of Liberty of Bedloe Island. Now I am going to the eighth grade at the Roosevelt Junior High School in New Brunswick. I am 13 years old. I did not know a word of English when I arrived in this country and have written this poem all by myself. I hope that you have some use for it in the current Bond Drives. * * *

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Mrs. Stanhope Nixon, President, A.W.V.S. Incorporated of California, San Francisco, California. * * * Repeated appeals over the radio and by film stars and speakers, generally begging the American public to buy Bonds, have created the feeling in many minds that the buying of a Bond is a charitable act. This mental attitude will probably be very much enhanced by the position taken by various War Chest Committees at this time. These Committees seem to feel that no appeal must be made to buy Bonds now as such buying may interfere with the raising of their quotas. It is probably logical that there should not be an additional percentage taken from all salaries at this time, but can see no reason why a continued effort should not be made to sell War Bonds which by terminating the War more quickly will bring quicker relief to the countries now being helped by the War Chest. This is a splendid time to point out the very sharp difference between charitable giving to the War and community agencies, and the intelligent and patriotic investment in the finest securities on the market. The War Chest's attitude has been brought to us very clearly by its protest against our holding a luncheon November 16 (a date approved by the local Treasury Department as falling between the 3rd and 4th War Loan Drives) at which time we are to present a small fleet of bombers, pursuit planes and ambulance planes, the purchase of which has been made possible by the sale of additional Bonds by our Bond sellers since the end of the Third War Loan. * * * All of us in this organization feel very strongly that there is no month or time of the year when the sale of War Bonds should not be pushed to the fullest, and that the public should constantly be informed about the present and future security which these Bonds guarantee. * * *

Ellen B. Gammack, N.Y.C. A copy of your letter to Mr. Paul French of the National Service Board for Religious Objectors has just come into my hands again. In reading it once again, I am deeply impressed with your

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generous and creative approach to the whole subject of religious objectors during this War. I just want to let you know of one more who is much impressed with your fine statement that we are all seeking the same objectives, and that you are glad our American Democracy is able to recognize the conscientious convictions of a minority. This letter then is just to say thank you for your words, and thank you for offering U. S. Government Bonds to cover non-war services of the Government as well as War Bonds.

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Unfavorable Comments on Bonds

John H. Robson, President, State Savings Bank of Ovid, Ovid, Mich. We received notice from Mr. C. S. Young of your decision to have another War Loan Drive in January. Last May in the Third War Loan Drive, no that was the Second, Ovid qualified for a Pursuit Plane, and we were notified that a plane had been awarded us and that soon a picture of same would be made and sent to us showing the name -- "Spirit of Ovid" -- painted on the bow or body. The picture in our local paper would help us sell some more Bonds. Well, we did not get any picture and the Third Loan was announced, and I wrote you, and your Publicity Department said we would have the picture before the time for the Drive. Their letter was in August, but we have had no picture yet. Hundreds of these planes without any names are being sent to the front and we sure would like to have this one named and sent down to Italy where old Ovid himself used to carry on, and maybe he would know about it. We have said so much about this plane, and we are being kidded so much about not getting any picture of it that we will promise not to compete for another one. * * * We don't really need any help to sell. We sell our quotas. * * * I hope the chap that opens this will hand it to you in person and that you will dictate a line or two and sign your name.

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Favorable Comments on Taxation

Edna Bunnell, Muncie, Indiana. It's quite delightfully amusing to find that the House of Representatives proposes to take about as much money from the public pocket this year as would your requested tax measure. You have asked for \$10,500,000,000. The House passed a measure which would bring in about \$2,000,000,000 in taxes. The House also proposes to force an increase in the price of crude oil of 35¢ per barrel (present production about 4,500,000 barrels daily). This would add to the present excellent profits of the established producers about another billion, which would come from that Mr. and Mrs. John Q. Public who are paying for oil for War purposes, as well as for some for their own use. The House also proposes unlimited food prices, rather than control through subsidy. This could well add to the expenses of millions of Americans anything up from about seven billion dollars. Totalled, it could be about what you asked for - but it's going mostly to the special groups, oil producers, and food producers and distributors. * * * It seems that both fiscal and foreign policies in this country may continue to be on an election-to-election basis, expensive as that has proven to be.

H. Kramer, Brooklyn, N.Y. Congratulations on your fighting temper in the battle against inflation. Keep it up! Your program is good.

Benjamin Rutchik, Spring Valley, N. Y. I take the liberty to write to you about the ten and a half billion which you demanded from Congress to be raised. I believe when you ask that, you know it is needed badly, so my suggestion is, why not make a victory revenue stamp on checks and valuable papers on the same style as the last World War. I guess this would bring in lots of money to the Treasury. This would bring in all checking accounts from the ordinary business man to the larger concern. I do not think this would make such a big holler in Congress, and it would avoid inflation. If I am right or wrong, you know better the situation. In the meantime, I wish you good health and success in every way.

Unfavorable Comments on Taxation

Mrs. Virgil Hilton, Briscoe, Texas. We are farmers and file our returns for the calendar year. We have our crop out and are prepared to file our final returns and pay the income tax in full, also Victory Tax. Since we are asked to file a Declaration by December 15, and doing so will leave us only 15 days more before the final is finished. Is there any way by which we can just file the final now and pay the full amount? Why should we have to fill out returns under these conditions? Personally, I feel that this only makes double trouble. We pay a lawyer to file these, and it costs money. Hoping for an answer soon.

Ernest Woodward, Woodward, Dawson and Hobson, Louisville, Kentucky. * * * In the summer of 1941, the United States instituted civil and criminal proceedings against Harry D. Fitch and Roland Fitch, brothers. * * * We have represented Roland Fitch throughout, and on his behalf denied all civil or criminal liability. Jeopardy assessments were made against Roland Fitch's property, aggregating about \$40,000.00. * * * After we had made available to the United States Attorney all information requested by him, Mr. Brown indicated he would recommend a settlement of all taxes, penalty and interest claims for the years 1934, 1935 and 1936, by the payment of \$16,853.72, and that he would recommend compromise of the liability for other years by the payment of an additional \$5,000.00, or a total of \$21,853.72. Accordingly, Mr. Fitch induced personal friends to advance him the sum of \$21,036.58 (\$877.14 having theretofore been seized and applied to his liability), and on June 2, 1942, he delivered a check to Mr. Eli H. Brown, III, United States Attorney, for the sum of \$21,036.58, in compromise and settlement of all of his tax liability. Thereafter, Mr. Fitch paid the Clerk of the United States Court the costs in these transactions amounting to \$267.90, and we have since tried every available means of obtaining a ruling on our offered compromise, which was recommended by United States Attorney Brown a year and a half ago without any success. The delay is, we respectfully submit,

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unfair to Mr. Fitch and injurious to his friends, who risked their money despite the liens on his property, but neither Mr. Brown nor myself have been able to obtain any action on the offer, notwithstanding repeated efforts by both. * * *

Cornelius Perrius, Paterson, N. J. I received in my mail today a bill for \$8.44 for the December quarter of the tax. When you take into consideration I have no other income only the \$720.00 a year, I consider this a stiff blow. Out of the \$720.00 I have to deduct \$33.76. It must be borne in mind I have to pay my room rent, clothe myself, and eat at a restaurant. Isn't there some way I can get a reduction? * * *

Anonymous - "A Fixed-Income Teacher" - N.Y.C. I write in protest concerning my withholding tax, which is 24½%, according to my status, for 12 months. I am a teacher and the head of a family. The school uses the bracket schedule issued by the Government. I was shocked, and really ill, when I received my check. * * * I have had no increase in salary, and was already having a most difficult time to manage, even having had to draw upon my insurance. It is already acknowledged that the citizen should not be asked to pay more than 20% withholding tax. Why, then, is this bracket (schedule) so made out that some persons pay so much in excess? There is a vast difference between 20% and 24½%. Either corporations should be made to figure to the exact percent, or else the table (schedule) should be adjusted to a more exact figure.

P. E. Goodrich, Grain-Seeds-Coal-Flour and Feed, Winchester, Indiana. Our income tax law is quite unfair to a great many of the smaller corporations. I know a number of them that have preferred stock out to help finance their business. Now, under the tax law, we get no tax credit on the interest we pay on

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preferred stock. We have something like \$300,000 out, bearing 5% interest, and although it is purely a loan, we wouldn't want to go to the expense of putting out a bond issue, for another reason, the State stamp tax on securities, mortgages, bonds, debentures, and other evidences of indebtedness. Preferred stock is purely a loan, and in all the instances I know anything about, the buyers, although they are purchasing preferred stock, have no share in management, and haven't quite as good a security. It is my understanding that railroads and public utilities all get credit for the interest they pay on preferred stock, bonds, debentures, etc. I think it is eminently unfair that preferred stock should be treated in this way. * * *

John W. Moore, Representing Nationally Advertised Manufacturers of Iron, Steel, Copper, Brass & Aluminum Products, Chicago, Ill. My wife has asked me to write to inquire why it is that when she overpaid her income tax in the amount of a little old \$10.00 bill, that she has had to wait all this long time to receive a check from your Department reimbursing her for the amount she overpaid? If she owed the Treasury Department \$10.00, or \$1.00, you folks would have taken drastic action to collect it long before this. * * * I went down to the Collector's office and filed a claim for refund on August 15, 1942. About three or four weeks later, the auditor's office called me in to bring proof of overpayment, etc., which I did, and wasted another half day looking up the papers and going way downtown to see them, but nevertheless I produced all of the information which they said they had to have (WHEN I FIRST FILED THE AMENDED RETURN I HAD TO PRODUCE THIS SAME INFORMATION), but that was not enough for the auditor; so it has been all this time now, and to date, I have not had the courtesy of a reply; nor has my wife received her check. It is just fortunate that this \$10.00 is not vital to us or we would certainly be in a fine state of affairs. This overpayment was made in February 1941, and was on the

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income for 1940. * * * Let me say right here and now, if I am called in to the Chicago office in reply to this letter making an appeal to you, I have purchased the last War Bond that I will ever purchase, now or any time in the future, and will say that at this time my wife and I have purchased approximately \$24,000 worth, but if I am caused any more loss of time in collecting this Illegal Collection of Overpayment, then you cannot expect any more support in the purchasing of War Bonds. While I am on the subject, let me also say before you fellows passed the withholding tax, it was only necessary for me to have an auditor once a year to make out my income tax, but now that you have it messed up which was supposed to simplify and cut down on this very thing, you have made it necessary that I go through this same process of estimating, and one thing and another until I have to make out what amounts to about four income tax reports. I think you fellows should take time out and call on the common people once and find out how thin the ice is on which you are skating, and find out what some of those "ideas" mean to the common people, then you will really try to make things easier instead of this terrible red tape.

DEC 9 1945

My dear Mr. Attorney General:

As you know, the Treasury Department is one of the agencies selected by the President to exercise the powers contained in Section 5(b) of the Trading with the Enemy Act, as amended by Title III of the First War Powers Act, 1941. In the exercise of these powers, this Department has occasion to consider, from time to time, the advisability of vesting the properties of certain nationals of enemy or other foreign countries. It is essential, in deciding whether such action should be taken in any particular case, that I be advised whether or not I would have authority under Section 5(b) to return property or proceeds of property which have been vested should circumstances indicate that such return is in the interests of the United States.

There is enclosed an opinion of the General Counsel of this Department concluding that authority exists to return vested property. The importance of the existence of this authority is illustrated by the problems set forth on pages 9 to 13 of the enclosed opinion. It will be seen that the question is involved in negotiations with executive agencies of allied countries having similar jurisdiction over enemy and other foreign property, in determining the disposition of assets of refugee governments and their nationals, in the treatment to be afforded enemy countries which have been partially occupied or which have come over to the side of the United Nations, and in many other aspects of foreign relations and economic warfare programs of the United States. It is, therefore, highly desirable that the Attorney General render an opinion as to the authority under existing legislation to return vested property or proceeds of vested property.

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In addition to the inherent importance of this question, it is noted that other agencies of the government are substantially interested in this matter. This is particularly true with respect to the Alien Property Custodian, who performs his functions under the same statutory authority as that which governs the Treasury Department in this regard. It is obviously desirable that there be a uniform interpretation of Section 5(b) which will govern all interested agencies of the Government.

It will be appreciated, therefore, if you ^{will} give me your opinion on this question.

Very truly yours,

Henry H. Morgenthau, Jr.
(Signed) H. Morgenthau, Jr.

Secretary of the Treasury

The Honorable

The Attorney General of the United States

Enclosure

LCA:LSL:IAIk:als 11-30-43

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My dear Mr. Secretary:

My opinion has been requested as to the authority to return property or the proceeds of property which has been vested pursuant to section 5(b) of the Trading with the enemy Act, as amended by Title III of the First War Powers Act, 1941 (Public No. 354, 77th Congress; 55 Stat. 829). An examination of that statute and of its background and purposes leads me to conclude that such authority exists.

I. The language of section 5(b) is clear.

Title III of the First War Powers Act, 1941, amends section 5(b) of the Trading with the enemy Act to provide in part as follows:

"(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise--

. . .

"(2) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property, shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such

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designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; * * *. (Underlining supplied.)

The language employed in the above-quoted provisions of the statute so clearly and carefully places within the discretion of the President broad and almost unlimited powers to deal with foreign property that even if there were no expressed legislative intent to guide the interpretation, the statute could hardly be construed as denying the President the power to return vested property. The lawmakers were painstaking to make it abundantly clear that both the original vesting and any action taken with respect to the property after such vesting should fall completely within the discretion of the President or such agency as he may designate.

By the express terms of the statute property is to be vested "when, as, and upon the terms, directed by the President", and vested property is to be "held, used, administered, liquidated, sold, or otherwise dealt with" upon such "terms and conditions as the President may prescribe". The authority of the President to prescribe "terms" attaches therefore not only to the act of vesting but also to the treatment of property subsequent to vesting. This is a clear indication of a two-fold effort on the part of Congress to make it unmistakably clear that the President in his treatment of foreign property was to have the broadest possible powers.

Since the statute imposes no limitations on the power of the President to direct the terms upon which property is to be vested, it seems evident that the President may direct that the vesting shall not be irrevocable, but shall be conditioned upon the return of property if the interests of the United States would thereby best be served. Under these circumstances, any return of the property is necessarily a part of and a limitation upon the vesting itself. In the only vesting action thus far taken by the Treasury (that relating to General Airlines & File Corporation) the vesting order reserved in express terms the right to return the property vested. This vesting order, which was issued at the direction of the President, provides in part:

Such property and any proceeds thereof shall be held in a special account pending further determination of the Secretary of the Treasury. This shall not be deemed to limit the power of the Secretary of the Treasury to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return or compensation should be made. (Underlining supplied.)

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Substantially the same language appears in the vesting orders issued by the Alien Property Custodian.

Moreover, the statute imposes no limitations upon the power expressly granted to the President to prescribe the terms and conditions upon which vested property is to be "held, used, administered, liquidated, sold, or otherwise dealt with". Applying the fundamental rule of statutory construction of giving the fullest meaning to the language employed, the phrase "otherwise dealt with" must, in view of the unlimited power of the President to prescribe "terms and conditions", contemplate a treatment of the property different from those specifically enumerated. Consequently, the statute may properly be construed as empowering the Executive not only to hold, use, administer, liquidate and sell vested property, but to take such action as the circumstances indicate is required in the interests of the United States. The maxim *quod non dicitur non est* will not be applied to the phrase "or otherwise" where its application seems to conflict with the purposes of an act. Booth v. United States, (1936) 297 U.S. 134; cf. SEC v. G. M. Joiner Leasing Corporation, (1945) 12 Law Week 4019, 4021, n. 8. That it was one of the purposes of Congress in enacting Title III to give the Executive the power to return vested property there can be no doubt. Thus, during the course of the Congressional debates on Title III the following colloquy occurred between Senator Taft and Senator Van Nuys, Chairman of the Judiciary Committee:

MR. TAFT: If the time ever comes when there is an alien property custodian with power to give property back to anybody or pay him for it, it seems to me some better provision should be made than was made after the World War.

