

ference

ELIMINATION OF GERMAN RESOURCES FOR WAR

HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON MILITARY AFFAIRS UNITED STATES SENATE

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AUTHORIZING A STUDY OF WAR
MOBILIZATION PROBLEMS

PART 4

TESTIMONY OF
JUSTICE DEPARTMENT
ALIEN PROPERTY CUSTODIAN
WAR DEPARTMENT

JUNE 28 AND 29, 1945

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ELIMINATION OF GERMAN RESOURCES FOR WAR

THURSDAY, JUNE 28, 1945

UNITED STATES SENATE,
COMMITTEE ON MILITARY AFFAIRS,
SUBCOMMITTEE ON WAR MOBILIZATION,
Washington, D. C.

The subcommittee met at 10:45 a. m., pursuant to adjournment on Tuesday, June 26, 1945, in room 357, Senate Office Building, Senator Harley M. Kilgore, West Virginia (chairman) presiding.

Present: Senator Harley M. Kilgore, West Virginia.

Also present: Dr. Herbert Schimmel, chief investigator.

The CHAIRMAN. The committee will come to order.

Mr. Wendell Berge, Assistant Attorney General of the United States, will be the witness this morning.

Please go ahead with your statement, Mr. Berge. We will ask questions as you go along.

STATEMENT OF HON. WENDELL BERGE, ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE ANTITRUST DIVISION

Mr. BERGE. For the second time within a single generation the United States and its allies have defeated Germany's ambition to conquer and rule the world. Both times the price of victory has been high and the second struggle was measurably longer, more costly in human lives and many times more expensive in economic terms than its earlier counterpart. There are many lessons for the United States and indeed for all the United Nations in the scale of the effort required to defeat Germany's second assault on the world.

When Germany surrendered in 1918 the Allies were confident that she had been rendered incapable of making war. When it was finally appreciated that in the years following 1919 Germany had succeeded in rebuilding a war economy to unprecedented dimensions, it was too late to do anything about it. It should be clearly understood that the Nazi regime could not and did not build a colossal war economy in 6 short years from 1933 to 1939. In effect, the Nazis found that the economic and industrial basis for a resurgence of Germany's military power had been substantially reconstructed during the 1920's. It was upon this basis that Hitler's war machine was built.

The CHAIRMAN. After 1918 we failed to recognize that Germany's attempt at world conquest had been based upon a close partnership of the Government and industry?

Mr. BERGE. Yes.

The CHAIRMAN. That, I believe, largely accounts for the second war—we failed to recognize that fact and failed to take the steps necessary to break that partnership.

Mr. BERGE. I think there is no doubt about that, Senator. Of course there were a few people, though not many, who had a glimpse of what might be in store. I recall that President Wilson, in one of his last messages to Congress, warned of the danger of the German dye trust immediately rebuilding its power, and urged that this problem be faced by this country and the Allies. But his warning was not heeded and certainly what you say was generally true. There was not any full appreciation of the power that German industry exerted, the extent to which it was the controlling factor in the war, and that it was the thing really to be feared and watched.

The CHAIRMAN. I was informed many years ago that the late General Bliss, who was one of our observers, made the statement in Paris that there were three courses of action open to the United States at the conclusion of the First World War: The best was the complete economic dismemberment of Germany as a nation. If we failed to do that, the second course of action was to form such strong alliances that the Germans could never defeat us. The third course of action was to come home and arm to the teeth and wait for the next fight.

It seems to me that time has shown that if that statement was made by General Bliss he had considerable foresight.

Mr. BERGE. I don't recall the statement, but I think it was a good analysis of the problem which the world faced then.

The CHAIRMAN. Please go ahead, Mr. Berge.

Mr. BERGE. How may we account for these events, that is, for the fact that so early after the last war Germany was able to lay the basis in industrial power for its military aggression? It must be recognized that at the end of the World War in 1918 the fundamental structure of German industry was untouched. Under the Treaty of Versailles the manufacture of many strategic products was prohibited in Germany. Some types of machinery were ostensibly dismantled and controls were instituted over the manufacture of armaments by German firms. These measures proved to be ineffective, first, because the essential organization of German industry was not disturbed and, second, because German industry in many instances was able to nullify the provisions of Versailles by systematic sabotage and by a succession of economic and technical evasions.

Many evidences of this policy have come to light within recent years. It will suffice to mention that in such vital fields as military optical goods, heavy ordnance, synthetic chemicals, electrical equipment, and similar important branches of production German firms either continued their research underground or through foreign subsidiaries. At the same time the world network of German cartel agreements which grew up after 1920 enabled German industry to acquire an intimate acquaintance with scientific and industrial advancement in other countries and to obtain a dominating position over research and production in numerous industries important to peacetime economy but even more crucial to the conduct of military operations.

The CHAIRMAN. It is interesting that the Norden bombsight was probably the only development which we were able to retain of all the military inventions we made during that interval. We retained it because we kept it in a company independent of cartel arrangements, a company in New York organized especially to develop it.

We could not turn it over to any instrument company with the assurance that it would be kept secret.

A well-known scientist has said that it was a good thing that our research was not done before the war, because it would all have been in German hands within 90 days.

Mr. BERGE. That is an extraordinary commentary, but I am afraid it is true.

The CHAIRMAN. Germany built up a large armament industry before the First World War. She sold armament and military equipment to other countries. We, who did not build up a large armament industry, were able to convert our own industrial potential into war production. Think how much faster Germany could convert to war.

Mr. BERGE. Yes.

The CHAIRMAN. Particularly with their knowledge of our research.

Mr. BERGE. I think that is undoubtedly true.

We have come to recognize that long before Germany hurled its armies at peaceful nations, German industry had provided the economic foreground of aggression. It is certainly not coincidence that the many conquests of Germany's cartels on the economic level were designed to pave the way for ultimate military gains. It becomes entirely clear if we examine the long roster of cartels in key world industries in which German interests were represented prior to 1939 that German industry was waging economic war and waging it effectively. The appearance of many shortages in the wartime economies of democratic countries, as well as the economic infiltration by German interests into the industrial structure of both allied and neutral countries, is traceable to the combined effects of German economic warfare and the acceptance of the cartel philosophy by many democratic industrialists.

Data presented to this committee and to numerous other congressional bodies have fully documented the German cartel technique, and it is unnecessary to recount this aspect of the problem at length.

The CHAIRMAN. I believe it is worth recalling how the Standard-I. G. Farben cartel operated. Standard's research went to Germany under the cartel arrangement, but as Standard has admitted they got only a license to manufacture. When they asked for the know-how it was not forthcoming. The cartel arrangement was designed to get for Germany the know-how of the cartel partners abroad, and to keep German know-how from the cartel partners.

American cartel partners were trying to prevent competition, but the Germans were not worrying about competition. They were after information.

Mr. BERGE. Yes. And I think that points up the fact that the German philosophy of business in its relation to government was so different from our own. The Germans were frankly regarding their business operations as instruments of the governmental policy of preparing for war and preparing to spread German industrial control over the world; whereas our businessmen regarded their operation merely as business transaction—not part of governmental policy or public policy—and thought in terms of business as usual, regarding an agreement with a German firm as simply and merely a business transaction to be adhered to irrespective of its effect on our own economy. They were thinking of spreading their power and control.

The CHAIRMAN. The Germans were able to take care of themselves by taking advantage of, shall we say, the cupidity of American cartel partners whose desire was to eliminate competition for the unbridled exploitation of the American public.

Mr. BERGE. That is well put, Senator. They saw that American businessmen in many instances were primarily concerned with monopoly control, and to achieve it were willing to make these arrangements which played into the hands of the German industrialists.

The CHAIRMAN. And when they played into the hands of the German industrialists they played into the hands of the German war machine.

Mr. BERGE. Yes.

The CHAIRMAN. Because the real German war machine was industry. The Wehrmacht was just the operating factor.

Mr. BERGE. In formulating a policy to deal with German industry it is well to recall that despite the defeat which Germany suffered in the World War she became in the decade from 1920 to 1930 the second most powerful industrial nation in the world. How rapid and far-reaching was the recovery of German industrial potential in this period was summarized by a French journalist in 1926. He wrote:

We who have arrived; it seems, at a critical epoch in our economic and financial situation should constantly bear in mind this extraordinary "rebound" of German industry after the war * * * when we traveled through Germany in 1919 * * * and saw for ourselves the deterioration in material and men, we ourselves believed that several generations would go by before they would be sufficiently strong to raise themselves out of this state * * *. However, we see, now, that the very generation which went through the war is capable of this surprising recovery. It is this generation which today undertakes to reform the economic structure of Europe completely and to effect its adaption to the progress of industrial techniques by means of a certain number of centers of force, of poles of concentration established in Germany * * *.

Only 90 months have passed since the Treaty of Versailles, and Germany, by force of patient willpower, of determined labor, of discipline and thanks also to a little abandon, indolence, enervation, and disorder on the part of the "victors" exhibits a productive power in the three principal branches of industrial activity, mining, metallurgy, and chemistry, greater than before the war, and indeed greater than our own * * *.

In particular we see that the German chemical industry united into a trust * * * not content with being first at home, has become the greatest in the world and claims henceforth the exercise of an authority corresponding to its size. Magnificent lesson, but what (a) disturbing figure of colossus * * * cast over our future.

We are faced by many parallels as well as by many contrasts at the present time.

With respect to Germany's over-all industrial potential it is estimated that although Allied bombardment proved sufficient to interrupt production and has therefore been effective for military purposes, Germany's total industrial capacity has not been greatly reduced. Total damage to industrial capacity according to estimates is in the neighborhood of 20 percent, so that probably three-fourths, if not more, of the industrial power with which Germany wages this war, remains relatively intact. In the steel and chemical industries this is particularly true.

Moreover, account must be taken of the speed with which Germany demonstrated that even the most complex industrial facilities can

be restored or replaced. For example, the synthetic oil plants were among the most frequent targets of Allied bombers and were in some instances put out of commission almost entirely. Investigation since V-day, however, has disclosed that replacement of synthetic oil plants was progressing very rapidly at the time of Germany's defeat and that by September of this year new plants located in some cases underground would have been able to restore full production.