MR. VAN NUYS: I will say to the Senator from Ohio that I think that is largely an administrative matter, and that the power here is ample to put in operation such administrative processes as will accomplish those results. 87 Cong. Rec. 9845 (1941).^{1/}

^{1/} Again, in a discussion with Senator Vandenberg, it was said:

MR. VANDENBERG: Before the Senator from Indiana leaves his statement that the bill is a general re-enactment of the war powers given President Wilson, will the Senator indicate whether the bill in any respect goes beyond the war powers yielded to President Wilson?

MR. VAN NUYS: It does so not in reference to the Overman Act, under title I; but when it comes to the

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Under decisions of the Supreme Court, the statements of Senator Van Nuys, as Chairman of the Committee reporting the bill, must be accorded the greatest weight. U.S. v. Dickerson, (1940) 310 U.S. 504; U.S. v. Connor Corporation, (1940) 312 U.S. 600.

Finally, subparagraph (3) of section 5(b) expressly empowers the President to prescribe definitions, not inconsistent with the purposes of section 5(b), as amended, for all of the terms used therein. As appears from Senator Van Nuys' statement, one of the purposes of the amendment to section 5(b) was to "put in operation such administrative processes" as would make it possible for the Executive to return vested property. Consequently, the President may properly construe "vest" to mean less than absolute vesting, or "otherwise dealt with" to include the return of vested property.^{2/}

It is my opinion, therefore, that the Executive may return vested property either under the power to "vest", the power to "vest * * * upon the terms, directed by the President", or under the power to hold, use, administer, liquidate, sell or "otherwise" deal with vested property "upon such terms and conditions as the President may prescribe".

Trading with the Enemy Act, in the provisions for seizure and freezing of alien property, it goes further, and not only freezes it but seizes the property; ~~possession~~ possession of it vests in the United States, and the property is to be liquidated and disposed of under the rules and regulations of the Department. To that extent it exceeds the powers granted President Wilson.

MR. VANDERBERG: I should certainly have no complaint against that particular expansion of power. 67 Cong. Rec. 9638 (1941). Cf. (1941) House Rep. No. 1607, 77th Congress, 1st Sess. p. 2.

^{2/} The term "vest" itself is very flexible and lends itself to a definition that includes the return of vested property. Thus in Hess v. Trustees of University of Wyoming, (Wyo. 1924) 239 Pac. 642, the court reviewed many decisions construing the term "vest" and stated: " * * * nor does a vesting of the lands necessarily mean a vesting of the fee, or absolute ownership. But the word 'vest' may be construed, whether found in a statute, Constitution, or in a privately executed document, with reference to the subject-matter to reasonably carry out the intention fairly to be gathered from the instrument wherein it is found, as in the case of any other word or phrase."

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II. Section 5(b) must be liberally construed.

If any doubt existed as to the meaning of the statutory language with respect to the return of vested property, there are several compelling reasons why section 5(b) of the Trading with the Enemy Act, as amended by Title III of the First War Powers Act, must be construed liberally so as to allow flexibility of administration. The reasons calling for a liberal construction are: (a) section 5(b) was intended by Congress to constitute not a complete and flexible system of foreign property control; and (b) section 5(b) is an essential instrument in the wartime foreign relations of the United States and in the conduct of this Government's program of economic warfare.

(a) Section 5(b) was intended by Congress to constitute not a complete and flexible system of foreign property control.

Title III of the First War Powers Act, 1941, should be construed in the light of the purpose which Congress had in mind when it was enacted. At that time the United States had been suddenly forced into a war of world-wide proportions and was without an existing system of statutes adequate to cope with the emergency.^{2/} The legislation under consideration was a part of one of the first acts of Congress during the war which took the form of an omnibus bill designed "to expedite the prosecution of the war effort".

The Committee Reports demonstrate that Congress intended to confer upon the President the authority to establish a complete system for the control, utilization and disposition of foreign property. The House Committee on the Judiciary stated:

^{2/} The conditions confronting Congress were far different from those which existed in 1917. At that time enemy-occupied territory had been to a large extent non-existent. Although Belgium and portions of France had been overrun by the Germans, Holland, Denmark and Norway were neutral and their vast resources remained relatively free from enemy domination. French financial facilities never fell into the hands of the Germans, and Belgium had few accounts in the United States. In the last war, approximately 90 percent of all property taken over by the Custodian belonged to persons within Austria and Germany. (A.T.C. Annual Report, 1918.) In 1941, however, only some 7 percent of blocked property belonged to enemy governments and persons residing within prewar boundaries of enemy territory; over 55 percent was held in the names of persons within enemy-occupied countries; and approximately 31 percent belonged to nationals of European neutral countries. (Annual Report of Secretary of the Treasury, June 30, 1942.)

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Section 301 of Title III remedies that situation by adding to the existing freezing control, in substance, the powers contained in the Trading With the Enemy Act with respect to alien property, extending those powers, and adding a flexibility of control which experience under the original act and the recent experience under freezing control have demonstrated to be advisable. The provisions of section 301 would permit the establishment of a complete system of alien property treatment. It vests flexible powers in the President, operating through such agency or agencies as he might choose, in deal with the problems that surround alien property or its ownership or control in the manner deemed most effective in each particular case. (Underlining supplied.) (1941) House Rep. No. 1507, 77th Cong., 1st Sess., p. 3. See (1941) Senate Rep. No. 911, 77th Cong., 1st Sess., p. 2, for substantially similar statement on the part of the Senate Committee on the Judiciary.

The import of this language is that Congress recognized and intended that the problem of determining when and what type of control over foreign property should be exercised, and when and under what circumstances other controls should be substituted was to be a matter of administrative discretion.

Congress recognized that the experience under the original act and under freezing control had demonstrated the necessity for establishing a flexible mechanism for the treatment of foreign-owned property. Thus it was stated that the bill

* * * avoids the rigidity and inflexibility which characterized the Alien Property Custodian Law enacted during the last war. The necessity for flexibility in legislation on this subject is accentuated by the vastness of the alien-property problem confronting the Government today. At the peak of his activity, the Alien Property Custodian of the last war administered property valued at something over \$800,000,000. Today there is over \$7,000,000,000 worth of property already subject to the existing control. (1941) Senate Rep. No. 911, 77th Cong., 1st Sess., p. 2.

Thus there is clear evidence in the legislative history of Title III that Congress intended to confer upon the President its full wartime powers with respect to the treatment of foreign property. This purpose has been recognized not only by the administrative agencies charged with the responsibility of carrying out its provisions, but also by a court which had occasion to consider its application. In Alexis v. General Amilino & Film Corporation, (Aug. 26, 1943) 43 N.Y.S. (2d) 715, 720, 721, it was held:

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By its terms Congress sought to confer upon the President or his representative the broadest possible authority over the property of foreign nationals, in order to forestall the possibility that such property might be utilized for purposes hostile to the common defense. * * *

* * *

The broad and comprehensive language of the Act clearly indicates that its purpose was to complement the authority of the President as Commander-in-Chief in time of war with all of the broad war time powers of the Congress over property in which foreign nationals have an interest. This Presidential authority might be exercised through any agency which the President might designate and by any means or method whatsoever.

The conclusion that section 8(b) constitutes an autonomous system of foreign property control, unlimited by any other provision of the Trading with the Enemy Act, is further supported by expressions of members of Congress with respect to the 1917 Act, during the course of enactment of the First War Powers Act, 1941.

On December 11, 1941, Mr. Sumners, Chairman of the House Committee on the Judiciary, introduced in the House H.R. 6206, Title III of which provided in pertinent part:

Sec. 301. All of the provisions of the Trading with the Enemy Act, approved October 6, 1917 (40 Stat. 411), together with all of the amendments to such Act, which have for any reason ceased to be in effect, are hereby reinstated; * * *.

A similar bill was introduced in the Senate as S. 2118. Neither of these measures was approved.

There had been considerable doubt in many quarters as to the extent to which the provisions of the old Trading with the Enemy Act were in effect. As Senator Reed once pointed out ⁱⁿ Cong. Rec. 60 (1933) 11

The Trading with the Enemy Act is today of doubtful validity; no one knows definitely whether it was repealed by the Knox Resolution.

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This uncertainty with respect to various aspects of the Trading with the enemy Act was before the Congress, and it was felt that an entirely new measure was desirable. Accordingly, H. R. 8283, which was eventually passed by the Congress as the First War Powers Act, 1941, was introduced. It was said of H. R. 8286 by Mr. Earl C. Michener, of the Judiciary and the Rules Committee of the House of Representatives:

" * * The original bill was what we commonly call a "shotgun" measure. No one can tell by reading that bill what it means, what it covers, what powers are given, and to whom. It attempts to revive legislation once enacted by the Congress but which has expired by limitation of time or which has been expressly repealed. The Committee on the Judiciary felt it necessary to rewrite the bill so that anyone reading it might have some idea as to what was intended by the bill. 87 Cong. Rec. 9256 (1941).

Nothing could more clearly indicate Congressional intent that the new amendment be self-sufficient and independent of the fettering provisions of the old Act, many of the sections of which had dubious vitality.

(b) Section 5(b) is an essential instrument in the wartime foreign relations of the United States and in the conduct of this Government's program of economic warfare.

Only a construction that the composite of the powers conferred by section 5(b) of the Trading with the enemy Act, as amended by Title III of the First War Powers Act, 1941, are more than ample to confer full administrative discretion in reference to the manner and circumstances in which foreign property is to be vested or restored will afford proper scope to the constitutional role of the President as Commander-in-Chief, Chief Executive and organ of foreign relations. The extent of this role is set forth clearly in the familiar case of United States v. Curtiss-Wright Export Corporation, et al., (1936) 299 U.S. 304, 319:

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations -- a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be

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exercised in subordination to the applicable provisions of the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment - perhaps serious embarrassment - is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved.

The relationship of the role of the President in the field of foreign relations to the subject of foreign property control was indicated in United States v. Van Clam, (C.C.A. 2d, 1943) 136 F. (2d) 988, cert. denied (1943) 13 U.S. Law Week 3124, when the court stated:

* * * there is such persuasive force in the appellee's argument that the power exerted by the Executive with regard to property of foreign nationals in a time of proclaimed emergency falls within the sphere of foreign relations and is thus free from the limitations imposed on delegated authority.

Presently outstanding are serious problems wherein the control and regulation of foreign property is inextricably interwoven with the field of foreign relations. It is only through the adopting of a construction harmonizing the role of the President in this field with the role of Congress and holding that administrative discretion exists to determine when and under what circumstances vested property may be restored, that serious embarrassment in the field of foreign relations may be averted.

Negotiations are now in progress with the Custodians of Enemy Property for Canada and Great Britain in connection with problems resulting from the fact that jurisdiction over a EME is asserted by more than one Custodian. The Custodians of Canada and Great Britain are in the position of being able to negotiate upon a flexible basis since their authority to return vested property is unquestioned. Any holding that the executive branch of this Government does not have available to it equally flexible resources would seriously embarrass, if not wholly frustrate, its ability to negotiate, and would, of course, wholly preclude any release of vested property from control, even if such a course should be in the best interests of the United States. Moreover, any such holding would undoubtedly result in the loss of control by this Government over important property holdings in cases where such control is effective only

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because of comity arrangements with an allied government. Thus, for example, large blocks of Canadian securities held in the United States for enemy account might be cancelled unilaterally by the Canadian authorities and released in Canada, unless there exists a recognized basis for comity in this field.

The Dutch and Norwegian Governments, among others, have issued decrees purporting to vest property of their nationals within the United States. Whether such decrees, or similar decrees which may hereafter be issued, are to be recognized for a limited or general purpose is a question of governmental policy closely identified with foreign relations which may be required to be resolved by action of the executive branch. As a matter of convenience in administration or for political purposes it may become desirable to release specified property to recognized governments of the enemy-occupied areas. The Dutch have already made efforts to secure an expanded effect for their conservatory measures. Moreover, the State Department has informally suggested that interested agencies consider whether or not it is desirable that Dutch assets be vested by the United States and released to the Dutch Government on behalf of its nationals. Without attempting to pass on the merits of any such proposal, it could not even be considered if section 8(b) were narrowly construed so as to preclude return of vested assets. A construction should not be adopted which would preclude an approach which would give proper sphere to executive discretion in this field.^{4/}

^{4/} The inflexibility of the old Act with its provisions that enemy property brought under the control of the Government had to await such dispositions at the close of the war as Congress might direct had caused this Government serious political embarrassment. See (1920) House Rep. No. 1089, 66th Cong., 2d Sess., and the correspondence between the Secretary of State and the Attorney General appended thereto. The Secretary of State had vigorously complained that the continued retention of property of persons who had acquired French nationality could not fail to have an unfavorable effect upon the relations of the United States and France. He also pointed out that this Government had recognized the Republic of Poland and Czechoslovakia, and that for the Government to retain property of citizens of these countries would have a prejudicial effect upon the relations between such countries and the United States. On May 11, 1920, the Secretary of State wrote the Chairman of the House Committee on Interstate Commerce and Foreign Affairs, saying in connection with the proposed bill for return of certain property:

The draft, it is understood, is largely based on representations from this department, made in view of the fact that the Attorney General holds that under the trading

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It is inevitable that in view of the fact that the bulk of the foreign property now subjected to control by this Government is owned by nationals of the occupied countries, the problem of preserving proper foreign relations, and of releasing foreign property controls when such controls no longer are required, will become of increasing importance. This will be especially true with respect to property which is vested as being German owned, but which later investigation discloses is French or Dutch owned. If such property cannot be restored through the use of administrative processes, there is certain to be an unfavorable effect on our foreign relations.

It cannot even be predicted that the property of so-called real enemies will be subjected to uniform treatment. Austrian property has been vested on the theory that Austria is part of Germany. There is a real possibility that, under the Moscow Agreement, action may be taken recognizing Austria as an independent state. It would indeed be an unfortunate situation if the executive branch of this Government could not implement such recognition by restoring vested property to bona fide Austrians if such action were deemed to be in furtherance of our foreign relations.

Many other similar situations may be envisioned where the President, as Commander-in-Chief, may determine in the interests of the United States that the restoration of property to certain types of enemies or former enemies would constitute an important technique of political or psychological warfare.

It will be recalled that on June 14, 1941 Russia was frozen in view of the pact which had been concluded with Nazi Germany. With the outbreak of war between Russia and Germany it became advisable to unfreeze Russia, and on June 24, 1941, only ten days after the original freezing, Russia was accorded the same status as if it had never been blocked. It may prove seriously embarrassing to the foreign policy of the United States and to the military effort of the United Nations if there could not be a similar reversal of policy with respect to enemy countries, their satellites, and neutral countries which may hereafter join the United Nations. For example, the President, as Commander-in-Chief, may determine that release of a certain percentage of Italian property would constitute an important technique of

with the enemy act, in its present form, he is unable to release property to owners who when it was taken over were included, for any reason, in the terms "enemy" or "ally of enemy", as used in the act and consequently, in spite of strong representations by various neutral and associated Governments, it has been impossible to return the property of their nationals, which it would appear this Government should no longer retain. To longer retain property of this character may hardly fail to unfavorably affect the relations of this Government with the Governments concerned. . . .

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political or psychological warfare. Current events demonstrate that the present war differs radically from the last war in that today the reconquest of enemy-occupied territory is a gradual process, and it may reasonably be anticipated that hostilities in different areas of the world will not all cease at the same time. The Government is confronted today with the problem of concluding arrangements looking towards peace in one area while military operations are far from complete in another, and, in view of this fact, selective administrative return of vested property may be indispensable. These issues can be dealt with satisfactorily only by the speedy and flexible methods of negotiation by the Executive.^{5/}

Finally, it is hardly necessary to point out that the current war is a total war, requiring consideration to be given to the fullest use of all of our weapons of economic warfare. In this war, in contrast to the last, there is greater occasion to consider the advisability of returning vested property as a method for dividing sentiment among the populations in the enemy and enemy-occupied areas; there is occasion to consider the possibility of distinguishing between the vested property of enemy subjects who themselves are the victims of aggression and those who are the willing tools of the aggressor. There is likewise occasion to consider the mid war era which could be obtained from Proclaimed List nationals by return of their vested properties. It is of utmost importance that the effectiveness of section 5(b) as a weapon of economic warfare be retained in the full measure intended by Congress.

^{5/} The great importance, from the standpoint of governmental foreign policy, that return of vested property be deemed authorized by the First War Powers Act, 1941, is illustrated further by the situation which has arisen in connection with the French governmental accounts within the United States. The State Department has not deemed it desirable to date to recognize authority of the French Committee of National Liberation over such accounts. Accordingly, in some instances essential transactions with respect to such accounts have been directed by this Government under the affirmative powers contained in section 5(b). Political considerations may ultimately dictate the desirability of taking the further step of vesting these accounts, in whole or in part, in order to turn them over to French authorities in a manner which will foreclose any questioning of their rights. To hold that vested property may not be returned without further act of Congress might well be deemed to render the potent technique of vesting unavailable for purposes of dealing with this delicate political situation.

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It is thus evident that the regulation and control of foreign property may properly fall within that category of activity which for reasons of policy should be regarded as within the "delicate, plenary and exclusive power" of the President as Chief Executive and organ of the Federal Government in the field of international relations and likewise as Commander-in-Chief responsible for the success of the economic as well as the military campaigns against the enemy. In considering, therefore, the authority of the executive branch of the Government to return property vested by it pursuant to Title III of the First War Powers Act, 1941, the construction given must afford proper scope to this constitutional role of the President.

III. The constitutional and statutory provisions relating to public moneys do not preclude return of vested property.^{2/}

Article I, section 9, clause 7 of the Constitution provides that:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law * * *.

This provision has been amplified by section 9 of the Act of June 30, 1906, 34 Stat. 764 (U.S.C. title 31, sec. 627) which provides in part:

No Act of Congress hereafter passed shall be construed to make an appropriation out of the Treasury of the United States * * * unless such Act shall in specific terms declare an appropriation to be made * * *.

It is clear that under the practice followed in administering the powers conferred by Title III relating to vesting, these constitutional and statutory provisions do not operate to limit the authority to return vested money or the proceeds of vested property. The restrictive provisions referred to apply only to money which has been covered into the Treasury of the United States. Under most statutes which provide for the payment of money to the United States

^{2/} It is deemed unnecessary to discuss the provisions of Article IV, section 2, clause 2 of the Constitution relating to the authority of Congress over property of the United States. Other sections of this opinion demonstrate that Congress has fully exercised such authority in so far as the instant question is concerned.

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or the delivery to the United States of property which will be converted into money, there is a direction that the money so acquired be paid into the Treasury. No such provision appears in Title III of the First War Powers Act, 1941. This is particularly important in view of the fact that there was such a direction in the 1917 Trading with the enemy Act.^{2/} Accordingly, vested money and the proceeds of vested property will come within these limitations only if they are covered into the Treasury by voluntary administrative action.

The method followed by the Secretary of the Treasury in the General Amalgam & Film Corporation case (now followed substantially by the Alien Property Custodian) in vesting property specifically prevents money so acquired from being paid into the Treasury. The general form of vesting order provides:

Such property and any proceeds thereof shall be held in a special account pending further determination of the Secretary of the Treasury. This shall not be deemed to limit the power of the Secretary of the Treasury to return such property or the proceeds thereof
* * *. (Underlining supplied.)

It would be difficult, if not impossible, to draft language which would indicate more clearly an intention that vested money or money resulting from the sale of vested property should not be covered into the Treasury so as to be subject to the limitation referred to above.

The actual administrative practice is a further indication of the intention not to "cover" money into the Treasury. Money acquired by the Alien Property Custodian is held by the Treasurer of the United States in two special deposit accounts. These accounts do not consist of funds expendable under appropriations but the money in them may be withdrawn by means of checks drawn on the Treasurer by the Alien Property Custodian. The Treasurer is not informed of the character or source of the funds held in these accounts, nor is he advised of the purposes for which withdrawals are made from them. For all practical purposes the relationship between the Alien Property Custodian and the Treasurer is that of debtor and creditor and the function of holding these special deposit accounts is essentially the same as that performed by a private bank.

^{2/} Title III substantially duplicates a number of provisions found in other sections of the Trading with the enemy Act (notably sections 16 and 18, and portions of sections 7(a) and 8(b)). When Congress intentionally and expressly reincorporated certain portions of the 1917 Act within section 8(b), the effect of such express reincorporation was to vitiate the possibility that limitations imposed by the 1917 Act upon powers under that Act were incorporated into the 1941 Act by implication.

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The use of special deposit accounts is a governmental practice of long standing. It is a device by means of which funds within the control and discretion of an administrative official may be held by the Treasurer along with public funds, but without limiting the right of the administrative official to use them in accordance with his authority. There are many accounts of this type maintained by the Treasurer. It seems clear, therefore, that money vested or resulting from sales of vested property has not been, and was not intended to be, covered into the Treasury and has not become public moneys in the Treasury of the United States subject to withdrawal only under appropriations made by Congress.

Additional support for these views may be found in a series of decisions and opinions dealing with an analogous situation which existed during and immediately after the Civil War. The Civil War statute governing the seizure and condemnation of the property of persons in rebellion required that money so acquired (either directly or through sales of property) should be covered into the Treasury of the United States. It was held that once money had been covered into the Treasury in accordance with this statute, it could be paid out and returned only in accordance with appropriations by Congress. However, the rule was clearly established that until such funds had actually been covered into the Treasury under a warrant, they were under the control and subject to the discretion of the executive branch of the Government and could be returned to the former owners in appropriate cases -- the principal case being that of a person pardoned by the President subsequent to the seizure of the money in question. Gibson v. United States, (1875) 91 U.S. 474; Knott v. United States, (1877) 95 U.S. 149, 154; (1857) 2 Op. Atty. Gen. 361; (1914) 30 Op. Atty. Gen. 246.

The clearest statement of the principle developed by this line of authorities is contained in the Knott case, supra, where the Supreme Court said:

* * * So, also, if the proceeds have been paid into the treasury, the right to them has so far become vested in the United States that they can only be secured to the former owner of the property through an act of Congress. Moneys once in the treasury can only be withdrawn by an appropriation by law. However large, therefore, may be the power of pardon possessed by the President, and however extended may be its application, there is limit to it, as there is to all his powers, -- it cannot touch moneys in the treasury of the United States, except expressly authorized by act of Congress. The constitution places this restriction upon the pardoning power.

Where, however, property condemned, or its proceeds, have not thus vested, but remain under control of the Executive, or of officers subject to his orders, or are

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in the custody of the judicial tribunals, the property will be restored or its proceeds delivered to the original owner, upon his full pardon. The property and the proceeds are not considered as so absolutely vesting in third parties or in the United States as to be unaffected by the pardon until they have passed out of the jurisdiction of the officer or tribunal. The proceeds have thus passed when paid over to the individual entitled to them, in the one case, or are covered into the treasury, in the other.

It should be noted that this Civil War act required that seized moneys be paid into the Treasury of the United States and that no such provision is contained in Title III of the First War Powers Act, 1941. Since it was held that money obtained under the Civil War act was returnable at any time prior to its being covered into the Treasury, there can be no doubt but that the same rule would be applied in the case of moneys vested under Title III or obtained through the sale of vested property.

IV. Conclusion

During the last war a justification for refusing to effect the return of vested property might possibly have been found in the fact that the rigid provisions of the 1917 Act precluded any type of control short of seizure. Today all phases of control short of vesting are available, and it is possible to assert the type of control most effective and desirable in each particular case. Accordingly, it may frequently be desirable to substitute a lesser control for vesting in cases similar to those in which the technique of seizure was used during the First World War merely because no alternative technique of control was then available. Congress has accepted this full flexibility of control by its approval of the licensing system adopted by the Treasury Department and through the language and legislative history of the First War Powers Act, 1941. It would appear anomalous to suggest that the flexibility with respect to return which is available under a licensing system may not also be available under the most drastic of all methods of control, that of vesting. Such a holding would bar authority of the Custodian to return enemy real property, and enemy business enterprises, while at the same time there would be no bar to a return of the enemy money and enemy securities which are subject to control under Executive Order No. 8389, as amended.

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It is concluded on the basis of the considerations set forth herein that there is no support for so anomalous a result as is suggested in the preceding paragraph and that full authority exists under section 5(b) of the Trading with the enemy Act, as amended by Title III of the First War Powers Act, 1941, to return vested property in the interest and for the benefit of the United States. While this is the conclusion as a matter of law, nevertheless it should be observed that no opinion is expressed with respect to policy and political considerations inherent in any program for return of vested property. Congress itself may possibly choose, at a later date, to set forth the conditions of any overall program for the treatment of vested property. Certainly in the absence of any specific direction to the contrary, however, Congress did not intend to restrict the complete authority of the Executive in this field.

Very truly yours,

7/12/43 (100-1011) (100-1011)

General Counsel.

The Honorable,

The Secretary of the Treasury.

FDG:RB:RNH:KEL:IGA:LCA:LSL:geb 11-30-43

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Dear Mr. Markham:

During recent weeks there have been a number of discussions between representatives of your office, the Department of Justice, and this Department with respect to whether there is authority to return property vested under section 5(b) of the Trading with the Enemy Act, as amended by Title III of the First War Powers Act, 1941.

The Secretary of the Treasury has asked the Attorney General for an opinion on this question. For your information, I am enclosing a copy of my opinion which the Secretary of the Treasury has forwarded to the Attorney General with his request.

Very truly yours,

W. H. C. ...

General Counsel.

Mr. James E. Markham,
Deputy Alien Property Custodian,
Washington, D. C.

Enclosure.

W. H. C. ...

Secretary Morgenthau

Randolph Paul

The attached papers are a request for an Attorney General's opinion and a supporting opinion signed by me. The question on which we want the Attorney General's opinion is whether we have authority to return property which has been vested under the Trading with the enemy Act.

We do not have in mind any specific cases in which we want to take vesting action at this time. However, the Alien Property Custodian had asked the Attorney General for an opinion on this subject and it was indicated to us in conferences that there was a possibility of the Attorney General holding that there is no authority to return vested property. We felt that such an interpretation would be a very dangerous one, would place an artificial and restrictive interpretation on the statute under which we are operating, and would prejudice many things we might want to do in the future.

LCA:LSL:IAk:als 11-30-43

Treasury Department
Division of Monetary Research

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Date December 4, 1943

To: Secretary Morgenthau

From: Mr. White

Subject: Lend-leasing of silver to India.

1. Appended hereto are copy of your letter to the Joint Chiefs of Staff regarding the lend-leasing of 100 million ounces of silver to the Indian Government and their reply thereto.
2. The reply of the Joint Chiefs of Staff is not very helpful since it merely indicates that the Joint Chiefs of Staff have no objection to the lend-leasing of silver and that they feel that currency stability in India is desirable.

CS 22798

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THE JOINT CHIEFS OF STAFF
WASHINGTON

SECRET

3 December 1943.

SECRET SECURITY

The Honorable
The Secretary of the Treasury,
Washington, D. C.

My dear Mr. Secretary:

The Joint Chiefs of Staff acknowledge receipt of your letter dated 18 November 1943, referring to the matter of lend-leasing 100 million ounces of silver to the Indian Government for anti-inflationary purposes.

The Joint Chiefs of Staff consider that a reasonably stable currency is a necessity to successful military operations conducted from India, and that extensive inflation would imperil these operations. For this reason, it is considered that the currency of India should be kept sufficiently stable to enable the Allies to conduct military operations therefrom without interference. Furthermore, the U.S. war production would not be adversely affected by sending this silver out of the country.

Subject to the above considerations, the Joint Chiefs of Staff have no objections from a military point of view to the lend-leasing of the silver as requested.

Sincerely yours,

For the Joint Chiefs of Staff:



F. J. HORNE,
Vice Admiral, U.S. Navy,
Vice Chief of Naval Operations.



COPY

NOV 18 1943

My dear Admiral Leahy:

The U. S. Treasury has been requested by the Government of India to grant its immediate approval for the lend-leasing of 100 million ounces of silver to the Government of India. The Government of India has indicated that this silver will be used for anti-inflationary purposes.

The U. S. Treasury has been studying the situation in India and believes that the use of this silver may be of assistance to the Government of India in its efforts to cope with the difficult problem of inflation. However, since India is a base for military operations in Eastern Asia and since the Government of India has given military necessity as one of its principal arguments for the lend-leasing of this silver, I feel that the Combined Chiefs of Staff may have an interest in this matter.

Therefore, I would appreciate if the Combined Chiefs of Staff would take under consideration the question of whether or not the importance of granting this request from a military point of view outweighs the financial considerations involved.

If the Combined Chiefs of Staff feel that this matter is of concern to it, I would be pleased to receive its opinion as to the desirability of acquiescing to the Government of India's request.

Sincerely yours,

(signed) H. Morgenthau, Jr.

Secretary of the Treasury

Admiral William D. Leahy,
Chief of Staff to the Commander
in Chief of the U. S. Army and Navy,
Washington, D. C.

HDW/ISF/efs 11/19/43

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Information received up to 10 A.M. 3rd December 1943.

I. NAVAL

On 1st/2nd U-Boats unsuccessfully attacked a Coastal Convoy off Biscaya. U-Boat sank 1 of the Escorting Trawlers.

On 30th/1st Destroyers bombarded DURAZZO, and on the 2nd two of H.M. Destroyers shelled military objectives in the PASCARA area and damaged 3 bridges.

F. MILITARY

Italy To noon 2nd. 9th Army. Descriptions and mines have caused delay but some progress has been made in the Mountain Sector. Heavy fighting has continued near LANCIANO. CASTELFRANCO now captured in spite of heavy counter attacks.

5th. Army. We have gained a little ground in the area South East of NIGNANO.

A. AIR OPERATIONS

Western Front 2nd. 56 Light and Fighter Bombers attacked military construction near CHARBONNEF. A JU 88 was destroyed by anti-aircraft fire off DOUAI.

2nd/3rd. 499 Aircraft sent out: BOMBERS 458 (43 missing); FIGHTERS 41 and 40 (1 missing); Leaflets 30, Intruders 3; Anti-Ship, 1. At BOMBERS in conditions of varying cloud etc. bomb concentration seems to have been in South and South East of City. Some very large fires reported.

Italy 1st. About 180 tons were dropped on our positions in the battle area. Fighters effectively attacked H.M. near PASCARA.

Frankel



THE UNDER SECRETARY OF THE TREASURY
WASHINGTON

December 4, 1943

TO THE SECRETARY:

This is the statement prepared by John Sullivan and Harold Graves to go in as part of your testimony on the question raised by Mr. Taber in Friday's hearings on who pays the advertising bill.