Statements made by leading German industrialists who have been captured are particularly revealing in this respect. The manager of the Krupp Works is reported to have stated that the great armament firm was still operating at nearly 60 percent capacity at the end of the war and would be able to resume full-scale output within a few months if we permitted them to do so. Similar statements have been made with respect to the vast industrial machinery of I. G. Farben which with the exception of synthetic oil refineries were relatively unscathed by air attack. The disposition of the enormous physical plant and capacity comprising German industry represents an intricate problem in itself. It would be shortsighted, to say the least, if the Allies were to permit the continued existence of plants and machinery devoted directly to the production of German armaments and munitions. The solution of this phase of the task will require a careful examination of the minimum equipment necessary for a peaceful German economy and a careful control of types of equipment which may be permitted in the future.

Beyond the concrete and relatively measurable difficulty embodied in plants and factories there are two principal aspects of German economy which are much more difficult to cope with at the present time. The first, and in some respects the more important element, is the collective assemblage of research and skill which underlies German military performance. Modern technology and scientific research have in Germany been perverted to provide instruments of aggression. The many secret weapons and novel techniques introduced by Germany during the course of the fighting in this war as well as in the World War should constitute a sufficient warning that we shall neglect the existence of German technological research at our mortal peril.

The CHAIRMAN. Or worse, to depend ourselves upon German research, as we have too often in the past.

Mr. BERGE. I hope, Senator, that we have learned our lesson on that.

The detailed discussion of these problems has been developed before this committee, I think, in some of your previous hearings. But the fact that so many industries in this country really used German research as a sort of a crutch and didn't develop the self-sufficiency that certainly our genius is capable of producing during the period of the twenties and the thirties is a lesson that I think has been driven forcibly home.

The CHAIRMAN. One reason for that, I think, is that it was easier to monopolize German patents than it was American patents.

Mr. BERGE. That, no doubt, was a reason.

The CHAIRMAN. American inventions, of equal value to the German, were frequently suppressed. German research went forward, and it was easier to monopolize. German patents were exclusively licensed.

Mr. BERGE. Yes. There was also the myth accepted by many industrialists that there was an innate superiority in German technology. I hope that myth has at last been exploded.

(Discussion off the record.)

Mr. BERGE. Much evidence has come to light within recent weeks that had the war continued only a few months longer new and more terrible instruments of destruction, particularly in the field of long-distance rockets and explosives, would have been thrown into the scales of battle.

At the present time Germany's research institutes, laboratories, and technologic organizations are largely uncontrolled. It is crucial to the maintenance of peace that the Allies shall have at all times complete access to the quantity and character of scientific and industrial research being conducted within Germany. We must acquire, as soon as possible, patents and technological know-how which the German firms acquired during the war years and in preparation for the war. We must get into their factories and laboratories in order to get this know-how. The patents and know-how must be made available to the American people.

The CHAIRMAN. And must not be monopolized by any one group.

Mr. BERGE. That is most important. I do not know what amount of research will be permitted to continue in Germany or what policy will be adopted in this regard. In the future, the work of such German laboratories as may be allowed to continue to exist must be made available to our firms on a general basis in this country. The Germans have made a habit of using their know-how as a means toward military domination. As a national security matter alone, the German laboratories which continue to exist must operate in full view of the rest of the world and with adequate safeguards so that their discoveries cannot be kept secret.

The second phase of the German economy which must receive the closest scrutiny is the network of economic controls and agreements which German industry has established. In this period of twilight suspense, German industrialists are acting to cloak themselves in a neutral, impartial guise. Despite the impressive compilation of evidence that the industrialists promoted and supported the Nazi regime, they will attempt to assume an aura of respectability in the eyes of occupation authorities. Reports which have come back indicate that many German industrialists blandly assume that they will be permitted not only to resume production but to reestablish their relations with world industry. It may appear almost incredibly naive, but it is nevertheless true that German industrialists appear to take it for granted that American, British, French, and other businessmen and firms are ready to engage further in cartel operations.

The CHAIRMAN. They have good grounds for it after the Rye conference, don't you think, Mr. Berge?

Mr. BERGE. I am afraid there are some things that have happened and been said in this country that do encourage that view.

The CHAIRMAN. It is not so naive for German industrialists to take that view when American businessmen organize such a conference as that at Rye.

Mr. BERGE. In characterizing them as naive, I was thinking rather of the determination of the American people—I hope I am not overconfident—that this country shall not permit that kind of thing to happen

again, and that it is naive to assume that the policy of this country would permit the resumption of those agreements.

On the other hand, I have to admit that there have been statements made, and conferences held, and things done by some of the cartel-minded industrialists in this country, and in the Allied countries, that do give some encouragement and some justification to that assumption of the German cartelists.

The CHAIRMAN. We had an Alien Property Custodian during the First World War, and when the war was over we built a fire under him and told him to liquidate what he had with the utmost speed. The result was that in a very short time the German holdings were right back in the very same hands.

Again, in this war, we are treating the Alien Property Custodian as only a war agency, when, frankly, its biggest job should be in the postwar period. Rather than to liquidate and go out of existence at the end of the war, the APC can do a most important job in cooperation with other Government agencies in preventing the dangerous things which have been seized from getting back into the hands that made them dangerous.

In regard to the naive attitude which you mentioned, I had the pleasure of being present when the head of the Farben Industries was being examined by an Allied commission. Strange to say, for all his former brilliance, he had suddenly become senile. He just could not remember a thing. His age would not account for his loss of memory, but he couldn't remember anything at all and had to call upon an attorney to answer questions for him.

Mr. BERGE. Probably, though, he could remember that after the First World War the administration of alien property matters was such that German industry was able to reacquire much of the property and many of the patents which had been seized.

I quite agree with you that there is in the history of the Alien Property Administration after the first war a good deal to lend encouragement to this German attitude at the present time.

Two instances, minor in themselves but not without significance, provide an amusing side light on this attitude. One prominent German industrialist, who has been consistently and closely identified with the Nazi regime since its inception as well as before Hitler came into power, was recently taken prisoner. This particular individual, who has been one of the most prominent business representatives of the Nazi regime, protested that he was simply a neutral businessman. In his pocket was a long list of prominent American and British industrialists with whom he expected to communicate, apparently to establish his good character and to protect him from imprisonment or prosecution. In another instance the manager of a chemical plant asked permission to remove a parcel which he claimed contained only personal effects. The parcel was opened by military authorities and examination revealed that underneath 2 inches of knives, spoons, and forks there was a layer 10 inches thick of international agreements in the dyestuff industry.

A summary of the objectives of German industrialists in their attempt to escape the consequences of their support of nazism, to shift responsibility for their complicity in aggression, and to retain the basis for a revival of German power can be drawn from the large body of evidence which has been accumulated.

1. German industry hopes to remain untouched by Allied occupation. Any policy placed in effect with regard to the dissolution or de-concentration of German industry must not permit loopholes for the continued domination by the small powerful cliques who fostered and served nazism. Thus, for example, when I. G. Farben decided that this war was irrevocably lost, plans were devised to maintain the essential cohesion of its interests. Believing that Allied authorities would attempt to split up its tightly knit organization, I. G. Farben drew up plans for its own dissolution, in the belief that the Allies could be persuaded to accept them at face value.

2. Within Germany, the industrialists will endeavor to maintain the core of organized research personnel and technical facilities upon which their know-how depends.

The CHAIRMAN. As an example of that, our Army has had to go to the German coal cartel to get the necessary technical personnel to get coal out of the Ruhr and the Saar because the German operating companies themselves did not have it. The cartel was willing, if they would be permitted to operate the mines, to pay the wages of the workmen and even deliver the coal produced to the occupation forces.

Mr. BERGE. That is a good example.

Allied authorities must be able to exercise careful surveillance over research programs carried on by German industry, particularly in fields having military significance. This war has demonstrated that the fields of maior importance in this respect are synthetic chemistry, ranging from explosives and fuels to poison gas; metallurgy, especially in the field of light metals; electronics in numerous applications; and aerodynamics, including rockets and jet-propelled planes.

3. The German industrialists hope to continue economic domination of Europe. In the continent of Europe, the industrialists, during the occupation of Germany's neighbors, pursued a program of confiscation, reorganization, and transfer of assets for the purpose of bringing European industry under complete control. The complicated maze of ostensibly legal purchases of plants and stock interest by the Germans presents one of the most difficult phases of the reconstruction of Europe.

Utmost care will be necessary to trace down these maneuvers and to divest German interests of ownership and control acquired by conquest. Otherwise Germany's grip on European economic life will not be broken.

The CHAIRMAN. It is interesting to see how Goering operated in the acquisition of paintings and sculpture. He got, by one way or another, a bill of sale from the record owner in each case. Goering's curator or expert is now trying to convince us that these bills of sale give him bona fide legal possession of that loot.

But he was too systematic. Those bills of sale make it possible for us to return the paintings and sculpture to the true owners.

Mr. BERGE. The problem of straightening out titles to property in Europe and determining what of these sales and transactions that took place during the war are to be recognized and what are not to be recognized will be a most complex and difficult thing, but it seems to me that in the occupied countries—France, Czechoslovakia, and the eastern countries, that portion of the Balkans that was occupied, and all through the occupied regions—we know that Germans acquired the control of the domestic companies, but we don't know, and necessarily

cannot know for some time, all the devices and the subterfuges and the dummy companies, and so forth, that have been resorted to in the process.

It is hard enough to straighten out questions of that kind sometimes in a democratic country where transactions are supposed to be in the open and where we have our laws. Where it was done in a regime of lawlessness, it really staggers the imagination, but nevertheless we cannot turn and run from it.

The CHAIRMAN. They improved upon the old methods of looting. One way of getting bills of sale was to set up printing presses and run off paper money with which they "bought" what they took.

There was a case in Greece where the "sale" of an automobile was delayed because the ink had not yet dried on the invasion marks that were used in the transaction.

But they went through the motions of acquiring legal ownership, in the hope that civilized nations would accept the legal technicalities as establishing rightful ownership to the loot.