I will check it Monday with Gaston and Gamble and you might telephone me either Monday or Tuesday what you think of it.

swB



The memorandum suggested above follows:

The policy of the Bureau of Internal Revenue regarding the deduction of advertising expenses for Income and Excess Profits tax purposes was set forth in a press release dated September 29, 1942, by Commissioner Guy T. Helvering:

"To be deductible, advertising expenditures must be ordinary and necessary and bear a reasonable relation to the business activities in which the enterprise is engaged. The Bureau recognizes that advertising is a necessary and legitimate business expense so long as it is not carried to an unreasonable extent or does not become an attempt to avoid proper tax payments.

"The Bureau realizes that it may be necessary for taxpayers now engaged in war production to maintain, through advertising, their trade names and the knowledge of the quality of their products and good will built up over past years, so that when they return to peace-time production their names and the quality of their products will be known to the public.

"In determining whether such expenditures are allowable, cognizance will be taken of (1) the size of the business, (2) the amount of prior advertising budgets, (3) the public patronage reasonably to be expected in the future, (4) the increased cost of the elements entering into the total of advertising expenditures, (5) the introduction of new products and added lines, and (6) buying habits necessitated by war restrictions, by priorities, and by the unavailability of many of the raw materials formerly fabricated into the advertised products.

"Reasonable expenses incurred by companies in advertising and advertising technique to speed the war effort among their own employees, and to cut down accidents and unnecessary absences and inefficiency, will be allowed as deductions. Also reasonable expenditures for advertisements including the promotion of Government objectives in wartime, such as conservation, salvage or the sale of War Bonds, which are signed by the advertiser, will be deductible provided they are reasonable and are not made in an attempt to avoid proper taxation."

In applying these principles the Bureau takes into account the following elements.

1. Prior advertising expenditures.
2. Indirect advertising not now available, such as advertising by dealers, and customers, and advertising by salesmen.
3. Whether the article is a new product.
4. Whether the company is a newly formed company.
5. Whether the advertising is designed to reach only the persons who may become customers or is of such a character that 90 to 95% of the persons reached could not be classed as future customers.
6. Whether the advertising is designed to create a future market by keeping the manufacturer's name before the public.
7. Whether the advertising is designed to create a desire for the article in the future by educating the public.

In passing upon the amount of advertising that may be allowed as a deduction for Income and Excess Profits tax purposes, the Bureau is not unmindful of the fact that the tax benefit derived by the manufacturer may amount to as much as 80% of the amount spent. In such circumstances, it is apparent that the Government indirectly pays for 80% of such advertising and the manufacturer bears only a net of 20%. Many applications for favorable prospective rulings on advertising deductions are denied. Many others are granted only after a reduction in the advertising budget.

A second question has been raised as to the benefit derived by Government contractors or subcontractors resulting from the allowance of advertising expense in fixing the price paid by the Government for the article in the original contract.

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The policy in this respect is set forth on Page 19 in a pamphlet dated March 31, 1943, entitled, "Joint Statement by the War, Navy, and Treasury Departments and the Maritime Commission which reads as follows:

"5(e) Advertising.—Allowances for advertising expenses are based upon deductions allowed by the Bureau of Internal Revenue for tax purposes." (As previously set forth in quoting Commissioner Guy T. Helvering's statement of September 29, 1942.)

"Ordinarily, product advertising specifically offering individual products for current sale (as distinguished from institutional advertising designed to keep the advertiser's name or the names of its peacetime products before the public) is charged in full to commercial business, but product advertising by subcontractors may be allowed in reasonable amount as a charge against renegotiable business with respect to products sold primarily for use in war production.

"The test of whether expenditures for advertising are reasonable is whether they are ordinary and necessary and bear a reasonable relation to the business activities in which the enterprise is engaged. In making this test of reasonableness, consideration is given to the amount spent for institutional advertising, and for product advertising of the nature of institutional advertising. If such expenditures are extravagant and out of proportion to the size of the company or to the amount of its advertising budget in the past, such payments will be disallowed as elements of the cost."

The following observations may be pertinent:

It will be noted that subcontractors are allowed deductions for product advertising apparently on the theory that the prime contractors are their customers from whom the subcontracts are acquired.

The prime contractor is restricted to institutional advertising in a reasonable amount and we understand in addition possibly some advertising in trade journals.

In cost-plus-fixed-fee contracts the contractor is allowed a certain amount of institutional advertising and a reasonable additional amount of advertising in trade journals. It is understood that regulations do not cover the allowance of advertising in lump sum contracts,

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and that in such cases the allowable advertising is agreed upon by the contracting officer and the contractor.

12-4-43 *Final* 270

Relief for Individuals with Fixed Incomes

Description of relief for fixed incomes

Under a plan providing relief for fixed incomes, persons who have had more than a specified percentage increase in income would pay the standard income tax without reduction. Persons whose income had increased less than this specified percentage would pay less than the standard tax. It is assumed that this plan would be put into operation at a time when tax rates were being substantially increased. The plan would then have the effect of limiting the increase in tax on those persons whose incomes were substantially fixed.

Plans for relief for fixed incomes need not be limited to a single pattern. Relief might be a flat reduction in tax rate or might be graduated according to the degree of fixedness of income. Thus, an individual whose income had increased by 10 percent might receive less relief than another individual whose income had not increased at all. Such refinements would increase the equity and effectiveness of the relief but would add to compliance and administrative difficulties.

Relief might take the form of a reduction of the tax itself or it might take the form of a current refund of a postwar credit.

Relation to tax on increased incomes

The provision of relief for individuals with fixed incomes is an indirect method of taxing increases in income. The emphasis, however, is on protecting persons with fixed incomes from a high standard rate of tax rather than on imposing an especially high rate of tax on increases in income.

Relief for fixed incomes would shift the total tax burden from persons with fixed to persons with increased income in the same general way as would a direct tax on increases in income. However, there would be less difference in tax between persons with large income increases

- 2 -

and persons with moderate increases.

Many of the same arguments which have been raised for and against the taxation of increases in income would apply to relief for fixed incomes.

Comments relating especially to relief for fixed incomes

Since the emphasis of relief for fixed income is on the protection of presumably hard-pressed persons, it would to a lesser degree raise the equity and incentive problems that are encountered in a tax directed at increases in income.

The same technical and administrative problems that are involved in a direct tax on increases in income would also be involved in a plan for relief for fixed incomes but in less difficult form. Far fewer taxpayers would be involved. Precise measurement of the increase in income would not be essential except in the area where relief was granted. If the relief were extended by means of current refunds of a postwar credit, the crudities in measuring increases in income might be of relatively little significance since the final burden of tax would not be affected.

However, even the simplest relief plan would be relatively complicated. It would be difficult to integrate with collection at source and would make the simplified return form more complicated or harder to use.

Revenue aspects of the plan

A plan for relief of fixed income would ostensibly decrease revenues. If successful, however, such a plan would make possible higher standard rates of taxation than would be fair and acceptable without the relief. The net effect of such a plan should be an increase in revenue, the amount depending on the higher rates made possible and on the generosity of the relief.

- 3 -

Relief for persons with fixed commitments

A form of relief which would assist people with fixed incomes is relief for persons with fixed commitments. Thus, a person who had heavy commitments to pay life insurance premiums or principal and interest on home mortgages or other types of debt, could be allowed a reduction in tax with respect to amounts of such commitments in excess of some fixed percent of his net income. The relief could take the form either of a deduction from income or of a credit against tax.

An argument in favor of this kind of relief is that if taxes become so heavy that payments on commitments have to be abandoned or reduced, past savings are likely to be lost. On the other hand, fixed commitments usually involve some kind of savings program. The provision for tax relief would reduce taxes for people who are building up their capital through certain contractual types of saving while people who do their saving in other ways would not receive the benefit of the relief.

The inequity of granting relief to persons with certain types of savings programs at the expense of other persons would be minimized if the relief took the form of a current allowance of a postwar credit. Persons with fixed commitments would receive immediate use of a credit which the remaining taxpayers would receive later as a postwar credit. The current credits under the Victory tax were of this type although they included a credit for purchase of war bonds also.

Relief for fixed commitments would not give relief to the same persons who would benefit from relief for fixed incomes. Persons whose incomes have increased are in general less likely to have relatively large fixed commitments than are persons whose incomes have remained stable. However, many persons with rising incomes do have large amounts of fixed commitments and many persons with fixed incomes do not have substantial amounts of fixed commitments.

Relief for fixed commitments would involve substantial compliance and administrative difficulties which would not, however, be as great as the difficulties involved in relief for fixed incomes.

Roy Blough

12-11-43 273

TAXATION OF INCREASES IN INDIVIDUAL INCOME

In time of war, incomes are differently distributed than in times of peace. The incomes of some persons decrease, other incomes remain about the same, while the majority of incomes increase at least in money terms. It has been urged that a special tax be placed on these increases.

If special taxes were to be levied on increases in income, the result would be of course to collect different amounts of tax from people with equal incomes and family responsibilities. A man whose income is now \$4,000 but used to be \$3,000, for example, would pay more than a man who always had an income of \$4,000. Both would pay income taxes on \$4,000; one would have to pay an additional tax on his \$1,000 increase. This additional tax would be a radical departure from our present tax system. The question is whether such a tax is desirable.

The problem of the desirability of a tax on increases in incomes is complicated by the varying causes and character of the increases. The increases range from normal, necessary and well-deserved increases to abnormal, undeserved and purely excessive increases. Mostly they are the necessary kind, but the spectacular excesses are sufficient in number to cause much concern. The arguments for and against the special taxation of increases in income must be considered in the light of the varying character and merit of the increases.

The arguments presented here are not directed to business profits, which involve special considerations, but to income in general and to wages and salaries in particular.

A. Major Arguments in Favor of Taxing Increases in Income

1. Special ability to pay

It is argued in favor of such a tax that persons now at a given income level who have recently enjoyed increases in income have more ability to pay than persons

- 2 -

of the same income level whose incomes have continued at that level. The reason given is that people whose incomes have been constant have "commitments" which tie down a large part of their incomes, while people who have enjoyed increases have more complete disposal of their incomes for current spending. Examples of extravagant spending by war workers are commonly brought forward to show that they do not really need their money as much as fixed-income people do.

2. War sources of income

It is argued that since we are taxing to pay for the war, incomes created by the war should in fairness be in part recaptured. Wartime increases in income (or at least many such increases) are traced to the war.

3. Anti-inflation

It is argued that a tax which fell on increases in incomes (particularly on increases received by wage-earners and farmers) would make it less worthwhile to apply pressure for higher wage rates and higher farm prices and thus would slow down the inflationary growth of money incomes and the inflationary rise of business costs. Furthermore, if the argument about special ability to pay is valid, taxes of this sort could be applied over and above the highest acceptable level of regular income taxes, thus increasing the amount of spending power drained off the market.

B. Major Arguments Against Taxing Increases in Income

1. Unfairness of tax discrimination

Imposition of a tax on increased incomes would mean that if John Jones earns \$3,000 and used to earn \$1,000, he would pay more taxes than John Smith who has earned \$3,000 constantly over a period of years. On its face such taxation appears discriminatory and calls for careful scrutiny.

The arguments that people with recent increases have a special ability to pay rests on the "commitments" of the fixed-income people. These "commitments" consist largely

- 3 -

of savings arrangements -- life insurance, mortgage contracts, retirement arrangements -- under which failure to keep up scheduled payments may involve losing the fruits of past savings. But to discriminate in favor of fixed-income people and against people with increases on this ground would be to distribute relief with a shotgun -- and partly in the wrong direction. Many fixed-income people have finished paying for their homes, and thus have no problem of meeting mortgage payments; many others can easily protect their past savings by getting mortgages refinanced to slow down repayment schedules, by borrowing on life insurance, etc. Thus only a minority of fixed-income people really need protection on this score. Furthermore, there is also a minority of people with increases in income who can get housing in congested centers only by buying houses at inflated values, and who are at least as much in danger of losing their savings as their neighbors with fixed incomes.

A second type of "commitment" is the high cost of housing and transportation to work in which many fixed-income people are involved because of pre-war decisions as to where to live. This is compounded in many cases by the high prices charged in the neighborhood shops where they have to buy. However, many fixed-income people do not have this handicap, while many war workers with increased incomes have been forced to move into high-rent centers and to buy in "boom-town" markets with sky-high prices.

There seems to be a feeling also that people who are used to living comfortably can expect other people to make sacrifices to help them keep on living just as comfortably. It is true that to cut a family budget (say) from \$4,000 of spending to \$3,500 involves more worry than to expand a family budget from a lower level to \$3,500 instead of to \$4,000. On the other hand, the family which has long had a substantial income is ordinarily provided with a good outfit of furniture, clothing, electrical appliances, kitchen equipment, with a late-model car, and often with a house, and is thus better able to live comfortably on \$3,500 than a family which lacks this outfit because its income has been lower.

Moreover, many persons with high wartime incomes are in that position only temporarily and are subject to much greater insecurity than persons whose incomes, being fixed,

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go on in good times and bad times. Receipt of fixed income makes unnecessary the large personal savings which the war worker should accumulate. Fixed incomes commonly have pension rights and other long-run financial advantages. Many persons with fixed incomes have deliberately chosen to stay where they are and not to shift to the more needed and higher paid war work because they desire to retain their long-run advantages.

Finally, it is one thing to impose a tax on future increases, but quite another to tax increases that have been enjoyed for some time and to which the recipient has become accustomed. A tax on increases in income already realized would undoubtedly meet with strong resentment.

2. Work incentives

Most of the families which have had increases in income have got them by doing more work or by shifting to lines of work urgently needed for the war. Housewives and grown daughters have taken factory jobs; elderly people have returned to work; young people have left school; factory workers, transport workers, farmers, and others are working longer, harder and faster than before the war. A tax on increases in incomes would be primarily a tax on what workers and farmers have earned in these ways.

The American tradition of free enterprise involves getting urgent work done by paying people enough to make it worth their while to do it. A tax on increases in income would work in just the opposite direction. Housewives would consider dropping their war jobs; men would prefer civilian jobs with seniority and job security to higher-paid jobs in temporary war industries; overtime pay would not make it worthwhile to work long hours; extra pay for night shifts would lose much of its attraction; farmers would wonder whether it was worth getting up to milk the cows besides doing all the rest of the work without adequate help. New workers in high-cost centers, who were able to move in only because high money earnings covered high costs, would have to consider moving away again. The combined effect of all these changes in incentives upon war production would be serious.

It is true, of course, that some wartime increases in incomes are sheer windfalls, not representing additional effort going into the war. But to turn this fact into an

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argument for taxing increases in general it would be necessary to show that the great majority of people with increases are overpaid and this is almost certainly not the case. If it is desired to tax windfalls, we should tax windfalls -- if we can, not increases in general.

3. Practical problems of applying the tax

Successful application of the tax would require its being collected currently, for two reasons: to get the anti-inflation benefits of the tax and to insure collection from the many persons who will suffer a marked decline of income at the end of the war. It would be almost impossible to collect such a tax by withholding at the source of income. To withhold a tax on increases it would be necessary to measure the increase on an annual basis for every worker and give employers instructions how much to withhold on this account in every individual case. To collect currently without withholding would involve extending the estimated-income technique to all taxpayers for the tax on increases. The burden of administration and compliance would be greatly increased, and the possibility of income tax simplification would be sacrificed.

Aside from collection, there would often be great difficulties in determining the amount of the tax. For large numbers of persons there is no available evidence on past income. It would probably be necessary to set up a presumptive base-period income for persons who did not file income tax returns. This would reduce the equity and revenue yield of the tax. The paper work under the tax would be complicated and difficult for taxpayers.

Moreover, no particular period would be a fair income base for all people. Just as has occurred with the excess profits tax, there would be impelling demands for all sorts of relief measures to correct the base period.

For these reasons the tax does not seem administratively practicable.

A fuller analysis of these technical and administrative problems is presented in Part III of the Treasury study entitled "Taxation of Increases in Individual Incomes," in the Hearings of the Committee on Ways and Means.

Roy Blough

LOST SECRETCONFIDENTIAL 13NOT TO BE REPRODUCEDOPTTEL NO. 396OFFICE
OF
SECRETARY OF TREASURY

Information received up to 10 a.m. 4th December, 1943.

1. ITALY

A convoy of 17 ships has arrived north Russian ports without incident. On 2nd/3rd Bari was attacked by 30 aircraft with mines and bombs. Two ammunition carriers blew upsetting fire to adjacent shipping and causing fires which were still burning last night. 17 cargo ships and a total loss. Two of U.S. Destroyers and a depot ship were damaged, but not seriously. Same night two of U.S. Destroyers bombarded Ancona and Genodette, sunk four schooners and damaged a fifth.

2. ITALYItaly

The Eighth Army have maintained their advance. S. Vito, Lanciano and Orsogna have been captured after stubborn fighting and in spite of demolitions and mines. Near Guardiarole particularly fierce fighting continues. On night of 2nd, following considerable artillery preparation, formations of Fifth Army started an attack on hill positions near Monte Maggio, south of Naples-Casino Road. Progress has been slow in difficult country but an advance of about two miles on a narrow front has been made.

Yugoslavia.

On 29th November Partisans captured Cazma, 30 miles east of Zagreb, killing 200 enemy, wounding 80 and capturing 240. Enemy reinforcements from Bielovar fell into ambush and lost a further 200 killed or wounded and much material.

3. AIR OPERATIONS.Western Front.

2nd-3rd. Berlin. 1502 tons dropped including 701 tons HE, 717 tons incendiaries and 304 4,000 lb. bombs.

3rd-4th. 570 aircraft despatched: Leipzig 526, Berlin 9, sea mining 12, leaflets 4, intruders 28. Preliminary reports indicate thick cloud over Leipzig but good concentration probably achieved. 24 aircraft missing.

France. 2nd. 46 escorted Fortresses from Africa bombed U-boat installations at Marseilles with good results.

Italy. 1st. Fortresses dropped 354 tons on Turin causing severe damage to the Fiat works. Marauders dropped 90 tons on railway bridges in the Cossato and Spezia areas. 407 medium and light bombers and 373 fighters attacked objectives in the battle area.

Yugoslavia. 2nd. 78 light and fighter bombers attacked shipping at Onis near Split: one Diesel Ferry was destroyed and a small ship and a tug set on fire.

NOT TO BE RE-TRANSMITTEDU.S. SECRETCOPY NO. 12BRITISH MOST SECRETOPTCL No. 397

Information received up to 10 A.M. 5th December 1943.

1. NAVAL

Port facilities at BAHI little damaged in air raids on 2nd and reduction in capacity should not exceed 500 tons per day. Estimated 38,000 tons of cargo lost and about 1,000 casualties mostly service and merchant seamen. During the night 1st/2nd H.M. Destroyers bombarded the NINGBO area in support of Fifth Army. One of H.M. Submarines has sunk a 3,000 ton escorted West Bound ship and a Caique in the Aegian.

2. MILITARY

Italy 1c noon 4th. Heavy fighting continues on both army fronts. In the Adriatic Coastal sector the 3th Army are pushing slowly forward towards the River SODO. Fighting has been particularly heavy about ORSOGNA but further South the enemy are reported to have abandoned CASOLI. On 5th army front British and U.S. Troops have made slight progress against strongly held positions in the mountainous MONTE MUGGIONE area.

Burma Our forces have advanced on the east side of the MUIR RIDGE and reached a point about 4 miles North-North West of BUTHIANG. In Northern BURMA the Japanese are reported to have infiltrated in rear of the Chinese forward positions 10 miles East of SHINGEITANG; situation is obscure.

3. AIR OPERATIONS

Western Front 3rd/4th. DUISBURG. 1,382 tons dropped including 630 H.E., 702 incendiaries and 260 4,000 lb. bombs. Attack appeared concentrated and effective; several explosions reported. Little ground opposition and few searchlights; fighters arrived late. 2 J.U. 88 claimed destroyed. Photographs at 2:30 P.M. 4th show a dense pall of smoke covering entire Western half of the City and many fires burning in the eastern half.

4th. 2 Typhoon squadrons intercept 19 D.O. 217 over HOLLAND and destroyed 11 of them without loss.

4th/5th. Aircraft despatched: DUISBURG 9, sea-mining 43 (1 missing), anti-ship 14, anti-shiping 2, (1 armed trawler and one R-boat sunk)

France 2nd. reference OPTCL 396 "46 Fortresses" should read "118 Fortresses".

Italy 2nd. Escorted Liberators dropped 106 tons on railway communications at BOLZANO.

3rd. Invaders attacked communications North West of RONC. 373 light and fighter bombers operated over the Battle Area. Enemy casualties 5.0.2. Ours 1 missing.

Yugoslavia 3rd. 80 Allied bombers and fighters attacked SIBERIA.

STATEMENT OF ROBERT P. PATTERSON, UNDER SECRETARY OF WAR,
BEFORE THE SENATE FINANCE COMMITTEE, MONDAY, DECEMBER 6, 1943.

Mr. Chairman. I have asked for the privilege of appearing before you to direct attention to some provisions of Title VII of this Bill which, in the opinion of the War Department, will require revision if the price adjustment law is to be operated to best advantage. Before comment on those provisions, I should like to submit some general conclusions about price adjustment.

With more than three years of experience in purchasing munitions and supplies for the Army, I am convinced:

First, there was need for legislation in 1942 to bring about a downward adjustment of prices in war contracts made by the War Department, -- this as a check against enormous profits being made by many war contractors.

Second, the abnormal conditions still prevalent make it necessary to continue such legislation.

Third, the administration of price adjustment by the War Department has been fair and reasonable, and in that connection there is still an incentive to contractors to reduce their costs of production.

Fourth, war production has not been delayed or impeded by price adjustment.

Fifth, there is no merit in the suggestion frequently made that in adjusting prices the War Department should look only at the profits remaining to the contractor after taxes, or in the suggestion that account should be taken of reserves for post-war reconversion.

In April 1942, when Congress passed the first price adjustment statute, everyone recognized the necessity for some measure which would protect the Government as far as possible against profiteering. The disclosures of enormous profits being made by some contractors made legislative action imperative. The War Department was conscious of the fact that it could not prevent excessive profits even by the most careful purchasing that was possible. There was an absence of normal competitive conditions. There was also a lack of information on which to base reliable forecasts as to production costs, because the items to be made were new and because the results of mass production were unknown. These factors made sound pricing in advance of production virtually impossible. Prices were simply too high, and profits of contractors too large. An adjustment of prices in the light of actual cost experience seemed to offer the fairest and most practicable method of meeting this problem. At the same time, the size of the task involved in administration of this law was formidable.

Eighteen months of experience with this law have convinced me that it was and is necessary wartime legislation. The law has been a safeguard not only to the interests of the Government but also to the legitimate interests of industry. American industry as a whole does not want to come out of this war with the label of profiteer fastened to it. Had the price adjustment law not been available, I am convinced that other measures would necessarily have been taken which might have been harmful to war production.

Price adjustment operations to date have resulted in saving the Government \$5,300,000,000, -- \$2,500,000,000 in cash which the procuring

agencies have recovered or will recover, for delivery to the Treasury Department, and \$2,800,000,000 in reductions in prices for future deliveries under existing contracts. That is a notable achievement. At the same time contractors have been left with profits that are fair and reasonable. It should be said to the credit of industry that in most cases these savings to the Government have come about by voluntary agreements between Government and contractors. We have found that the majority of contractors do not desire to retain excessive profits.

A large part of the \$5.3 billions would have come to the Treasury on excess profits taxes if there had been no price adjustment law. But by no means all. At the very least, \$1.5 billions have been saved that would not have been touched by taxes.

There are two contentions that have been made, before this Committee and elsewhere, which I would like to discuss in greater detail. The first contention is that the powers conferred by the price adjustment law have been exercised in an arbitrary and unfair fashion. The second is that the need for this legislation no longer exists.

Administration of the Statute

The charge that this statute has been administered in a manner unfair to contractors is a charge that cannot be sustained. It is true that the statute confers an extraordinary power, a power which could only be justified by war conditions. The War Department has fully recognized the extent of the power placed in its hands and has taken every precaution to make sure that it would be exercised fairly. I believe that it has been so exercised and that any investigation would establish that fact.

At this point I quote from the report made by the Committee on Naval Affairs of the House of Representatives, dated October 7, 1943. As you know, that Committee made a most thorough investigation of the administration of the price adjustment statute, and their conclusions are, I submit, entitled to great weight. The majority report contains the following statement:

"It would be unfair to the Price Adjustment Boards not to refer to the fact that, without exception, every business executive who appeared before the committee whose companies had been re-negotiated had nothing but praise for the fair and equitable treatment which they had received from the Price Adjustment Boards. They had no quarrel with the boards as such, or with their members; such complaints as they had were directed to provisions of the law which particular contractors deemed unfair or inequitable. We, too, were impressed by the members of the boards who appeared before us, by the sense of fairness and the feeling of responsibility to both the public and industry which they exhibited, and by the careful reasoning upon which their judgments apparently rested."

A minority report was also filed which contained the following statement:

"No representative of industry who appeared before the committee had any criticisms to offer with respect to the personnel of the various Price Adjustment Boards, or to the manner in which they had handled any of the actual conferences with the contractors. It appears that the personnel of the Price Adjustment Boards have performed a difficult task in a highly exemplary manner. For this performance of duty high praise is deserved."

Naturally there are many contractors who resent any effective control over their prices or profits. Some of them have recently been accusing the War Department of arbitrary treatment. Before the Naval Affairs Committee I said that I would be glad to present the facts in any case in which the conduct of the War Department has been questioned and to let the committee judge whether or not that conduct had been fair. In fulfillment of that undertaking I should like now to give you the facts in the case of the Timken Detroit Axle Company about which Mr. Rockwell testified here last Thursday.

During the ^{calendar} years of 1936 to 1939 ^{inclusive} the Timken Detroit Axle Company realized average annual profits of \$2,116,000 before Federal taxes. That represented 10 $\frac{1}{2}$ % on its average net sales. In the ^{year} ~~1942~~ ^{ended June 30} the company's profits, before Federal taxes and renegotiation, amounted to \$39,839,000. The profits on renegotiable business alone amounted to \$16,572,000, before renegotiation and before taxes. That represented a percentage of profit on net sales of 33 $\frac{1}{2}$ %. Disregarding entirely business not subject to renegotiation (much of which was war production business completed prior to April 28, 1942 and thus not subject to the statute), we find that Timken was making ^{more than} three times the ^{percentage} rate of profit which it had made in the base years, on two and one-half times the volume of business.

After renegotiation, Timken's profits on its renegotiable business was \$4,072,000. This represents 11% on the adjusted net sales of approximately \$37,000,000. That dollar profit is almost double the average dollar profit earned by Timken in the base years.

Those are the figures on which I based my conclusion that the War

- 5 -

All references to Timken earnings are for
base years

24-61721

Department Board had been entirely reasonable in its handling of this case. For that reason I approved the Board's decision.

In the light of Mr. Rockwell's statement that he has been compelled to reduce his company's dividends because of renegotiation, I think that I should also call your attention to the total net profit of the company for the fiscal year 1942 after renegotiation and after taxes. That profit is \$5,070,000 -- more than two and one-half times the average of the normal years after taxes and 32.4% of the total book net worth of the company *at the beginning of the fiscal year.*

In his testimony here, Mr. Rockwell made two main points. First, he said that my decision was based on mistaken information furnished by the Board relating to the dividends paid by the company and the salaries paid to officers. It is true that such information was contained in a letter which I wrote to Mr. Rockwell, in reply to a letter from him written after he had been advised of my determination of excessive profits, but it is not true that this information was the basis upon which the decision was reached. On the contrary, to the best of my recollection, the question of dividends and salaries was not brought up during the renegotiation. Now that such a commotion has been made of the matter, it seems proper to point out that during the ^{calendar} years 1936 to 1939 ^{inclusive} the Timken Detroit Axle Company paid common dividends which averaged \$1,477,000 a year. *the fiscal year ended June 30* In 1942 those dividends amounted to \$4,216,000, nearly three times the average of the base years. In fact, the amount in dollars, \$4,216,000, is more than half as much as was paid to the company's stockholders in the whole ten years ended December 31, 1939. Even more significant is the fact that the dividends paid by the company during the ^{fiscal} year 1942 amounted to more

than twice the amount of the average earnings of the company after taxes in the years 1936 to 1939.

The other main point made by Mr. Rockwell was that the percentage allowed to his company was less than that allowed to High Standard Manufacturing Company. I think the committee will readily see that the question cannot be measured by percentages. I shall be glad, if the committee so desires, to place the facts with regard to the High Standard case in this record. I believe that the committee will recognize that the dollar profit allowed to High Standard in the light of its performance was not unreasonable and that there is no discrimination of which Timken is entitled to complain.

No one in the War Department has ever denied the substantial contribution to war production made by Timken. In fact, at the hearing in my office I specifically mentioned it as being noteworthy. On the other hand, in comparing its contribution with that made by other companies, it should be remembered that Mr. Rockwell's company was working on substantially the same products as in former years; that it did not have to convert its peacetime plant for the manufacture of a product unfamiliar to it, and that its manufacturing processes and problems were thus less complex than those of many others engaged in war production.

Finally, I should take note of the remarks which Mr. Rockwell made about the personnel engaged in renegotiation and in the manner which his case was handled. I have said that I take pride in the men who have been engaged in this work, and I have no reason to modify that statement.

In this connection, I can properly quote the statement of the Truman Committee in the report which they filed on March 30, 1943, that the

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administration of the renegotiation law had been characterized by the "assembly in Government of an unusual group of able, conscientious and patriotic lawyers, accountants and business men as administrators of renegotiation".

I might also refer to the qualifications and experience of the men engaged in this work for the War Department. Their backgrounds are set forth in detail in a statement that appears on pages 901 and following of the House Ways and Means Report.

The records show that the Timken case was handled in a fair manner. It is true that the renegotiation covered a long period. This was due to a number of factors, including the time required for the closing of the company's books and for careful consideration of all aspects of the company's operation. Some seven meetings were held with company officials prior to the meeting in my office. Every contention of the company was carefully considered, and all the data and statements of the company were carefully reviewed before final conclusion was reached.

I believe that the statement which I have made will satisfy you that the War Department, in this case, did not act in an arbitrary or unfair way. I wish I had time to go into every other case which may have been brought to the attention of any member of this committee. I think that I could satisfy them that there has been no unfair treatment in any of those cases.

The Need for the Statute Still Exists

I now come to the second general point which I would like to discuss. That is the contention, repeatedly made, that there is no longer any need for this statute. Most of those who advance this contention concede that

the statute should remain applicable to profits realized during the fiscal year 1943. Considerations of elementary fairness seem to require this. Under existing law prices on many current contracts have been adjusted downward in cases of those contractors who have concluded renegotiation. In addition, such contractors have in many instances accepted new contracts at substantially lower prices. The elimination of the statute would result in substantial discrimination against such contractors, in comparison with those who have not had their contract prices reduced or who have received new contracts at relatively higher prices than those granted to their competitors with whom renegotiation proceedings have been completed.

On the other hand, it is contended that the statute should be cut off at the end of the fiscal year 1943. I do not believe that such a limitation would be wise. The exigencies of war still call for changes of design and for production of new and experimental items. There are still many contracts in which costs are uncertain. Furthermore, many contracts call for performance over a long period of time, and contractors are apprehensive of a rise in the price level. The volume of commitments that many contractors are being asked to take in relation to their working capital is another factor which tends to increase their fears. In consequence, there are strong incentives for contractors to load their prices against contingencies, to guard against the risks which have been outlined.