I fully expect that somebody will turn up with bills of sale for those fillings which were knocked out of the mouths of prisoners in the prison camps—those fillings that were legally on deposit in the Reichsbank.

Mr. BERGE. It is conceivable that Germany as a political entity could disappear from the face of the earth and yet the same industrial power could dominate, not only what was Germany but the whole continent of Europe, through this series of corporation penetrations that have occurred in the last 4 years.

4. With regard to the international economy, the entire array of cartel agreements, as well as the commercial and trading outposts which German industry amassed in the years before the war and maintained where possible during hostilities, should be fully explored and exposed. German interests hope that it will be possible for them to regain their foothold in world industry and to manipulate financial, legal, and technical understandings and commitments for their own purposes.

5. The Germans hope to regain holdings seized during the war. This is the point which your previous question anticipated, Senator. Where holdings of German industry have been vested by Allied governments, as, for instance, the large aggregation of corporate holdings, subsidiaries, and patents which have been seized by the Alien Property Custodian in this country, extreme care must be taken that strategic interests do not revert to German control. After the last war the Germans were able to circumvent the policies of the Alien Property Custodian, with the consequence that within a decade after the war most of the important assets had been brought again within the sphere of either German influence or domination. We know that efforts were made to avoid seizure of German holdings before the outbreak of this war, and that camouflaged transfers of stock ownership, assignments of patents, and concealment of interest through the use of dummy firms were resorted to. Many such instances have been uncovered. Every effort must be made to prevent such evasions from achieving their purpose.

6. The Germans hope to rebuild their industries and maintain their foreign investments by giving American and British industrialists shares in their enterprises. This may almost seem ridiculous, but it

was definitely stated by one of the leading industrialists of Germany who is now a captive of our armed forces.

7. The Germans hope to retain the physical, political, and economic basis of their military power. They will seek to regroup and consolidate both their domestic and their international position through the various subterfuges and devices which have been employed previously and which they believe have a chance to work again. This includes cartel agreements, technical and financial affiliations, the use of foreign agents and of neutral representatives and similar stratagems. Their success in these efforts would imperil world peace. This danger must not be forgotten.

The CHAIRMAN. I believe the records of the German cartels must be carefully studied. Those records can give us leads in tracking down information that we could never get elsewhere.

Mr. BERGE. Yes; in the occupied areas we have an extraordinary opportunity now to secure evidence on this type of activity.

The CHAIRMAN. It is an opportunity which did not exist after the First World War, when we signed an armistice with the German Government and left it in control. Now with unconditional surrender, and military occupation, we have an opportunity which if we fail to use we will be failing to cut out the roots of future war.

Mr. BERGE. I believe that it is most important that we make the most of our opportunity.

The CHAIRMAN. Thank you for your testimony, Mr. Berge.

The second witness will be Mr. Herbert Wechsler, Assistant Attorney General in Charge of the War Division.

Mr. Wechsler, you have the most direct contact with the records I have been speaking about.

STATEMENT OF HERBERT WECHSLER, ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE WAR DIVISION

Mr. WECHSLER. Right, sir. I am going to talk about them.

In previous hearings this committee has undertaken to uncover the German plan for the conduct of economic warfare in the years between the two World Wars. You have revealed, in general terms, the pattern of economic penetration of neutral countries, and especially the United States and Latin America; and you have depicted the systematic efforts of the Germans to sap our potential military strength by the type of restrictive agreement that has become known as the international cartel. In broad outline the story has been told. Remedial measures have, of course, been taken in the course of the war by vesting and freezing enemy property, blacklisting, and similar devices. The problem now, as you have properly pointed out in your last report, is to make certain that in the relaxation of our wartime defenses German economic influence is not permitted to revive. We must, in short, avoid the mistake of the last war when, following the cessation of hostilities, so many of the spearheads of German economic aggression in this country ultimately reverted to German hands.

For the achievement of these ends the evidence that will be uncovered in the course of the occupation abroad is, as you have said, of the utmost significance. Now that many of the German records are in the hands of the Allies and many of the principal actors have

become military prisoners, it may be possible to obtain in documented detail a complete inventory of those German holdings and activities in other countries which are the proper subject of concern. In illustration of the point, I shall call your attention to a document made available to the Department of Justice during the first weeks of the occupation which shows the deliberate plan adopted by I. G. Farbenindustrie, A. G., the giant chemical combine referred to so frequently in your hearings, in the effort to prevent the seizure of its interests in the countries that were to become its enemies and to preserve those interests for postwar use.

It is seldom that conspirators sit around a conference table, fashion their plans by formal resolution and prepare minutes of the meeting. This, however, is exactly what was done by the I. G. Farben lawyers and we are fortunate to have obtained a summary of the minutes of a meeting of the Farben lawyers prepared for the Farben directors themselves. The essence of the plan was to avoid those transactions which led to seizure in England and the United States during the last war and instead to transfer title to the foreign Farben holdings to "American friends" or to neutrals who would not be suspect. By far the most striking element in the plan was the confidence of the Farben officials that such transfers could be made without actually weakening Farben interests or influence in the period that would follow the war.

On March 17, 1939, the Juristische Abteilung Farben, the legal committee of I. G. Farben, met in Berlin to discuss the question of the "protection of I. G. assets abroad" against seizure by prospective enemy governments and attachment by foreign creditors.

The CHAIRMAN. When was that in relation to the invasion of Czechoslovakia?

Mr. JOSEPH BORKIN (economist, Antitrust Division, Department of Justice). Four days afterward.

Mr. WECHSLER. These foreign assets were said to consist principally of (a) sales organizations, (b) inventories, (c) claims, and (d) patents. I may say they referred to sales organizations in a very broad way.

The lawyers considered the trading-with-the-enemy legislation adopted in England during the last war as the type of control which they would have to safeguard against. It was apparently assumed that no more stringent measures would be taken by Germany's enemies during the war which was then imminent; and I. G.'s plans were accordingly fashioned with an eye to evading the kind of protective measures adopted by the Allies in World War I.

The lawyers pointed out that a certain amount of camouflaging of I. G.'s sales agencies abroad had already been effected for reasons of—

taxation * * * national sales propaganda, * * * to avoid boycotts (and) to avoid special controls applicable to foreign companies.

Thus I. G. interests abroad had been organized—

* * * in such a fashion that I. G. or its several affiliated companies do not openly hold (the) shares or other interests * * *. While formerly the shares or similar interests in these agent firms were largely held by individuals, mostly citizens of the particular country or by companies, as trustees for I. G., this system has, to an ever-increasing extent, in the last few years, been abandoned in favor of an arrangement under which shares or similar interests are

acquired by individuals or firms with their own means (occasionally assisted by credits extended by I. G.) subject, however, to an option in favor of I. G. permitting I. G. to acquire the shares for itself or to have third parties acquire them.

In other words, by staying within the confines of the apparent law of property, they were able to retain everything that was valuable to them in having property.

The CHAIRMAN. The purchasers were really bailees for I. G. Farben?

Mr. WECHSLER. Yes; they held subject to recapture.

The I. G. Farben jurists then pointed out that in view of enemy economic warfare legislation it was to be anticipated that if I. G. or "German nationals" were known to be the owners of any interest in the property, seizure would result; if the interest were held for I. G. by non-German trustees living in England or the United States, they would be required to report the beneficial ownership in I. G. and this would again lead to seizure; and if the interest were to be held for I. G. by non-German trustees living in neutral countries the danger of seizure still existed in case the actual beneficial ownership became known. But, the lawyers concluded that "if the shares or other interests are actually held by a national of an enemy country—for example, an American or English citizen, such holdings will not be affected by economic warfare measures of the enemy, unless the owner comes under suspicion of maintaining relations with the enemy." But should any option to reacquire the property transferred to the prospective enemy be retained in favor of I. G. the arrangement would be annulled since "any contracts that may strengthen the enemy's economic position even after the war, are considered voided by the outbreak of the war." On the other hand "if the shares or similar interests are actually held by a neutral who resides in a neutral country, enemy economic warfare measures are ineffective; even an option in favor of I. G. will remain unaffected."

The only danger in the use of neutrals to which the I. G. lawyers thought it necessary to refer was the situation in which the neutral might be "blacklisted," but the minutes went on to point out that during the last war the English had made "very sparing use of the authority to liquidate assets of a 'blacklisted' neutral resident in England" because of the diplomatic complications involved. Accordingly, the lawyers concluded that—

* * * the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts which may trouble the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I. G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters.

So the net result of it, Mr. Chairman, was the conclusion, which follows:

The directors were therefore advised that "neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders," though it was noted that "the number of trustworthy persons who can be considered as suitable holders of such shares or similar interests is limited." If this method was not possible the directors were told that "it seems advisable to transfer the shares or similar interests to parties who are nationals

of the particular country and to provide for options on these shares or similar interests not in favor of I. G. directly but of some neutral party with an ultimate option in I. G.'s favor."

They might have said "an ultimate concealed option."

The CHAIRMAN. Might that not account for the neutrality of certain countries which Germany so carefully respected? The extent to which Germany went to protect the neutrality of Switzerland and Sweden suggests the stake which Germany had there. I believe an investigation in those countries would provide a harvest of information.

Mr. WECHSLER. You find, interestingly enough, in this document that they clearly anticipated the neutrality of Sweden, and they distinguished the situation of Sweden from the Netherlands, for example.

The CHAIRMAN. They evidently did not have as many friends among the Dutch as they had in Sweden.

(Off the record.)

Mr. WECHSLER. In all this planning officials were careful not to overlook I. G.'s commercial interests after the war. They pointed out that—

* * * it is necessary that protective measures to be taken by I. G. for the eventuality of war should not substantially interfere with the conduct of business in normal times. For a variety of reasons it is of the greatest importance for the normal conduct of business that the officials heading the agent firms who are particularly well qualified to serve as cloaks—

and I might say that the document uses the German word for "cloaks"—

should be citizens of the countries wherein they reside. Consequently, when sales firms are organized and the shares or similar interests in the firms are being distributed, the protection against seizure in wartime should, on principle, be only one of several pertinent considerations, in setting up sales organizations a decision must be reached in each case as to the extent to which protection against war seizure can be secured without interfering with other interests that should be safeguarded.