The War Department is making every effort to eliminate such contingencies from contract prices. Substantial results in this direction have been achieved. We have developed contract forms designed to protect the contractor against such risks by providing for upward revision of contract prices under proper safeguards. However, business cannot be

" induced overnight to rely on the power of the contracting officers to increase contract prices as its sole protection against future increases in labor and material costs. In spite of our best efforts, many of the fixed prices now being negotiated will include cushions against the risk of events which may never happen, with the inevitable result that the contracts will yield excessive profits.

If the apprehensions which I have expressed prove unfounded, it will be time enough later on to repeal the statute. The War Department is not anxious to keep the responsibility which this statute places upon us longer than necessary. As a matter of fact, every step which the War Department has taken has tended to keep the operation of the statute within practical bounds. In this connection, I should like to make reference to the exemption from renegotiation of those contractors whose total renegotiable business does not exceed \$500,000 during a year. I realize of course, that excessive profits can be made on a small volume of business as well as on a large volume. As a matter of fact, some studies have been made by the Price Adjustment Board which indicate that fact clearly, and if the committee desires them I shall be glad to place them in the record. On the other hand, I cannot believe that any great damage will be done to the country or to the prosecution of the war by the profits which will escape as a result of this amendment. We recognize that it is physically impossible to prevent all excessive profits. Undoubtedly some companies as well as some individuals will emerge from this war with more profits than they deserve, no matter what efforts are made to prevent that from happening. In view of that fact, it would seem to be the wiser course to recognize the impossibility of preventing all excessive profits and to concentrate our efforts on the task

which is limited in such a manner as to be possible of accomplishment.

In concluding this part of my statement, I might point out that no better evidence of the necessity for the continued operation of this statute could be afforded than the case of the Timken Detroit Axle Company. The facts in that case make it clear that taxes have not been effective to prevent excessive profits. The articles are of a type similar to the normal products of the business in peacetime. The conduct of the hearing has, I think, been entirely fair and considerate and the result most reasonable for the company. Finally, in the matter of new procurement, this company has shown itself quite unwilling to limit itself to reasonable profits. Mr. Rockwell in his testimony referred to a contract which is now under consideration by the War Department. I have asked General Clay to come here to tell you about that contract. I would like to interrupt my statement at this point for General Clay to give you the facts.

STATEMENT OF MAJOR GENERAL LUCIUS D. CLAY, DIRECTOR OF MATERIEL, ARMY SERVICE FORCES, BEFORE THE SENATE FINANCE COMMITTEE ON DECEMBER 6, 1943

At a hearing before this Committee last Thursday, Mr. Willard F. Rockwell made the assertion that the War Department was threatening to cancel a contract which he had made with the Ordnance Department on behalf of the Timken-Detroit Axle Company. I think it fair to say that he tried to give you the impression that coercion was being used to punish Timken because of differences of opinion which had arisen over the renegotiation of the Company's business for the fiscal year 1942. I should like to say most emphatically that there is not the slightest basis for any such charge against the War Department.

About three weeks ago General Albert J. Browning, who is the Director of the Purchases Division, Army Service Forces, brought to my attention a contract with Timken which had been presented to his office for approval. Under established regulations which have been published in the Federal Register and are available to all War Department contractors, no award of a War Department contract for an amount in excess of \$5,000,000 can be made without the approval of the Director of the Purchases Division, Army Service Forces. Furthermore, Timken had submitted this contract to the Office of Price Administration for approval. That office has withheld action because of apparent excessive profits provided for by the contract and has asked the War Department for comment. Accordingly there is no question of the War Department's repudiating or cancelling a contract. The question is whether the War Department should approve it and recommend favorable action by the Office of Price Administration.

The proposed contract provides for the procurement of axles, transfer cases and spare parts for heavy duty trucks. These are critical items and the War Department is making every effort to expedite their production. At present all companies experienced in the manufacture of these items claim to be working to capacity, and it is therefore necessary to increase existing capacity. This can be accomplished if experienced producers like Timken are willing to make their experience available to new producers in the field. Arrangements were made to have Standard Steel Spring Company enter the field with the aid of Timken. Mr. Rockwell is Chairman of the Board of both these Companies, so that the combination could work out well from the production standpoint.

This contract with Timken will be in the amount of \$89,468,910.72-- that is, \$24,000,000 for 9,600 sets of axles for 4-ton trucks; \$50,400,000 for 14,400 sets of axles for 6-ton trucks; and a balance of \$15,068,910.72 for spare parts. As stated in a letter from Timken to the Office of Price Administration, Timken proposes to subcontract the entire manufacture under a contract under which Standard Steel is to be allowed all of its costs in the production of the items called for under the contract plus a fixed-fee. Timken will undertake to deliver the axles, furnishing designs, drawings, manufacturing assistance, and "know how," supervision and direction of manufacture; it will not itself engage in production. Standard Steel will do the assembling but it is proposed that the major portion of the manufacturing will be done by numerous sub-subcontractors to be put into that business by Standard Steel.

Under the proposed contract Timken demands an initial unit price of \$2,500 for the lighter axle and \$3,500 for the heavier axle. However, the prices at which Timken has been selling the same items produced in its own plants are, respectively, \$1,525 and \$2,184.25 before adjustment as the result of renegotiation. Thus the increases of price provided in the proposed contract are, respectively, \$975 and \$1,315.75.

According to the price breakdown shown in the contract the proposed prices will result in a fee to Timken of about \$155 on each of the lighter axles and about \$200 on each of the heavier axles. We have not determined with complete accuracy what profits Timken is making on the same axles manufactured in its own plants, but the following analysis is suggestive. Timken received 33.4% of profit on its net renegotiable sales during the fiscal year ending June 30, 1942. After renegotiation it was left with a profit of 11% on the adjusted net renegotiable sales. If Timken's prices on axles manufactured by it are adjusted to give effect to this renegotiation, its prices would be \$1,141.18 for the lighter axle and \$1,634.51 for the heavier axle, and it would have a profit of \$125.53 on each lighter axle and \$179.80 on each heavier axle. Yet it now demands in the proposed contract profits of \$155 and \$200, respectively, for the same products, the manufacture of which it proposes to subcontract 100%.

But the subcontractor is also going to make a profit, and a profit higher even than Timken's. The subcontractor's profit is estimated at \$210 on each lighter axle and \$300 on each heavier axle.

Looking at the end results, we find that Timken proposes a fee for itself of \$4,368,000 for providing supervision and direction of

manufacture of axles by a subcontractor. (If the same proportion of fees is maintained on spare parts, Timken will make an additional fee in excess of \$800,000, making a total fee of more than \$5,168,000 for Timken.) At the same time it is estimated that the subcontractor will receive a fee of \$6,336,000 on axles alone.

Under the proposed contract the aggregate payment for axles would be \$74,400,000, while at Timken's prices for its own products the aggregate payment would be \$46,093,200. At Timken's basic prices adjusted to reflect statutory renegotiation, as above indicated, the aggregate payment would be \$34,492,272.

This leaves out of consideration the cost of additional facilities which must be provided at the expense of the Government when a new producer is brought into the field. The new facilities required by Standard Steel are in excess of \$15,000,000 and one of Standard Steel's sub-contractors also requires substantial additional facilities. It also leaves out of consideration the fact that the Government will be obligated under the terms of the contract to make advance payments to Timken up to forty per cent of the value of the contract.

These high prices might be less remarkable if Timken and Standard Steel were taking any substantial risk, but the contract which is proposed pretty much eliminates all risk. Timken's contract provides that it will not be responsible for any delay of Standard Steel which results without fault or negligence of Timken. Furthermore, the contract provides that after 40% of the items called for by the contract have been delivered the prices will be adjusted by negotiation, and if Timken is not satisfied with the new prices it can then terminate the contract. Timken's rights upon termination are not entirely clear

because the contract is not clearly phrased, but there is room for the argument that under the contract Timken could claim its estimated fee on each item delivered as well as its entire cost including cost and profit to the subcontractor. If that is what the contract means it amounts to a guarantee of cost plus profit to Timken. The contract between Timken and Standard Steel contains similar provisions so that Standard Steel is apparently also guaranteed its cost plus a fee on delivered items. Incidentally, Standard Steel's fee will range about 10% of estimated costs. Even if the contracts should be construed as not guaranteeing all costs the original prices have been fixed at such a high figure as to make it practically impossible for either Company to suffer a loss.

In the light of these facts, General Browning and I came to the conclusion that the proposed contract ought not to be approved and Mr. Willard F. Rockwell was so advised. As a result I had an interview with Mr. Walter F. Rockwell, the President of the Timken Company, in which we went over the whole matter. He complained of unfair treatment by the Price Adjustment Board and I told him that that was a matter which had been passed on by the Under Secretary and that it had nothing whatsoever to do with the contract now under consideration.

I regret to say that I have not been able up to this time to get Timken to agree to any modification of its demands. At present we are exploring the possibility of obtaining these axles through other sources. We are also considering whether this would be an appropriate case for the use of a mandatory order. However, for various reasons, we may in the end be confronted with the necessity of

signing this contract with Timken simply because we must have the goods and cannot be sure of getting them in any other way. This will be done only as a last resort.

In conclusion I should like to say that the only connection I can see between this transaction and the subject of renegotiation is that the transaction indicates to me the protection afforded the Government by the Renegotiation Act. We must have war materiel and we must accept the transactions essential to obtaining required equipment.

(continuation of statement by the Under Secretary of War)

After listening to General Clay I am sure that you fully understand that the difficulties in making a new contract with the Timken Detroit Axle Company have nothing whatsoever to do with their attitude toward renegotiation. The Army has pressing need of the services of that company, and we are anxious to make a contract with it. But the terms demanded by Timken are utterly unreasonable. They are terms that the Government should never yield to.

We have developed the facts in this case in some detail, not only because it was necessary to refute charges made in the open hearing last week, but also so that you would have a clearer understanding of the actual renegotiation process. We are willing to rest our case for renegotiation upon the Timken Detroit Axle proceeding. We believe that the case is typical of the small number of cases in which we have been unable to reach a mutually satisfactory bilateral agreement, and in which we have been accused of being arbitrary, unfair and unreasonable.

In this connection I should like, at this time, to submit for the record a copy of a confidential Committee Print, which we filed with the House Ways and Means Committee, giving specific facts and figures with reference to the cases of those contractors who appeared before that Committee for the purpose of complaining with respect to the treatment accorded them in renegotiation. This statement is necessary to an intelligent consideration of the charges made by those witnesses. It was not printed as a part of the official public record, and whether or not it should be included as a part of the public record of the present proceedings before this Committee, we are, of course, entirely satisfied to leave to your determination.

If there are any other companies concerning which you would like to have additional information, whether in connection with witnesses who have appeared before your Committee, or before the House Ways and Means Committee, we shall be glad to furnish any data.

I have always said, and I here repeat, the only way to test the character of the administration of this Statute, is through examination of the facts and figures applicable to individual cases. Generalities are misleading, and frequently, as we have seen in the case of the Timken Detroit Axle Company, not borne out by the record. We will welcome an investigation of the proceedings of the War Department in connection with any or all of the cases which we have handled.

Changes in House Bill

Before closing I should like to comment briefly upon certain provisions of H. R. 3687, Title VII, which we respectfully suggest should be modified or amended.

Review of Closed Agreements. In the first place I call your attention to the fact that the proposed Bill provides for court review of closed bilateral agreements. Thus, subsections (e) (1) and (e) (2), pages 119 to 122, specifically provide for review of determinations "made prior to the date of the enactment of the Revenue Act of 1943 with respect to a fiscal year ending before July 1, 1943, whether or not such determination is embodied in an agreement with the contractor or subcontractor."

This provision would render subject to court review thousands of voluntary bilateral agreements under which total refunds and price reductions (without giving consideration to the effect of taxes) will aggregate upwards of \$5,000,000,000, including excessive profits

refunded and to be refunded and specific price reductions on articles delivered or to be delivered in the future. This provision would create a potential administrative burden which might be impossible of effective accomplishment. It might also be construed to invalidate the bilateral character of the agreement in such a manner as to jeopardize the right of the Government to retain the refunds which have been made and to collect the refunds which are to be made thereunder.

There might also be placed in jeopardy the provisions of the agreement providing for past and future price reductions. Many renegotiation agreements include clauses providing generally for the elimination of excessive profits likely to be realized in the future through price reductions without specifying the amount of the reductions to be made on specific articles or contracts. The total reductions and refunds under such clauses might exceed the total of specific refunds and price cuts referred to above.

The refunds and price reductions provided for under these voluntary agreements were made as a part of a repricing policy which was in fact inaugurated some time prior to the passage of the original Renegotiation Act of April 28, 1942. If the Act had not been available for this purpose, the War Department would have endeavored to effect similar results through the use of other war powers relating to placing and cancellation of contracts. In no case has the War Department accepted agreements which are made conditional on the validity of the renegotiation statute or which under their terms could be affected by subsequent legislation or court decisions. These agreements

represent closed transactions between the Departments concerned and the contractors. They should not now be reopened.

Provision for double review by the Joint Board and by the Courts.

The proposed bill gives the contractor an absolute right to require review by the newly-created Board, known as the War Contracts Price Adjustment Board, and the Act specifically provides that the Board may not delegate "the power, function and duty to review orders determining excessive profits" [subsection (d) (4), page 118]. In the light of contemplated provisions providing for review by a court in those cases where no agreement can be reached, it is entirely unnecessary and would constitute a very real administrative burden to provide for another review by the War Contracts Price Adjustment Board. The requirement that such a Board should review all orders determining excessive profits would require the creation of a large administrative staff, and would impose burdens and duties upon the individual members of the Board which would interfere with the performance by them of their duties in connection with current renegotiations in the various Departments for which they are responsible.

Scope and Method of Judicial Review. I have repeatedly stated that I had no objection to the making of some statutory provision for judicial review and, in fact, have expressed the opinion that there is such right of review under existing law. There have recently been brought to my attention the strong objections of the Treasury Department and the Department of Justice to the proposed granting of jurisdiction over renegotiation review to the Tax Court of the United States. I am satisfied that jurisdiction over appeals from renegotiation determinations should be assumed by the Court of Claims in order that the Tax

Court of the United States may be kept free for exclusive attention to tax matters.

With respect to the scope of review, I agree with the position of the Department of Justice, as expressed to the Joint Board, that it would be helpful if determinations of the Secretaries of the Departments or of the proposed War Contracts Price Adjustment Board should be final and conclusive except to the extent that the contractor can establish (on the basis of the record made by the contractor in the court review proceeding) that the determination was the result of a mistake of law, fraud, arbitrary or capricious action, or was so grossly erroneous as to imply bad faith.

This proceeding would afford protection to a contractor who could show that he had been arbitrarily or unfairly treated and at the same time would give due weight to the determinations of the Departments and avoid possible danger of overburdening the courts with a large volume of difficult and burdensome cases.

There are a number of other suggestions for the improvement of the Bill pending before your Committee which have been considered and approved by all of the Departments interested in renegotiation. The War Department is particularly interested in the suggestions that all authority relative to current repricing for renegotiation of individual contracts should be centered with the several departments rather than with a Joint Board, and that there should be eliminated from the Act any mandatory requirement relative to the insertion of a particular repricing or renegotiation clause in all contracts regardless of their size and character. These will be presented to you by Joseph M. Dodge who is Chairman of the recently created Joint Price Adjustment Board, as well as Chairman of the War Department Price Adjustment Board.