The CHAIRMAN. There was a matter which came to my attention abroad which interested me considerably. We had a mission in Luxemburg which was obtaining quite a bit of information on the steel cartel until the Grand Duchess returned. Immediately upon the return of the Grand Duchess, information in Luxemburg was blocked off from us and the mission had to retire with what information they had already collected. There was much to learn about the way in which small states like Luxemburg had been used by the cartels. The episode suggests that some rulers, whom we have befriended, may be expected to assist the cartelists in their postwar efforts to regain dominance.

Mr. WECHSLER. To protect its inventories abroad the device was suggested of pledging I. G.'s foreign inventories to banks and other creditors. I. G. would attempt to obtain credit from foreign lenders in an amount as far as possible equal to the value of the inventories maintained in each country. The lawyers thought that the right of such secured creditors to attach the goods given as security would be recognized in England and in the United States in the event of war. Hence, should there be an attempted seizure of the property, I. G.'s creditors would be protected by their security interest in the goods and I. G. would have already received payment for the property.

Accordingly, the directors were advised to obtain credit covering as large a part as possible of the value of inventories maintained abroad.

The difficulties in obtaining credit under this scheme were explored. The lawyers were concerned lest the terms imposed by creditors would make it impossible for I. G. to maintain direct contacts with its customers. I. G. Farben controlled two finance corporations abroad, one in England and the other in Holland, but it was feared that when war came they would be in enemy territory and it was therefore suggested that a similar financing corporation be created in Sweden. The plan for such a company was to include "our Scandinavian business friends, the most important three Swedish, and both Norwegian banks" and in addition a Swiss banking firm which I. G. used extensively in its international deals.

The care with which the I. G. officials laid its plans is indicated by the fact that they even considered means of protecting "increases in value [of their goods abroad] which might be caused by outbreak of war." The lawyers regretfully concluded that it would not be possible to capitalize on this rise in values by means of credit arrangements.

As we know, I. G.'s foreign holdings included thousands of valuable patents. Unwilling apparently to contemplate outright sale, the attorneys considered setting up a patent holding company in a neutral country to which I. G.'s patents would be transferred. Such a scheme would entail considerable cost. The transfer of the estimated 28,000 I. G. foreign patents to such a holding company would cost 280,000 marks "payable mostly in foreign exchange," a matter of great importance. It was also pointed out that in the transfer of French patents alone, taxes which would have to be paid would involve an additional expense "in foreign exchange" amounting to 1,000,000 marks. I. G. was willing to incur these expenses if the transfer of patents to a foreign corporation would give "even a reasonable degree of protection against the danger of seizure in the event of war". But the lawyers pointed to the fact that under British war legislation, the Government could cancel enemy patents, transfer them to a trustee or issue licenses under them. And since for practical purposes such a foreign patent holding company would have to remain in close touch with I. G. in utilizing these patents, "these contacts could not possibly escape the notice of the foreign intelligence service, particularly since, from the outset, such a patent holding company would be suspected because it has taken over our foreign patent holdings." Furthermore, it was pointed out that such a transfer would have to be for a fixed price since an arrangement for the payment of a percentage of profits from the use of the patents would make the neutral a technical enemy because of its acting for the benefit of German interests. And since I. G. was not, considering a real sale of its patents such an arrangement would not serve Farben's purposes. It was therefore concluded that protection of its foreign patents from confiscation in the event of war was "practically impossible."

The CHAIRMAN. Wasn't the Standard-I. G. in this country one of the companies set up on that basis?

Mr. WECHSLER. That, of course, was an earlier arrangement. It is now in part in the courts awaiting decision, Mr. Chairman, and I believe I should not discuss it.

I should state that this pessimistic view of the patent problem was later found to be exaggerated. It was apparently subsequently realized that if I. G. could devise effective means of cloaking the ownership of its foreign business organizations, I. G.'s patents could be protected by transferring them to these companies after they had been "Americanized" or "cloaked" in neutral guise. Thus, early in 1940 in anticipation of the measures to be taken to protect General Aniline & Film Corp. from seizure, I. G. transferred to this large affiliate in the United States most of its American chemical patents. Needless to say, the cloak was swept aside in the United States, with the vesting of the General Aniline stock.

I shall file with the committee a full (though unofficial) translation of this unusual document because I think there can be no more succinct evidence of German's plan to protect its industrial interests abroad from the vicissitudes of war and to permit German industry to resume its international economic activities after hostilities would cease, regardless of who won the war.

The CHAIRMAN. Put that in the record at this point.

(The document referred to was marked "Exhibit No. 1" and appears on p. 573.)

Mr. WECHSLER. There is ample evidence that this plan was not a mere theoretical discussion which went no further than the planning stage. I. G. lost no time in putting the scheme of its lawyers into operation. Shortly after the plan was submitted to the directors in June 1939 measures were taken to safeguard I. G.'s holdings abroad through the instrumentality of neutrals as well as nationals of the prospective enemy countries themselves.

While many illustrations are possible I think the committee would be most interested in a sketch of how I. G. proceeded to enlarge the neutral participation in General Aniline & Film Corp., the largest single interest of I. G. abroad. Here, too, I shall rely upon excerpts from documents from the I. G. files in Germany made available to the Department of Justice since the occupation.

The committee will recall that after recovering some of its important chemical and dyestuffs properties in this country which were seized during the last war, I. G. set up the American I. G. Chemical Corp., to become General Aniline & Film Corp., late in 1939, in which were merged Farben's photographic, dyestuffs and pharmaceutical interests in the United States. In 1928 it formed a Swiss corporation, I. G. Chemie, as a holding company for the shares of General Aniline & Film Corp. I. G. held no shares in its own name but by a "community of interests" contract with I. G. Chemie and by interlocking management and stockholders, it controlled I. G. Chemie and obtained the right to take over Chemie's assets at any time.

Promptly after the legal committee's recommendations were submitted to the I. G. directors, steps were taken to safeguard General Aniline & Film Corp. from seizure. By January 1940, as shown by the applications of I. G. to the German Government to obtain approval of its plans with respect to I. G. Chemie, "several of * * * (I. G.'s) American friends * * * (were) in Basel" and were in "consultation with * * * (I. G.) concerning the best and most successful measures to be taken to avoid the danger" of seizure "in the event of war entanglements with the United States," and also "against the inroads of our American competitors."

The CHAIRMAN. American businessmen were in Basel engaged in planning to protect business interests in the event of a war by Germany against the United States?

Mr. WECHSLER. That is right.

The German Government was informed that I. G. and its "American friends are most anxious to prevent that forcible action on the part of the American authorities which would enable our American competition to gain possession of these companies and thereby, as it happened during the World War, obtain the results of our experience." Accordingly, the Reich Economic Ministry was advised in May of 1940 that as a result of many discussions and conferences "measures had been agreed upon for revamping the relationship between" I. G. Farben, I. G. Chemie, and General Aniline & Film Corp. The plan was set forth in I. G.'s letter to the Ministry and was stated to involve the following measures: (1) General Aniline & Film Corp. was to "become somewhat more Americanized" by acquiring from I. G. Chemie 1,000,000 of its own class B shares; (2) I. G. Chemie was to be "freed from all links which may be interpreted as being under German influence" by the cancellation of certain dividend guaranteeing agreements and by I. G. Chemie's picking up 13 percent of its capital stock held by shareholders in Germany. This was to be done by giving German owners of I. G. Chemie shares equivalent stock in I. G. Farben. German holdings of I. G. Chemie shares were thus to be reduced from about 28 percent to 15 percent. Finally, Geheimrat Schmitz, chairman of the board of I. G., was to resign as chairman of the board of I. G. Chemie. The Ministry was further told that careful investigations have shown that these steps provide the best possible safeguard of Farben's interests in General Aniline & Film Corp. The Farben officials wrote:

We know from previous experience that our American friends are handicapped in their work for us by the existing links and believe that we must help them in the defense of our interests by carrying out the measures described above which they have recommended to us.

The CHAIRMAN. And yet I expect that among the gentlemen at Basel were some who buy advertising space in American newspapers to cry about free enterprise and government intervention in business.

Mr. WECHSLER. The Ministry was informed that the matter was "particularly urgent" and that the president of General Aniline & Film Corp., a brother of the chairman of the board of I. G. Farben, was in Basel at the moment prepared to embark immediately for the United States to take "all steps required" there to effect this plan provided he was assured "before his departure that the execution of the measures discussed has been started and that permits * * * required from the authorities concerned have been promised to us in principle."

The CHAIRMAN. Was he not a naturalized American citizen?

Mr. WECHSLER. Yes.

The CHAIRMAN. Is he one of those who retired to a chicken farm during the war?

Mr. WECHSLER. I don't believe so. He spent a lot of time talking with us.

The matter was urgent moreover because, as I. G. advised the Economic Ministry, it had "decided to safeguard further parts of our extensive patent holdings in the United States by transferring these

patent holdings to the General Aniline & Film Corp." Secrecy was enjoined. The officials were told that "in view of possible repercussions * * * the authorities and ourselves are vitally interested in avoiding the use of the press in handling the entire action."

The German Government was not long in realizing that these measures were in full accord with its interests. The documents reveal that before June 1940 approval had been given by the Economic Ministry and the High Command of the Wehrmacht, and the company was working on the various tax problems which arose as a result of the "reorganization." There was extended correspondence with the tax officials to convince them that no taxes were due on the exchange of I. G. Chemie shares for those of I. G. Farben. The Finance Ministry was informed of the reasons leading to the conversion of the shares. In August of 1940 I. G. Farben's bankers wrote that—

* * * in view of a possible acute war entanglement between Germany and the United States * * * it was necessary to provide the General Aniline & Film Corp. with the appearance of an unquestionably non-German company in order to be able, first, to transfer to it the most important American patents of the I. G. Farbenindustrie; and, second, to prevent the General Aniline & Film Corp. from being considered a company mainly under influence from Germany and being treated accordingly. The latter could have completely destroyed the entire relationship of the I. G. Farbenindustrie to the General Aniline & Film Corp. (in particular the extensive technical collaboration with corresponding financial yields to the I. G. Farbenindustries, and further the export) and could have led to the complete capture of the American position of the I. G. Farbenindustrie by its competitors.

"For this purpose of 'Americanizing' the General Aniline & Film Corp." the tax officials were advised that the ties between the I. G. Farbenindustrie and the I. G. Chemie, Basel, the main shareholder of the General Aniline & Film Corp., had to be loosened considerably. It was urged upon the tax authorities that no profit was due as a result of the transfer of Chemie shares for Farben shares because prior to the exchange the international situation was such that "I. G. Chemie shares * * * must be regarded as virtual I. G. Farbenindustrie shares."

The Finance Ministry was told that the transactions had been approved by the various government agencies and it was submitted that "in view of the great political-economic importance of this transaction * * * it would be equitable to waive the speculation profit tax * * *". The letter concludes as follows:

We must emphasize that at the request of the authorities concerned this conversion must be treated as strictly confidential insofar as foreign countries are concerned and that no publicity must be given to it.

These brief excerpts from I. G. Farben documents afford a sample case history of the March 1939 plan in operation. With respect to the General Aniline & Film Corp., the plan has thus far been frustrated by the action of the Government in vesting substantially all of the corporate stock which is now held by the Alien Property Custodian. It illustrates nonetheless what it is of dominant importance to remember, that the German war plans embraced a studied effort to avert property seizure during the war, to safeguard the economic position abroad which German industries had carefully built up, and to resume that position at the close of hostilities in collaboration with their "American friends."

The CHAIRMAN. Mr. Wechsler, this is one case you have developed. Is it your belief that the records abroad will disclose similar cases in other cartels?

Mr. WECHSLER. Yes; I think there is a very substantial chance.

The CHAIRMAN. In this case on which you have been able to carry through, you have found that it was the pattern to attempt to hamstring American companies in anticipation for the war for world domination? They were afraid of American competition?

Mr. WECHSLER. Yes; they were concerned about the American companies who were their competitors or who might become their competitors.

The CHAIRMAN. Thank you, Mr. Wechsler.

I should like to present one reaction to the subcommittee hearings this week. On last Monday, Mr. Clayton, Assistant Secretary of State in Charge of Economic Affairs, testified before this subcommittee on the elimination of Axis economic spearheads in South America. According to his records, in Argentina no spearheads had been completely eliminated, 4 were in process of elimination, and in 104 cases no action had been taken or action of a noneliminative character was taken. Apparently Argentina was interested in this testimony, and according to an Associated Press report yesterday, which I want to quote, they state, under date line of June 27:

Cesar Ameghino, Foreign Minister of Argentina, said last night in a statement that Argentina had placed government interventors in control of 123 commercial firms "presumably owned by German or Japanese concerns," and said later at a press conference that 17 other firms would be intervened soon.

The Foreign Minister's statement and remarks apparently were intended as a reply to testimony given by William L. Clayton, United States Assistant Secretary of State, at a Senate Military subcommittee hearing in Washington Monday, that Argentina had not eliminated a single Nazi economic spearhead.

Ameghino talked to newspapermen after he had conferred earlier with Spruille Braden, United States Ambassador to Argentina, and Col. Manuel de Olano. Colonel de Olano is custodian of Axis property and firms placed under government intervention after Argentina's declaration of war on Germany and Japan as a preliminary to her reentry into the pan-American family of nations.

This statement of the Argentine Government is entirely consistent with the testimony presented before the subcommittee. But I would like to point out that intervention may be classed as a noneliminative type of action. As a matter of fact, this entire problem was discussed by the witness and the chairman at Monday's hearing as follows:

Mr. CLAYTON. The two letters which are filed here as exhibit 2 were written in the form of reports made by the Argentine subsidiary of the Bayer industry in Germany, and indicate that this subsidiary was in the nature of a kind of parent organization of the Latin-American countries and was coordinating their activities and taking actions to help one out, to get one to help the other, and so on.

The CHAIRMAN. Isn't it a fact also that when the blockade set in it was hard to get shipments and they endeavored to act through their cartel associates or former cartel associates in the United States to get American goods to supply their market down there, relabeling the goods?

Mr. CLAYTON. Yes, sir.

The CHAIRMAN. From these letters, it would tend to show that Argentina was somewhat the center for all of these activities, particularly during the war period and just before the war. I am not saying that as a reflection on the Argentine people itself, but that Germany centered her activities in Argentina more than any place else.

Mr. CLAYTON. It certainly shows it in this case. There was a certain laxity of Argentine controls which contributed to the success of that policy, of course, and

it would have been natural if that were not the situation in the beginning, that as time progressed it would more and more get to be the case.

The CHAIRMAN. For instance, quoting from one part of one of the Bayer letters, "The sister firm in this country (that has to do with the Colombian Bayer firm) has been under the direct control of a Government intervisor since the beginning of 1942 and can openly carry on normal business in a relatively unhindered manner." It is a rather interesting comment, I thought.

Would you not agree that this document shows that at least in certain instances, intervention is a totally inadequate method of combating Nazi economic pressure?

Mr. CLAYTON. Oh, yes; intervention has proved a pretty feeble effort to control.

The CHAIRMAN. Frequently intervention furnished a cloak under which to operate.

Mr. CLAYTON. It could easily do it; yes.

The CHAIRMAN. So the intervisor may not be a cure but only another cloak.

This will conclude today's hearing.

I want to congratulate both Mr. Berge and Mr. Wechsler upon their work and upon their presentation.

As a part of today's record I want to submit the testimony of the Honorable James E. Markham, Alien Property Custodian, which the committee received yesterday. This will be printed, as though read, just following the Justice Department exhibit.

We will continue tomorrow with Maj. Gen. John H. Hildring, Director of the Civil Affairs Division of the War Department, as our witness.

EXHIBIT No. 1

[Translated from the German]

LEGAL DIVISION FARBEN,
Frankfurt, Main, June 8, 1939.

[Confidential]

To: Direktor Dr. von Schnitzler, Kommerzienrat Waibel, Direktor Dr. ter Meer, Direktör Dr. Walther, Direktor von Bruning, Prokurist Eckert, Direktor Hoppen, Direktor Jungbluth, Direktor Kohler, Direktor Dr. Kugler, Dr. Overhoff, Prokurist Pabst, Direktor Schwab, Direktor Seyd, Direktor Voigt, Direktor Weigandt, Executive Division Farben.

Re Protection of I. G. assets abroad.

Enclosed herein we submit to you a summary of the minutes of the meeting of the legal committee in Berlin on March 17, 1939. We ask you to consider whether, within the scope of your authority, any further measures for the protection of I. G. assets abroad should be taken, and, if so, to get in touch with us for the purpose of taking such measures.

KUPPER.

The protection of these assets against seizure in the event of war calls for much more far-reaching measures than does protection against acts of attachment or execution. The following discussion with respect to the several groups of assets deals, therefore, first, with protection against seizure in the event of war, since conclusions reached for that purpose are also applicable to protection against writs of execution and attachment.

In this connection we must refer to the legislation developed in the enemy countries allied against us, during the last war, inasmuch as, in a new conflict, we should certainly have to anticipate a reenactment of the statutory provisions then in force. Economic warfare was most consistently conducted in England.

England's aim was also to coordinate, to the greatest possible extent, the legislation of the other allied enemy powers with its own, an effort in which she was largely successful at the Paris Economic Conference of 1916. The following discussion is therefore chiefly concentrated on English statutes and decisions,

unless other countries have adopted different measures with respect to specific problems.

As early as in the middle of the nineteenth century the principle was recognized in England that "since it is in the nature of war to put an end to the enemy trade and to obtain possession of it, a declaration of war is followed by a prohibition of commercial relationships and correspondence with the residents of enemy states unless a special license is obtained from the government. War leads to a number of well-known special regulations, it prohibits all trade with the enemy except for that licensed by the government, and it dissolves all contracts that presupposed the existence of such trade."

On the basis of these principles there were enacted, starting with the Trading With the Enemy Proclamation of August 5, 1914, numerous special provisions which led to more and more intensified economic warfare.

These regulations start with the prohibition of trade with persons in enemy territory including English citizens residing there ("territorial principle") and extend to all persons even if not in enemy territory to the extent that they either are enemy citizens or have relationships with the enemy, facts determined by findings based upon information received by the British intelligence services ("personal principle").

According to the original legislation of 1914, trade with enemy branch offices outside of enemy territory, for instance, in neutral countries or within the country itself, remained permissible. Due to that circumstance, Germany was still able to maintain its trade by making use of such neutral intermediaries. As a result, the prohibition of trading was extended in December 1915 to all persons and firms, "to the extent that, in the opinion of His Majesty, such prohibition appears advisable because of enemy citizenship or enemy connections."

Thus, trade with all firms that were regarded as suspect could be prohibited by placing their names on a "black list." The significance of this black list can be seen from the fact that in 1916, 2,416 firms were listed on it, among them, in the Netherlands, 211; in Norway, 138; in Greece, 95; in Argentina, 160, etc.

In addition to the black list, there existed a so-called "gray list." Its significance was that while trade with the firms placed on it was not prohibited, it was declared undesirable. In practice the gray list had much the same effect as the black list. The number of Swiss firms alone amounted to 134.

The prohibition against trade applied to—

- (1) Payment of money to or for the benefit of the enemy;
- (2) Direct or indirect delivery of goods to, or direct or indirect importation of goods from an enemy or on his behalf as well as trade in goods which are destined for enemy territory or originate there;
- (3) Making of contracts with enemies or on their behalf.

The concept "enemy" is here used in its broad definition, that is inclusive of black-listed neutrals.

As early as toward the end of 1914 trustees were appointed to whom all performance on behalf of the enemy had to be made. Receivers could be appointed for enemy enterprises who had the rights of liquidators and were authorized freely to sell these enterprises or their assets if it were considered to be in the interest of Great Britain.