WAR DEPARTMENT
Price Adjustment Board
Washington

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SPRA

2 December 1943

MEMORANDUM SUPPLEMENTAL TO PARAGRAPH G OF EXHIBIT A, STATEMENT OF THE JOINT PRICE ADJUSTMENT BOARD FOR THE INFORMATION OF THE SENATE FINANCE COMMITTEE, dated 2 December 1943

PROPOSED EXEMPTION OF SEASONAL CANNERS

The proposed exemption of agricultural commodities embodied in H. R. 3687, subsection (i)(1)(C) page 125, lines 10 to 13 includes an exemption of

"any contract or subcontract for canned, bottled, or packed fruits or vegetables (or their juices) which are customarily canned, bottled, or packed in the season in which they are harvested."

Subsequent to the hearings before the House Ways and Means Committee, an investigation has been made by the War Department to ascertain the effect of the proposed amendment, and the results thereof lead to the conclusion that the above-quoted portion of the proposed amendment should be deleted for the reasons hereinafter set forth.

The apparent aim of the above-described provision is to exclude from renegotiation the type of canning which is commonly described as the "seasonal pack" and to keep subject to renegotiation canning of the all-year-round type, as in the case of soups. The view behind the proposal appears to be this: that canners whose pack is seasonal are confined in their volume by the local agricultural yield and are not likely to realize excessive profits through the great expansion in production that has been a conspicuous factor causing excessive profits in other fields.

There appears to be no distinction between this type of production and many others that will remain subject to renegotiation. The considerations which apply to seasonal packs of fruits and vegetables apply with equal force to canned fish and to canned meats. In these cases the food which is canned is also perishable. The potential expansion in volume is also sharply limited. At least in the case of fish, the canning operations are highly seasonal in character. Yet contracts for these products would not be exempt under the new measure. The effect of the bill will thus be to multiply arbitrary distinctions and to lead to discriminatory results.

Moreover, there is reason to believe that the proposed exemption would apply to companies which have made excessive profits in the accepted meaning of this term. While precise figures are not available because no financial data have in the past been prepared segregating this type of product, nevertheless from a list of forty-two (42) canning contractors selected at random and believed to be engaged to some extent if not entirely in a

Memo. Supplemental to Statement of
Joint Price Adjustment Board
dated 2 December 1943

seasonal pack business, the following instances are offered as significant
(Contractors' names withheld, to be furnished upon request):

(000 omitted)
() denotes loss

Contractor	1942			1936-39 Av.		
	Volume-\$	Profit-\$	Profit-%	Volume-\$	Profit-\$	Profit-%
1	714	143	20.	N. A.	N. A.	N. A.
2	1,352	162	12.0	434	20	4.8
3	2,489	182	7.3	1,658	159	2.3
4	1,980	464	23.4	1,082	22	2.0
5	4,451	578	13.0	1,812	10	.6
6	658	61	9.3	276	4	1.5
7	1,219	158	13.0	84	4	4.7
8	538	104	19.3	330	18	5.5
9	3,445	422	12.3	1,102	26	2.6
10	10,712	1,321	12.3	4,586	51	1.1
11	1,215	263	21.7	714	(52)	(7.3)
12	1,819	328	18.1	805	25	3.1
13	5,896	1,029	17.4	2,572	321	12.5
14	11,933	1,503	12.6	6,202	434	7.0
15	4,329	569	13.2	302	8	2.7
16	3,983	437	11.0	2,371	(129)	(5.4)

(Note: The random selection of forty-two (42) contractors from which the above figures were culled does not include any pineapple canners among some of whom profits have been found to range between 25% and 33%.)

These figures indicate overall profits; and where the canner has been engaged in both seasonal and non-seasonal packing, it is of course true that the profits may have been derived in unequal proportions from these two types of business. But compensating for this possibility are the following considerations: (1) these profits are as stated by the contractor and have not been adjusted for excessive salaries, depreciation charges, or other possible inadmissible expenses charged against sales; and (2) while they represent overall profits, the profit on Government business is likely to be greater because of the absence or limited character of selling expenses and other charges applicable to Government sales.

The foregoing objections have been addressed to the measure only insofar as it affects canners; and presumably it was originally intended to cover only canners and no others. However, the use of the word "pack" is so broad as to extend the exemption to many others. Those who pack prunes, dried apricots, pears and other fruits in wooden or paper boxes might also

Memo. Supplemental to Statement of
Joint Price Adjustment Board
dated 2 December 1943

304

come under the exemption. It would also apply to certain companies engaged in preparing and packing dehydrated fruits and vegetables. It should be noted in this connection dehydration was relatively new and contracting officers made commitments on the basis of little price experience.

The proposed exemption will make it necessary to undertake a new kind of segregation of the Government business done by the canners in order to exclude seasonal packs. It is not known how many canners deal exclusively in the kind of business proposed for exemption. But many will continue subject to renegotiation for a part of their business; and as to them, the preparation of the basic financial data will still be required. The segregation of renegotiable from exempted business will constitute another administrative difficulty involving difficult questions of cost allocation as well as pure segregation problems.

In view of the fact that material contained in this memorandum was developed only subsequent to the action taken by the House Ways and Means Committee, copies of this memorandum are also being delivered to the members of that Committee.

Respectfully submitted,

JOSEPH M. DODGE,
Chairman,
War Department Price Adjustment Board

By Joseph M. Dodge, Chairman
War Department Price Adjustment Board

Today the Government is the Nation's principal buyer. It is a buying monopoly supplied by the war goods producers. The purchases are paid for by taxpayers' money and Government borrowing. The goods are primarily for waste and destruction and are not additions to our wealth. There is every economic and practical reason for the price being held as low as possible, and profits, which are part of that price, being restricted. Economy of war cost must be an issue in a war which is as much an economic war as anything else.

Everyone must be on their guard against a fundamental error in thinking that war is a time of prosperity. It is not and cannot be, no matter what it may seem to be. It is a time of greatly increased activity, which is a condition usually associated with prosperity. Actually it is a time of harder work, more complications, increased responsibility, higher taxes, shortage of civilian goods and, in substance, less net usable return for effort than normal and certainly not the net return which might be expected for similar activity and effort in a time of real prosperity.

Just as rate-making protects the public on the price of commonly used services, so the Price Adjustment Boards protect the government and the public on the price paid for material of war, because of any unreasonable profits which are part of price.

Price Adjustment is directly related to war procurement. War procurement, in turn, is affected by the price and profit results of unexpected volume, shifts in production emphasis, the development of new products, and the changes and improvements in other war products. To meet this situation, there has been established for each contractor an after-actual-production experience, comparative, overall repricing. This is renegotiation or price adjustment. If considered in these terms, its objectives, processes, and conclusions can be more easily understood.

The primary purpose of renegotiation is to accomplish sound pricing. It works retroactively through the medium of refunds and prospectively through reductions in future prices. It strives to make sure that no more than a fair price is paid for war products and that price includes no more than a reasonable profit after consideration of all the pertinent factors connected with a contractor's business.

Price is made up of costs and profit. Costs and product prices are examined and also compared with those of other producers. Excessive actual costs may result in certain specific disallowances which serve to increase the profits that are part of the overall price. Excessive comparative total costs and/or comparative product prices are factors in the valuation of a reasonable and just compensation in terms of profit. The profit, which is part of price, is also subject to adjustment after determination of reasonable costs, comparative total costs and product prices, the effect of volume increase, and the other pertinent factors of the contractor's business. These will be combined to indicate the necessity of an overall price adjustment in which excessive profits, as required by the Statute, are eliminated. The adjustment of price will include an adjustment of profit

because of the profit element of price. When approached in this manner, the removal of excessive profits becomes part of a pricing operation and, if all the fundamental elements of the contractor's business are properly related, the elimination of excessive profits becomes an incident of a pricing process.

You will observe that the War Department Board is a "price adjustment" board and that the operation is carried on through the "price adjustment" sections of the various Services. From the beginning, the Price Adjustment Boards of all the Services have been staffed with the best available business and professional men. It has been difficult to get men to do the work and stay at it because they do very complicated and trying work with little credit or appreciation for being willing to undertake it at a considerable personal sacrifice. They are men of intelligence, experience, and integrity. They are not engaged in furthering any new system of enterprise but are protecting the old. There is no intention or desire on the part of any of those responsible for renegotiation to expand, extend, or perpetuate it as a profit control measure beyond the necessities of our war procurement.

Everyone engaged in this work believes in its necessity under conditions in which the Government is the principal buyer and there are not enough producers to provide the normal pressure on prices created by competition. This belief comes to those working at the job because of what they see in what they do, and the files of every price adjustment agency bear ample witness that what they do is necessary. This is a point too often overlooked. This service is as essential to the protection of business as it is to the protection of government.

What we want and expect our own organizations to give the contractor in the process of renegotiation briefly is this: That the contractor shall always receive courtesy and a considerate, sympathetic hearing; that he shall have an opportunity to completely develop and present his case; that the burden of information to be submitted and the number of meetings shall be reduced as much as possible; that we shall obtain the information necessary to establish the facts required, but that the contractor may present in addition to that whatever he may consider pertinent; that the factual information about the business to be included in the report should be reviewed with the contractor; that there be an agreement on all the basic facts and the case be completely developed before any attempt is made to reach a decision; and that the proposed settlement be completely discussed and, where necessary, its effect on the business of the contractor explained.

We want nothing slipshod, incomplete, haphazard, or arbitrary. Conclusions are to be carefully arrived at; should take into consideration and weigh all the facts presented, determined, and verified; and be eminently fair under the circumstances of the case, and in relation to comparable case problems.

Our people are using their services to resolve a problem of both business and government as expressed and directed by Congress. They offer to the contractor their knowledge of renegotiation policies, procedures, and experience. Their objective is to make a settlement consistent with their obligation to the government and yet fair to the contractor. When a carefully considered conclusion has been arrived at, after review of the facts and consistent with our knowledge, we do not and should not bargain. Any changes should be based on new factors of sufficient importance to warrant them.

The work has had and still has many problems. It is complicated. It deals intimately with the conditions of each enterprise as components of a price and profit problem. Whatever the problems are, they are being met by people sincere in their effort to arrive at a just and reasonable answer which is within the limits of the responsibilities established by the law and the policies and procedures created to implement the law.

Opinions are given or complaints or statements made about the results of renegotiations with few of the facts upon which the renegotiation conclusion was actually based. On individual cases, we find that not many of these complaints are accurately stated or can be supported by the facts. This work is just a continuous series of individual cases. There are two sides to every story and the Price Adjustment organizations always have one of them.

Again, too often the issue is confused with contentions or problems which are not directly related to price adjustment. In many instances, the problems charged against renegotiation are inherent or fundamental to the contractor's business. They exist entirely apart from and prior to any price adjustment and most frequently are related to the financial management of business expansion. There is sometimes an insistence on high prices, which include high profits on Government war purchases, for the purpose of meeting some already established financial, plant, or equipment illness, or the outright cost of business expansion. No matter how real these problems are, to attempt to cure specific cases with unusual profits from war production certainly would establish broad and indefensible inequities.

Now because taxes are high and have a drastic effect on net earnings, and because there is also renegotiation, it is sometimes suggested that the latter is the problem creator. This, in spite of the fact that most settlements are substantially paid in the form of credits for taxes already paid or are offset by taxes that would have had to be paid on the unadjusted profits. An average of about 70% of every price adjustment is paid for in tax credits. Renegotiation settlements usually are made in 20¢ or 30¢ dollars, depending upon whether the tax return the business would have to pay before the adjustment is 80% or 70%.

Businesses subject to renegotiation have the benefit of war production, instead of perhaps being out of business or having declining volume, higher costs and lower profits or no profits, as is the case with many without the direct or indirect advantage of war production. Also, businesses renegotiated are only those which are considered to have excessive profits on war business. Renegotiated businesses in general cannot be said to be substantially harmed by the fact that profits are always left to them after renegotiation.

It seems to have escaped attention that, after a negotiated price reduction, a contractor is generally in a better position than if he had been given a mandatory order to produce the goods at a price which resulted in the adjusted dollars or margin of profit or even a lower one. A mandatory order is usually placed at the time of beginning production and applies to an individual product or contract. This authority is given to Government in time of war to insure its being able to obtain the goods it needs at a reasonable price, but in renegotiation the contractor has the advantage of a result applied to his whole business for a year and losses or low profit

on one contract or group of contracts are offset against unexpectedly high profits on others. Mandatory orders were quite freely used in the last war. In this war, they have been used very infrequently. The cooperation of manufacturers and, to a certain extent, renegotiation have served to make them unnecessary.

Criticism is inevitable in a process which, even though established by Congress, results in reducing the profits of a business after they have been entered on the books of that business. It is entirely reasonable to expect that businesses which may have had increased volume and increased profits beginning as far back as 1940, as a direct or indirect result of the war abroad, and perhaps a further substantial increase in 1941 as a result of the expanding defense program and on which the expanding volume alone contributed to higher margins of profit and on which there was a lesser impact of taxes and generally no renegotiation, cannot too readily adjust their thinking to the fact that beginning in April, 1942, Congress has decreed in substance that war production business should be priced so as to include only a reasonable profit and that the impact of higher taxes would make the net return on this business after taxes substantially less.

Every business man has a natural ambition for increased profits or increased volume of sales or production which have been the traditional yardstick of success in American enterprise. Many small businesses suddenly became large and many larger businesses multiplied their production beyond any progressive relationship to their earlier history or immediate expectations under normal peacetime competitive conditions. It is too much to expect there would be none who would look on the necessities of war procurement as an opportunity to satisfy either their personal ambitions or desires for profit, but these are limited in number and in sharp contrast to the vast majority who realize that production of goods used in the conduct of war should properly be on a limited profit basis and who have done the outstanding production job which is so well known and generally recognized.

There was the additional problem of promptly creating and staffing Price Adjustment Sections and Price Adjustment Boards for all the Departments and Services to cover a nationwide problem, the work of which directly affected the business profit of war contractors all over the country. It must be expected that, when the general situation outlined above is considered, there will be some mistakes made and transactions handled in a manner not exactly as they should have been. It is astonishing that, considering the nature of the process, it has been carried on reasonably successfully over a period of a year and a half.

Entirely too little emphasis and credit has been given to the cooperation of the large number of contractors with whom the various Services have easily reached an agreement on an adjusted price and a limited profit. There have been many who say frankly they do not want anything that may be considered excessive profits. Many have made voluntary refunds and price reductions as a definite business contribution to the war effort. In the War Department, as of the end of November, written or oral voluntary agreements covering 1942 fiscal year profits and prices had been reached with approximately 10,000 war contractors. In most cases, agreements were arrived at with little difficulty other than the technical problems involved. This certainly speaks of a general acceptance of the processes through which agreements are reached.

December 6, 1943

WAR DEPARTMENT PRICE ADJUSTMENT BOARD

The contention is made that these businesses operate under OPA price ceilings. Therefore, they should be exempt from renegotiation. The standard product, however, may be an integral part of some volume-produced war product or it may be used as such in volume for war purposes. I understand the OPA price ceilings usually are set at a level to permit the marginal producer to cover costs and make a fair profit--that is, the man who has no great volume and not particularly low costs. The question as to whether more efficient and greater volume producers or dealers can make excessive profits under these ceilings has not been considered in fixing OPA ceilings. When this situation is translated into the terms of the producer with multiplied volume and normally low costs because of better equipment, processes, and management, the profit results are startling.

The renegotiation law applies only in cases where excessive profits are being realized. No contractor has been renegotiated except where substantial profits are evident. With regard to the elimination of so-called standard commercial articles, experience with the administration of the renegotiation law clearly demonstrates that in this field excessive profits have appeared consistently.

From the procurement angle the chief difficulty is that while the procurement officers can and are securing reasonable prices in the case of prime contractors, the lower tiers of subcontractors simply cannot be handled by the procurement agencies. The excessive profit, if allowed, in the lower tiers of subcontractors, pyramids as it comes upward through the various tiers of contractors, cumulatively creating inflated costs, prices, and profits as it goes. The following figures show the excessive profits which have been realized in certain "standard goods" industries. These companies, it should be noted, are engaged principally in subcontracting and are substantially all of those in these classifications which have been renegotiated by the War Department. These cases represent what has happened in standard product businesses as a result of the war and are examples of the profit results of volume increases before taxes. (000 omitted in the following table.)

	1942	Average 1936-39	Increase	Pct. Increase
<u>Perishable Tools: 19 Companies</u>				
Sales	\$172,011	\$29,418	\$142,593	485.
Profit before renegot. & taxes	62,010	5,025	59,985	1134.
Pct. profit	40.0	17.1	22.9	128.
<u>Woolen Textiles: 25 Companies</u>				
Sales	237,782	98,030	139,752	143.
Profit before renegot. & taxes	31,985	3,245	28,740	885.
Pct. profit	13.5	3.5	10.2	309.
<u>Lumber: 10 Companies</u>				
Sales	106,677	42,228	64,449	153.
Profit before renegot. & taxes	25,908	4,991	20,917	419.
Pct. profit	26.1	11.8	14.3	121.
<u>Cotton Textiles: 53 Companies</u>				
Sales	548,633	207,185	341,448	165.
Profit before renegot. & taxes	76,209	8,467	67,742	800.
Pct. profit	13.9	4.1	9.8	239.

Thus, it seems obvious to exempt producers of standard goods from renegotiation would be to increase tremendously and unnecessarily the cost of the war. Moreover, it is extremely difficult to define "standard commercial articles." Any general language in the statute which would exempt, say, tooth brushes from renegotiation would in all likelihood also exempt a great many motors, sheets, shapes, steel products of all kinds, aluminum, ingots, castings and forms and many other basic parts of the machinery of the war. For example, exempting a motor in a jeep may very well be a standard commercial product to the same extent as the tooth brush is a standard commercial product. It is difficult to understand how these products can be limited by any definition so far observed in such a way as to remove the possibility of exorbitant profits being realized, in many cases directly as a result of war business.

As a specific example, one company, and not by any means the most unusual, did an average volume of business from 1936 to 1939 of \$16,500,000. He earned an average dollar profit, before income taxes, of \$1,220,000, at the rate of 7.4% on sales. In 1942, his sales were nearly \$50,000,000, his profit before tax \$12,500,000, and his earning rate 25% on sales. It would be difficult to conclude that this manufacturer of a standard product under OPA price ceilings was not benefiting from the war to an unreasonable degree.

4 December 1943

ETROIT AXLE COMPANY

BASIC PROFIT before Federal income taxes	PER CENT	NET PROFIT (including E.P.T. credit) after taxes	PER CENT NET WORTH
16,572,000	33.4		
12,500,000			
4,072,000	11.0		
23,267,000	29.6		
39,839,000	31.2	\$ 8,237,000	52.6
27,339,000	23.7	5,070,000	32.4
15,921,000	25.0	4,595,000	33.2
3,715,000	21.1	2,021,000	15.4
2,964,000	13.6	2,658,000	17.8
766,000	5.3	836,000	5.6
2,146,000	9.2	1,810,000	12.4
2,588,000	12.2	2,311,000	
2,116,000	10.5		

THE TIMKIN

FISCAL YEAR ending June 30.		NET SALES
1942	RENEGOTIABLE	
	PRICE FIXED BEFORE ADJUSTMENT	\$ 49,557,000
	AMOUNT RECOVERED	12,500,000
	FIXED PRICE AFTER ADJUSTMENT	37,057,000
	NON-RENEGOTIABLE	78,243,000
	TOTAL BEFORE ADJUSTMENT	127,800,000
	TOTAL AFTER ADJUSTMENT	115,300,000
1941		63,667,000
1940	(6 MONTHS)	17,596,000
FISCAL YEAR ending Dec. 31		
1939		21,752,000
1938		14,427,000
1937		23,466,000
1936		21,197,000
1936-1939 AVERAGE		20,210,000

DEC - 6 1943

Dear Mr. Crowley:

I refer to your letter of December 2, 1943, suggesting the joint consideration of the bills recently introduced in Congress by Mr. Gearhart and Mr. Schiffler, as well as the general problem of legislative proposals involving alien property.

I am in full accord with your view that the joint exploration of these matters is most desirable and I have designated Messrs. John W. Fable and Ansel F. Luford to represent this Department in such discussions. Mr. Luford has informed me that arrangements already have been made for the first conference to be held on Tuesday, December 7, 1943.

We also will be pleased to participate in any discussions with the State Department and the Department of Justice on the subject.

Very truly yours,

(Signed) Randolph Paul

Acting Secretary of the Treasury

Hon. Leo T. Crowley,
Alien Property Custodian,
Washington, D. C.

AFL:bbk - 12/4/43

Paul 313



OFFICE OF
ALIEN PROPERTY CUSTODIAN
WASHINGTON

December 2, 1943

Honorable Henry Morgenthau, Jr.
Secretary of the Treasury
Washington, D. C.

Dear Mr. Secretary:

You are undoubtedly familiar with the following two bills recently introduced in Congress, viz. H.R. 3672, by Mr. Gearhart, to amend the Trading with the enemy Act, as amended, and for other purposes; and H.R. 3696, by Mr. Schiffler, to authorize the seizure of certain property which is being used, or which is about to be used, to aid any nation at war with the United States, and for other purposes. The Chairman of the House Committee on Interstate and Foreign Commerce has requested a statement of my comments on these bills.

It is my belief that a more useful presentation of this agency's views in the premises could be made in the light of joint exploration of the matter by members of our respective staffs. I have accordingly asked Messrs. John Ernest Roe and Aaron Director of this agency to confer with representatives whom you may wish to designate, in order that a joint exploration of the matter may be had. These gentlemen will also appreciate an early opportunity for conference in respect to the general problem of legislative proposals as to alien property by the Executive Branch of the Government. In this connection copies of a tentative draft of proposed legislation and of an explanatory memorandum thereon have recently been forwarded to your Department by this agency.

I am making a similar proposal for joint consideration of these matters to the Secretary of State and to the Attorney General.

Respectfully,

Leo T. Crowley
Alien Property Custodian

314



BRITISH AIR COMMISSION

1785 MASSACHUSETTS AVENUE
WASHINGTON, D. C.

TELEPHONE HOBART 9000

PLEASE QUOTE

REFERENCE NO.....

6th December, 1943.

With the compliments of British Air Commission
who enclose Monthly Report No. 3 covering
Aircraft Flight Delivery as at November 30, 1943.

The Honourable Henry Morgenthau, Jr.
Secretary of the Treasury
WASHINGTON, D. C.

December 6, 1943.

SECRET

~~MOST SECRET~~REF. NO. 1-22
MONTHLY REPORT NO. 1LOCATIONS OF OCEANIC FLIGHT DELIVERY AIRCRAFT
(Covering Movements through November 30, 1943)

	(1) POST. (DAG-1/L)	(2) LID. (DAG)	(3) HIB. (DAG-1/L)	(4) VEST. (DAG)	(5) FL. BOAT (DAG-1/L)	(6) VENT. (1/L)	(7) BOBT. (1/L)	(8) RAIL. (1/L)	(9) H24 (1/L)	(10) H25 (1/L)	(11) H26 (1/L)	(12) TRANSP. (1/L)	TOTAL
UNITED KINGDOM	84	96	807	141	372	29	181	1	235	213	6	54	2,219
KINDLE EAST		5	95						8		48	32	188
WEST AFRICA									13				13
AUSTRALIA					27								27
SINGAPORE					9								9
INDIA									97			2	99
OTY'S IN CANADA			210	68		54							332
NCAP					28	1	1		16				46
HASMAN									29	61			90
45 GROUP RAFTS		11	42	10	5				7				75
Acara, Sakuradi, or Frotom			91	134		114		745			66	193	1,343
In route Overseas					6	21		29	19	5	1	13	94
Osudar, Gooze, etc.				1					5	7			13
Huaso or Bormak (on route)				1	4	7		8			1	1	22
Special duty in Canada			1	1				5					7
Montreal				2	1	3	1		21	14		5	48
CRASHED AFTER EXPORT			92	19	10	3	16	26	2	5	11	1	145
In route Export						13		3	6	8			44
At modification center					94	66			69	73		77	373
In route modification center						3							3
Special duty in U. S.		2			1			3	1				7
At starting point (Lang Beach, etc)								13					13
CRASHED IN U. S.		1	28	5		1	1	14	4	2	7		63
REVERTED TO U. S.		50	22	281*									353
TOTAL	84	165	1348	643	597	315	200	847	406	308	141	392	5,506

* Including 15 returned under Req. H26 41018 after use by U.S.A.A.F. for training with 45 off DA-152 also under 41018 after A.A.F. training use. All 60 are included in Column 6.

PLANNING AND AIRFRAME SUPPLY
BRITISH AIR COMMISSION
WASHINGTON, D. C.

316



BRITISH AIR COMMISSION

1785 MASSACHUSETTS AVENUE
WASHINGTON, D. C.

TELEPHONE HOBART 9000

PLEASE QUOTE

REFERENCE NO.....

6th December, 1943.

With the compliments of British Air Commission
who enclose Statements Nos. 113 and 114 — Air-
craft Despatched — for the weeks ended November
23rd and November 30th respectively.

The Honourable Henry Morgenthau, Jr.
Secretary of the Treasury
WASHINGTON, D. C.

December 6, 1943.

~~TOP SECRET~~

STATEMENT NO. 113

317
MOST SECRET

Aircraft Despatched from the United States
Week Ended November 23rd, 1943

<u>TYPE</u>	<u>DESTINATION</u>	<u>ASSEMBLY POINT</u>	<u>BY SEA</u>	<u>BY AIR</u>	<u>FLIGHT DELIVERED FOR USE IN CANADA</u>	
<u>CONSOLIDATED</u>						
Liberator III	India	India		2		
Liberator B VI	India	India		7		
Liberator GR VI	U.K.	U.K.		7		
<hr/>						
<u>DOUGLAS</u>						
Dakota III	S. Africa	S. Africa		3		
Dakota III	U.K.	U.K.		1		
Dakota III	India	India		2		
<hr/>						
<u>GLENN MARTIN</u>						
Baltimore V	M.E.	M.E.		17		
Mariner GR I	U.K.	U.K.		1		
<hr/>						
<u>NORTH AMERICAN</u>						
Mitchell II	U.K.	U.K.		2		
Mitchell II	Nassau	Bahamas		2		
Mustang	U.K.	U.K.	43			
<hr/>						
<u>VEGA</u>						
Ventura GR V	U.K.	U.K.		2		
Ventura GR V	M.E.	M.E.		9		
Ventura GR V	S. Africa	S. Africa		7		
<hr/>						
<u>FAIRCHILD</u>						
Fairchild C61	India	Karachi	16			
Fairchild C61	M.E.	Alexandria	10			
Cornell	S. Rhodesia	Capetown	19			
<hr/>						
<u>VULTEE</u>						
Vengeance	Australia	Sydney	16			
<hr/>						
<u>STINSON</u>						
Reliant	U.K.	U.K.	12			
<hr/>						
<u>GRUMMAN</u>						
Tarpon	U.K.	U.K.	2			
<hr/>						
Beaufighter	U.K.	U.K.	1			
<hr/>						
			<u>Total:</u>	<u>119</u>	<u>62</u>	<u>0</u>

Movements Division
British Air Commission

November 27, 1943

msh

Regraded Unclassified

MOST SECRETSTATEMENT NO. 114

Aircraft Despatched from the United States
Week Ended November 30, 1943

<u>TYPE</u>	<u>DESTINATION</u>	<u>ASSEMBLY POINT</u>	<u>BY SEA</u>	<u>BY AIR</u>	<u>FLIGHT DELV'D FOR USE IN CANADA</u>
<u>BEECH</u>					
Beech C45 B	Canada	Canada			1
Beechcraft	Suez	Suez	3		
<u>CONSOLIDATED</u>					
Liberator B VI	M.E.	M.E.		1	
Liberator B VI	India	India		6	
Liberator GR V	U.K.	U.K.		2	
Liberator GR VI	U.K.	U.K.		4	
<u>DOUGLAS</u>					
Dakota III	M.E.	ME.		2	
Dakota III	India	India		4	
Dakota III	U.K.	U.K.		3	
Dakota III	S. Africa	S. Africa		1	
<u>GLENN MARTIN</u>					
Baltimore V	M.E.	M.E.		9	
Mariner GR I	U.K.	U.K.		2	
<u>NORTH AMERICAN</u>					
Mustangs	U.K.	U.K.	27		
Harvards	S. Africa	Capetown	6		
Harvards	New Zealand	Auckland	3		
Mitchell II	U.K.	U.K.		8	
Mitchell II	Bahamas	Nassau		4	
<u>VEGA</u>					
Ventura	Canada	Canada			29
Ventura GR V	U.K.	U.K.		1	
Ventura GR V	M.E.	M.E.		9	
Ventura GR V	S. Africa	S. Africa		3	
<u>GRUMMAN</u>					
Martlet	U.K.	U.K.	12		
Tarpon	S. Africa	Capetown	8		
<u>FAIRCHILD</u>					
Cornell	S. Africa	Capetown	4		
<u>VULTEE</u>					
Vengeance	Australia	Sydney	4		
<u>CURTISS</u>					
Seamew	U.K.	U.K.	1		
Movements Division			TOTAL:	68	59
British Air Commission					30
December 6, 1943					

TELEGRAM SERVICE

EAK

This telegram must be paraphrased before being communicated to anyone other than a Government Agency. (SC-00)

CONFIDENTIAL

December 3 1943.

8 p.m.

For security reasons the text of this message must be closely guarded.

AMERICAN EMBASSY,

CHUNGKING.

1752

FOR ADLER FROM THE SECRETARY OF THE TREASURY

representative of organization has now arrived in United States. - Reference your 2134, November 17, paragraph four. - It will not (repeat not) be necessary for you to take any further steps regarding this matter.

HULL
(FL)

FD:FL:bmm

RE

NOT TO BE RE-TRANSMITTED

U.S. SECRET

COPY NO. 12BRITISH MOST SECRETOPTOL No. 398

Information received up to 10 A.M. 6th December, 1943.

1. NAVAL

One of H.M. Destroyers damaged by mine off East Coast yesterday.

H.M. Destroyers sank a small ship in the ADRIATIC on 3rd. As result of air raid on BARI, 2nd, 13 ships totalling 55,477 tons sunk, 3 ships totalling 28,855 tons sunk but salvable and 9 ships totalling 38,701 tons damaged.

2. MILITARY

Italy Weather conditions very bad, on 4th/5th SANGRO rose 5 feet in 2 hours. Eighth Army reaches line of MORO River by evening 5th. Powerful German counter attacks supported by tanks in area GOADICHI-ORSOGNA where enemy is in considerable strength. New Zealanders forced to withdraw from ORSOONA. On Fifth Army front we now hold all heights of MAGALINO and CAMISO features though in some places, including CALABRITTO some of the enemy are still holding out.

3. AIR OPERATIONS

Western Front. 5th. 545 U.S. Heavy bombers sent to Northern and Western FRANCE, but owing to bad weather only 3 attacked, 5 of which dropped 13 tons on BORDEAUX (BENICIAU) assembly plant. 9 Army Bombers and 1 fighter missing. 52 Marauders and 8RP Hurricanes attacked military objectives North of ABBEVILLE dropping 91 tons.

Italy 3rd. Liberators dropped 43 tons on an airfield at ROMA.

Aegean 4th. Beaufighters probably sank 2 Caiques and shot down 3 enemy aircraft.

TREASURY DEPARTMENT

Regraded Unclassified