By virtue of the amendments of January 27, 1916, these measures could be taken with regard to all persons on the black list, that is, businesses, persons, and enterprises that "because of enemy citizenship or relations to the enemy appear to be carried on entirely or predominantly on behalf or under the control of enemies."

These provisions also authorized annulment of individual contracts with neutrals and seizure of individual assets of neutrals if the foregoing definition was considered applicable and an ensuing controversy with the neutral government was deemed to be a lesser evil. These amendments constitute the high watermark of English economic warfare legislation.

With respect to the several groups of I. G. assets abroad, the following conclusions are reached in the light of the English economic warfare legislation of which the bare outlines have been just traced.

(a) The sales apparatus of I. G. abroad (which includes agent firms with their good will, mailing lists, connections, etc.) has, because of (1) tax laws, (2) national sales propaganda ("buy in your own country"), (3) the desire to avoid boycotts, (4) the desire to avoid special controls applicable to foreign companies, been organized, as a matter of principle, in such a fashion that I. G. or its several affiliated companies do not openly hold shares or other interests in these agent firms. There are only a few exceptions to this principle as, for instance, in the case of Efga-Photo/Romania.

While formerly the shares or similar interests in these agent firms were largely held by individuals, mostly citizens of the particular country or by companies, as trustees for I. G., this system has, to an ever-increasing extent in the last few years, been abandoned in favor of an arrangement under which shares or similar interests are acquired by individuals or firms with their own means (occasionally assisted by credits extended by I. G.) subject, however, to an option in favor of I. G. permitting I. G. to acquire the shares for itself or to have third parties acquire them.

In the light of enemy economic warfare legislation, the following observations with respect to this situation may be made:

(*aa*) If I. G. or German nationals are the declared owners of such shares or similar interests, seizure will result in case of war.

(*bb*) If the shares or similar interests are held for I. G. by non-German trustees residing in enemy territory, there is a duty to declare such holdings, which again will lead to seizure.

(*cc*) If the shares or similar interests are held for I. G. by non-German trustees who are not residents of enemy territory the danger of seizure arises in the event that for some reason I. G.'s actual ownership becomes known.

(*dd*) If the shares or other interests are actually held by a national of an enemy country, such holdings will not be affected by economic warfare measures of the enemy, unless the owner comes under suspicion of maintaining relations with the enemy. In that case, seizure and liquidation of the shares or similar interests may follow. Any option in favor of I. G. is extinguished since, according to English decisions, any contracts that may strengthen the enemy's economic position even after the war are considered voided by the outbreak of the war. If the option exists in favor of a neutral, the liquidation of such an option—as of any other asset—may be ordered, if the neutral is suspected of relationships with the enemy.

(*ee*) If the shares or similar interests are actually held by a neutral who resides in a neutral country, enemy economic warfare measures are ineffective; even an option in favor of I. G. will remain unaffected. A sole exception arises in the event that the neutral is placed on the blacklist, since then the liquidation of the shares or similar interests may also be ordered. The English during the war made very sparing use of the authority to liquidate assets of a blacklisted neutral resident in England, inasmuch as such procedure invariably resulted in controversies with the government of the neutral involved, controversies that frequently were out of all proportion to the results obtained by such liquidation.

This survey shows that the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts troubling the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I. G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters.

Nevertheless, it is obvious that transfers of shares or similar interest in our sales companies to neutrals residing in neutral countries cannot be handled uniformly in all cases and without consideration of other aspects. To mention just two of these, an accumulation of such shareholdings in the few countries that will presumably remain neutral would arouse suspicion, and the number of trustworthy persons who can be considered as suitable holders of such shares or similar interests is limited. In addition, it is necessary that protective measures to be taken by I. G. for the eventuality of war should not substantially interfere with the conduct of business in normal times. For a variety of reasons it is of the greatest importance for the normal conduct of business that the officials heading the agent firms who are particularly well qualified to serve as cloaks (*die aus Gruenden der Tarnung als Anteilseigner besonders geeignet sind*), should be citizens of the countries wherein they reside. Consequently, when sales firms are organized and the shares or similar interests in the firms are being distributed, the protection against seizure in wartime should, on principle, be only one of several pertinent considerations; in setting up sales organizations a decision must be reached in each case as to the extent to which protection against war seizure can be secured without interfering with other interests that should be safeguarded. At the same time, it must be kept in mind that, in case of war, possibly a large number of countries—as, e. g., in the World War, China and some of the South-American countries—will be drawn into the war against their own wishes. Those

countries, specially when they do not become involved in actual warfare, are not particularly interested in an energetic enforcement of economic-warfare legislation. Protective steps against seizure in the event of war are obviously much less urgent in these countries.

However, as far as possible with due regard to the other interests which call for our consideration, neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders. If this is not possible, it seems advisable to transfer the shares or similar interests to parties who are nationals of the particular country and to provide for options on these shares or similar interests not in favor of I. G. directly but running to some neutral party with an ultimate option in I. G.'s favor.

The adoption of these measures would offer protection against seizure in the event of war, although this protection may not be a complete one. At the same time, they would provide comprehensive safeguards against attachments and executions since such levies cannot be made, in the enforcement of claims against I. G., upon assets actually held by parties who are not connected with I. G.

(b) Inventories abroad: While formerly inventories abroad were mostly held on consignment from I. G., we have recently, for a variety of reasons, turned to selling these inventories outright to our agencies which sell them now as independent dealers.

In the event of war, inventories held on consignment and owned by I. G. are subject to seizure. Where agents own their inventories, however, the fate of these inventories depends on whether the agency itself is determined by the authorities to be an enemy of their country within the terms of the broad English definition. If such a determination is made with respect to any agency, notwithstanding such cloaking measures as may have been adopted (trotz der fuer die Vertretung durchgefuehrten Tarnungs massnahmen), its inventories will likewise be subject to seizure.

To avoid such seizure, consideration has been given to making sales through a genuine intermediary residing in a neutral country; this intermediary would also be the owner of the inventory consigned to and held by our agency. This method, however, is not feasible for I. G. for technical reasons and reasons of tax law, mainly because it would jeopardize the close contact with the ultimate processor, a contact which is absolutely essential for our business. Nor would this method be likely to afford effective protection in case of war since, in the light of our experience gained during the World War, it is most likely that the neutral intermediary would be put on the blacklist; the result would be that, in the enemy country, payment of the proceeds to the intermediary would be prohibited and the inventories owned by him might be seized.

Losses, however, occasioned by such seizure may, at least partially, be avoided by putting up the inventories as security for loans, the proceeds of which would be transferred directly or indirectly to I. G. Such steps have been taken by the Central Finance Administration for several years, up to now, it is true, mostly for reasons of maintaining market quotations and assuring the transfer of foreign exchange. They are, however, important also with respect to seizures in the event of war.

The reason is this. The enemy wartime legislation during the World War has explicitly held valid pledges or other creditors' rights in German property. Thus in England, for instance, the regulations concerning the branches of German banks in England provided that securities of German owners deposited in these branches and pledged to English citizens or neutrals should be liquidated, that the proceeds be used to satisfy the creditors and that only the balance be transferred to the Custodian. In the United States, the same principle was explicitly established by the act of October 6, 1917, subsection 8 (a). In France, the same principles were upheld by the courts.

Accordingly, insofar as inventories abroad are assigned to enemy and neutral banks as security for loans, the proceeds of which have been transferred to I. G., I. G. avoids, in the event of war, its loss from seizure up to the amount of the credit extended; the bank, on the other hand, which extended the credit is able to enforce its claim against the lien or pledge.

When such credit transactions are carried out, it must be kept in mind, however, that I. G.'s joint sales organizations have somewhat divergent interests with regard to protection of inventories, inasmuch as Afga and Nitrogen are exclusively interested in protecting the value of the inventories; whereas the interests of Farben and Pharma are more comprehensive since they are anxious to see that even in an emergency the ownership in the inventories should not pass into

foreign hands, since this would entail additional disadvantages and losses. (Compare, e. g., the seizure of dyestuff inventories for purposes of reparations.)

With respect to the first category, the most important consideration is that the loan to be obtained cover the largest possible proportion of the inventory. It does not matter whether the creditor be an enemy or a neutral, since, on the whole, it is a matter of indifference to I. G. how the creditor enforces his claim against the inventory transferred to him by way of security. In any event, the creditor himself probably could successfully resist a sale of the inventory at prices that were so low as to be manifestly unfair and would result in leaving the creditor partially unsatisfied and I. G. liable for the deficiency. The only matter to be kept in mind is that if the neutral creditor should be placed on the blacklist he would not be able to collect the proceeds of the liquidation.

If, as in the case of the Farben and Pharma inventories, we have an interest in preventing the inventories from passing into foreign channels, an assignment to neutrals by way of security seems more practical because then we have better reason to hope that we may exercise some influence upon the liquidation of those inventories. It must be kept in mind, however, that according to the law of almost all countries a forfeiture clause providing that after the debt becomes due, full title to the chattel pledged vests in the creditor is void. In such cases, an attempt must therefore be made to agree with the creditors that when the loans fall due, the liquidation of the goods should be made through certain firms which are to be set forth in the agreement. It can be pointed out that this method of liquidation serves also the interest of the creditor; nevertheless, the danger should not be overlooked that, when the crucial moment arrives, such stipulations will be considered invalid.

The prospects for obtaining credit for purposes of protecting the various inventories are by no means unlimited. Experiences such as those gained in the case of the inventories of I. G. Dyestuffs, Manchester, show that such credits are sometimes obtainable only upon conditions that, in turn, entail considerable complications in the normal sales business (in the case of I. G. Dyestuffs it would have been possible to obtain credit only if the agency would have been changed from a commission basis to that of an independent dealer. In the case of the Farben business, however, this would result in particularly grave complications since in that case the intensive sales work with each individual customer with respect to prices and technical problems could no longer be handled through I. G. directly). It is therefore necessary that here also all interests be weighed and that, in particular cases, the aim to protect be abandoned if the cost of such protection, comprehensively viewed, is out of proportion to the advantages it would achieve.

The Central Finance Administration endeavors to overcome, by special arrangements and set-ups, any difficulties that may stand in the way of obtaining credits. In particular, an attempt has been made to suggest to friendly banking interests abroad the establishment of credit corporations of the type which, while completely independent from Germany, have proven their worth as contact parties and intermediaries. Since both of the finance corporations heretofore established, i. e., The Axe Trading Co. in London and Mapro in Amsterdam, are situated in territories which, in the event of war, would probably not remain neutral, it appears advisable to create now a similar finance corporation for the Scandinavian countries as well. For this purpose, Zefi has already held preparatory conferences with Norwegian and Swedish groups. The set-up of this company, which should have its principal office in Stockholm, is planned as follows: Of our Scandinavian business friends, the most important three Swedish and both Norwegian banks should participate in addition to Hambros Bank and the Norsk Hydro, furthermore, two managing officials from each of our agencies in Sweden and Norway and finally the Greuert company. Participation of Norsk Hydro is particularly desirable for the additional reason that Norsk Hydro itself has expressed the desire to share in the protection of the nitrogen inventories abroad.

In this connection, a suggestion should be mentioned that was made by the Central Finance Administration with regard to the protection of the dyestuffs inventories in China. Since the inventories themselves were not considered as sufficient security by the Dutch lending agency which had been approached, it was decided to deposit the proceeds which were to go to I. G. with another Dutch bank subject to the condition that that bank maintain, in turn, a deposit with the lending agency in the same amount, to which recourse may be had in the event that the proceeds of the dyestuff inventories should not be sufficient to repay the loan in full. In this event the proceeds of the loan, it is true, would not be freely available to I. G. from the outset, but they would be beyond the reach of a possible seizure in the event of war.

Although the protection of inventories abroad has already been effected in many cases, it is nevertheless desirable that the sales organizations, together with the Central Finance Administration, systematically reexamine each individual instance so that additional measures that may be deemed necessary can be considered and adopted.

Safeguards of this type afford protection for I. G., not only in case of seizure in the event of war, but likewise against attachments and executions since contractual liens or pledges have priority over liens that are created by writs of attachment or execution sued out at a later date. Putting up the inventories as security for loans does not afford complete protection since credit extended against the inventories as security will never exceed a fraction of the actual value and the equity of the debtor is, of course, always subject to the danger of seizure, whatever its legal basis.

For the same reason, it is impossible by this method to protect any increase in the value of these inventories that might be caused by the outbreak of war.

(c) Claims: With regard to the third group of I. G. assets abroad, its claims against foreign debtors, the Central Finance Administration—frequently in connection with the assignment of inventories by way of security discussed in the preceding section—has already made transfers on a large scale, some to maintain market quotations, others to secure foreign exchange more quickly or to utilize unusual opportunities for the transfer of foreign exchange. Such transfers were made possible by discounting claims against our customers or by obtaining loans secured by them. Together with those obtained by our agencies, our total loan obligations amount to approximately RM 60,000,000. This is the equivalent of total foreign gross sales of I. G. for the period of 1½ months with an average customers' credit of 3 months. It follows that I. G.'s foreign claims are protected up to approximately 60 percent against seizure in the event of war. This applies also, at least to a certain extent, to claims based on licenses such as those for which Jasco, e. g., serves as an intervening creditor.

These credit arrangements, it is true, offer considerably less protection against executions and attachments. For instance, the Hambros credit amounting to more than £1,400,000 is secured by irrevocable orders by I. G. to a number of its agencies abroad to transfer all amounts payable to I. G. to its account with the Hambros Bank. The moneys which in this way pass through our account with the Hambros Bank quarterly are at least equal to the amount of credit obtained by us. Since the deposits with Hambros are made to our account and can be claimed by Hambros Bank only when the loans are called, these deposits, at least while the loan remains outstanding, are subject to execution and attachment. Since, on the other hand, the arrangement chosen for the Hambros credit (especially the absence of any requirement to assign our claims) offers unusual advantages for our current business and our standing, it appears inadvisable to change it in order to strengthen the protection against executions and attachments. This is especially true since it must always be kept in mind that due to the large amount of I. G. assets abroad, complete protection against executions and attachments will, in any event, never be possible. Consequently, protective measures should be avoided which involve substantial disadvantages without materially improving the situation of I. G. with respect to future executions and attachments.

(d) Patents: At the outset it must be realized that protection of our foreign patent holdings against the danger of seizure in the event of war can only be arranged by transferring them to a foreign corporation. An examination of the opportunities existing in this respect, conducted jointly with the Patent Division at Ludwigshafen, has led to the following conclusions, as reported by Kersten:

If all the foreign patent holdings of I. G. should be transferred to a corporation located in a neutral country, considerable difficulties would arise in the current handling of patent matters, difficulties which, however, would not be insurmountable. The handling of patents in the field of hydration may be taken as a precedent. These patents are required to be registered in The Hague in the name of Ihoc and that company must assert the rights flowing from them. In the case of a foreign patent-holding company which serves I. G.'s interests exclusively, the operations would probably be even simpler than in the case of Ihoc which, in every single instance, and to a considerable extent, has to make allowance for non-German interests.

The costs, however, of transferring our present foreign patent holdings to a neutral company would admittedly be considerable. The establishment of such an intermediate, neutral company would, of course, make sense only if the entire present foreign patent holdings of I. G., amounting to some 28,000 patents, could be transferred to that company. The cost of a patent transfer must be estimated

at approximately RM. 10.00 per patent. This would result in a total expenditure of reichsmarks 280,000, payable mostly in foreign exchange. In addition, it must be kept in mind that in France, where the situation, in every respect, is particularly dangerous, in the case of a patent transfer all unpaid future taxes are immediately payable. For the 3,500 French patents, with unpaid taxes averaging 5,000 French francs on each patent, an additional expenditure of foreign exchange amounting to RM. 1,000,000 would be required.

But even if the decision should be made to invest such large sums of money, the transfer of patents to a foreign corporation would not afford even a reasonable degree of protection against the danger of seizure in the event of war. According to English economic-warfare legislation, the board of trade was authorized to suspend or cancel enemy patents or patent applications, to transfer them to the Custodian or to issue licenses for them. Also in this situation "such companies whose business is controlled by enemies or conducted for their benefit" were determined to be enemies.

In practice, however, a foreign patent-holding company could conduct its business only by maintaining the closest possible relations with I. G. with regard to applications, processing, and exploitation of patents—it is sufficient to refer to our numerous agreements providing for an exchange of patents or experience. The contracts could not possibly escape the notice of the foreign intelligence service, particularly since, from the outset, such a patent-holding company would be suspected because it had taken over our foreign patent holdings. Accordingly, in case of war, this company would certainly be considered as operating for the benefit of Germany with the result that the above-mentioned measures of seizure and liquidation could also be applied to its patent holdings.

To establish a connection between I. G. and the patent-holding company loose enough to eliminate this danger with some measure of hope for success would not be possible because it would involve insurmountable difficulties for I. G. and also a removal of industrial potential for Germany ("Industrierverschleppung"). An additional difficulty consists in the necessity for establishing an adequate price at the time of the transfer of the patent or the invention; for if this price would be fixed as a percentage of the proceeds received by the foreign patent-holding corporation itself this would again result in a determination that the corporation is acting on behalf of Germany.

Finally, however, attention is called to the following provisions of the English economic-warfare legislation:

If it appears from the patent applications or any specification that the applicant has learned about the invention from an enemy, a rebuttable presumption arises that this enemy has the beneficial ownership of the patent. Since, under German patent law, every patent application must disclose the inventor, a simple comparison between the foreign and the corresponding German patent application would disclose the German inventor. It would be a fruitless endeavor to attempt to prove to enemy courts or officials that the person entitled to the beneficial ownership of a patent is not the German inventor but the neutral patent-holding company alone.

In short, the result of these considerations is that protection against seizure of our foreign patents in the event of war is practically impossible.

The question remains to be examined whether such protection is not feasible at least against attempts to levy attachments or executions.

In the light of experience gained in connection with gold-clause litigation brought against A. E. G., that firm now transfers its patents to a German patent-holding corporation called Lizenzia; this is being done on the theory that possible foreign claims which may be asserted in the future against A. E. G. itself would no longer be enforceable by levy upon patents now held by another company.

Judicial decisions of all countries show a constantly increasing trend toward a disregard of formal legal arrangements in favor of considering economic interrelations. In view of this trend it may be open to doubt whether, in the long run, the position can be successfully maintained that patent properties that have been transferred to the patent-holding company (Lizenzia) are not liable for the obligations of the parent company (A. E. G.).

The transfer of patent properties to a German patent-holding company of this type solely for protection against executions or attachments would not be practicable for I. G. for the reason mentioned elsewhere in this discussion, that—measured by the amounts involved in any execution or attachment proceedings that might be brought in the future—I. G. will always own substantial assets abroad which cannot be protected against such levies. A transfer of our patent properties to a German patent-holding company or possibly to the Ammoniak-

werk Merseburg, Ltd. (G. m. b. H.), which has no foreign debts, would accordingly result only in considerable technical and other difficulties (use of production know-how) without achieving any marked changes with regard to a protection of I. G. from executions or attachments. For the same reason it has previously been decided not to adopt such a procedure.

In summarizing, Kersten, after a thorough discussion, stated, with the consent of all, that for the protection of I. G.'s foreign assets against seizure in the event of war and against execution and attachment proceedings, the following measures are essential:

With respect to the sales organizations: Strengthening of effective neutral possessions of shares and similar interests.

With respect to the inventories: Their transfer to foreign banks as security for credits the proceeds of which are made directly or indirectly available to I. G.

With respect to claims: Assignment of claims before they fall due.

With respect to foreign patent possession: No protective measures are available which could be carried out with some hope of success.

STATEMENT OF THE HONORABLE JAMES E. MARKHAM, ALIEN PROPERTY CUSTODIAN

Mr. MARKHAM. I am glad to respond to your invitation to make a statement in this series of hearings on the economic base for German aggression. We in the Office of Alien Property Custodian are concerned with the foothold which the Germans had in the economy of this country. For over 3 years it has been our responsibility to investigate and seize productive resources owned by the enemy in the United States. Our experiences in seeking out the enemy property and in eliminating enemy control over productive assets in this country are pertinent to the problems which you are investigating.

Major phases of our work relevant to the subject of your investigation include our seizures of American business enterprises which had been owned or controlled by Germans and the methods which had been used to conceal such ownership or control; our findings concerning the dependence of American enterprises upon German research and out actions to remove such dependence; our seizures of United States patents which had been held by Germans and our policies concerning the administration of these patents; the taking over of German interest in patent contracts, which often formed the basis for international cartel arrangements and were used for restricting American production.

I. CONCEALMENT OF GERMAN OWNERSHIP OF BUSINESS ENTERPRISES IN THE UNITED STATES

Before the war many German business organizations and individuals desired to conceal their assets in the United States, particularly their interests in American business enterprises. Therefore, they placed nominal ownership or control of these assets in the hands of "cloaks," who were occasionally citizens and residents of the United States but more often nationals of various European countries, particularly Switzerland, the Netherlands, and Sweden.

1. *Reasons for cloaking.*—The most important reasons for cloaking were the following:

(a) German nationals desired, if possible, to avoid the wartime control or seizure of their American properties by the United States Government. From their experience in the last war, they realized that if the United States entered the war it would seize their American

enterprises and probably sell them to American purchasers, thus seriously damaging their business in the United States. Even if the United States did not enter the war, the pro-Allied policy of this country pointed in the direction of stringent control of German property.

(b) The issuance since 1931 of the various German decrees regulating all dealings in foreign exchange rendered more and more difficult the conduct of the affairs of foreign subsidiaries of German enterprises. German nationals could no longer freely dispose of their holdings of foreign currency and were consequently hampered in developing their foreign organizations. Even before the rise of the Nazis to power, many German firms organized holding companies in Switzerland and elsewhere in order to circumvent the rigorous exchange control. The situation became even worse in 1936, when a new German decree was issued forbidding German firms to invest abroad the income of their foreign subsidiary companies, with the result that foreign undertakings could no longer be provided with the capital necessary for their development even out of their own resources. Moreover, it was the policy of the German Government to secure a maximum of foreign exchange by forcing its nationals to sell their foreign holdings of stocks and other assets.

(c) It was advantageous to place assets in non-German hands to avoid the high German tax rate.

(d) After the rise of the Nazis, business enterprises in the United States found that many customers were unwilling to trade with them when they discovered their German ownership.

(e) It was easier after 1929 for the Germans to obtain additional capital to finance their home and foreign investments through and in the names of non-German affiliates than in their own names.

(f) If it had been known that certain American companies were subsidiaries of the German members of international cartels, suspicion of violation of United States antitrust laws might have been aroused.

(g) In some cases the Germans concealed their ownership of enterprises in countries other than the United States. If these enterprises had subsidiaries in the United States, their ownership was also concealed as a result of concealment of the ownership of the parent companies.

All of the reasons stated above were involved in one or another of the German attempts to conceal their ownership of American companies. Determining which reasons were predominant in a given instance is not, however, a simple matter. Often this is because we cannot answer the question: Did the German Government know, in a given case, that an American company was owned by a German national? In several instances the German Government probably was informed of the foreign investment after the Amnesty Act of 1933. If the German Government continued to be unaware of the situation, it is apparent that a company was cloaked purely for private aims, namely, to permit the Germans to maintain profitable investments abroad despite German laws and to protect those investments against such hazards as seizure by the United States in the event of war.

We may at least suspect that there was less cloaking without the knowledge of the German Government than is immediately apparent. A situation which at first glance seems to be an obvious attempt to

avoid German foreign exchange regulations and tax laws may turn out quite otherwise. It is questionable whether numerous groups of Germans, for the sake of relatively small investments, would risk deliberate plots to circumvent German laws. Many of the groups who arranged the cloakings had close ties with the highest Nazis. The German Government kept a strict watch over the foreign transactions of its nationals, and sales of important foreign properties could not be made by German nationals without approval of the purchaser by their Government. German agents were not inactive in Holland and other countries where cloaking transactions took place. We may question whether cloakings which were discovered by American authorities could have been more easily concealed from German authorities. Perhaps it is more reasonable to believe that generally the cloakings were known to the German Government and that the pretense of cloaking against it was often merely another safeguard introduced to justify the cloaking in the event of discovery by American authorities.

There is little doubt that the German Government knew of many cloaking arrangements. Recent investigations in Europe have established that the German Government did know, for example, that General Aniline & Film Corp., the largest German-owned enterprise in the United States, was actually controlled by I. G. Farben despite its Swiss cloak. Material found in the files of I. G. Farbenindustrie indicates that after the outbreak of war in 1939 the German Government actively fostered a "Tarnung," or camouflage, program pursuant to which German companies were urged to take steps to conceal their assets abroad so that these assets would not be seized.

What were the purposes of the Nazi Government before the war in permitting its nationals to continue to own certain enterprises in the United States? We can make some assumptions, but we do not know the full answer. For one thing, the companies were useful as "look-outs." They could observe developments in American industry, particularly in the chemical field. They could estimate production of end products by their knowledge of production of component materials and parts. Companies with defense and war contracts inevitably had knowledge of facts concerning military production of vital interest to the enemy. Their pro-German managers might also observe the political temper of the country and gather other information of use to the Nazis. Moreover, it was probably felt that many companies were sufficiently profitable so that the Germans could secure as much foreign exchange through profits as by selling the companies, if not more. Perhaps also it was thought that in some instances American production could be hampered by restricting output under patents controlled by the companies or by sabotaging the operation of the companies' plants.

Finally, certain Germans may have been permitted to maintain American investments, at least partially, as an act of favor from their fellow Nazis in the German Government. It is no secret that some of the highest Nazis have maintained assets outside Germany.

2. *Technique of cloaking.*—Many different cloaking patterns have been used by the Germans. Each German organization that desired to cloak its American holdings had its own method, dictated partly by its particular ideas of effectiveness and partly by its opportunities.

The selection of cloaks and the transfer of title to them were complicated operations. They involved finding persons the Germans could trust who might reasonably be supposed to be the real owners of the property and whose status as cloaks would not be readily susceptible to discovery. These requirements were usually better met by Europeans than by Americans. An important element in piercing a cloaking transaction is proving that no consideration was paid for the cloaked property or that the consideration was purely nominal: for this reason alone Europeans were better cloaks than Americans, whose financial transactions are more easily analyzed by American authorities. Moreover, it is more difficult to determine the business relationships and political sympathies of Europeans, whose persons and records are usually unavailable to investigators of our Government.

The actual mechanics of transferring ownership to cloaks was often complicated. Rather than a simple transfer, there was often a succession of transfers, usually further confused by the use of a variety of intermediaries and nominal holders who held the stock "beneficially" for the cloaks. These transactions, often extending over a period of years, usually resulted only in tying the string of ownership into bizarre knots rather than actually strengthening the cloaking devices.

Basically there were several devices, one or more of which was used in transferring property to non-Germans. These methods gave the German owners varying degrees of protection. They are essentially as follows:

(a) *Option device.*—The German-owned stock in the American company was sold to non-Germans for a sum which was purely nominal or at least substantially less than the value of the property. At the same time the non-Germans gave the Germans an option to repurchase the stock at substantially the same price. Thus the Germans were able to regain control at any time. An example of this method is General Dyestuff Corp. A variation was the use of the option with respect to the stock of the cloak rather than of the American company. An illustration of this variation is American Potash & Chemical Corp.

(b) *Apparent bona fide sales coupled with retention of essential controlling devices.*—This device provided for the sale of the American company to non-Germans, again for a consideration amounting to less than the value of the property sold. Instead of by an option, the Germans retained control through contracts with the American company and the cloak which reserved to the Germans all essential management controls. American Bosch Corp. is an excellent example of this device. Although the German company "sold" ABC to Swedish interests, it was able through contractual arrangements to specify what ABC would manufacture and the terms under which it might use patents which were essential to ABC's continued existence.

(c) *Loan arrangements with banks.*—By this device ownership was transferred to the corporate cloaks without requiring them to invest any money whatsoever. In order to purchase the interests in the American company, the cloak would merely borrow from a bank. Usually it would not borrow the full purchase price but only enough to make a partial payment. The cloak, a dummy corporation, would in effect have no capital at all but merely obligations to the bank and the

German parties. This arrangement was used in cloaking American Potash & Chemical Corp. and Thorer & Hollender, Inc.

(d) *Use of corporations issuing stock in bearer form.*—It is common practice in the Netherlands and Switzerland for corporations to issue stock in bearer form. Companies issuing this type of stock do not necessarily know who their real owners are. A number of German properties were transferred to corporations of this kind. Although the companies insist they are Dutch or Swiss controlled, evidence points to ownership of the shares by German nationals. The cloaks for General Aniline & Film Corp and Ferd. Mulhens, Inc., for example, were Swiss firms.

(e) *Exchange of common stock for other interests in the companies.*—In order that control of the vested companies could not be seized in the event of war, the capital structures of several enterprises were reorganized in such a way that the Germans turned in a majority of their voting stock interests in exchange for preferred stock and creditor interests. Thus, the companies continued to be financed with German funds, but control was centered in the hands of American citizens and other non-Germans with a relatively small financial interest. This, it was hoped, would ensure that control of the companies would not fall into the hands of persons unfriendly to the Germans. In the most important case of this type, E. Leitz, Inc., the Custodian refused to recognize the arrangement as bona fide and vested 100 percent of both classes of stock. There was a defect in this device in that it did not protect the Germans against confiscation of their interests in their new form: but, coupled with other devices, the arrangement was a double protection. Thorer & Hollender, Inc., for example, was recapitalized, and the remaining German interests, consisting of 100 percent of the preferred stock and a minority of the common, were cloaked by the device indicated in (c) above.

(f) *Reliance on the good faith of the cloaks.*—In a number of cases, particularly those involving companies of relatively small value, none of the above devices or variations thereon were used. There was simply a tacit understanding that the property would be returned at such time as the German owners desired. Evidence of the existence of such arrangements has often been discovered by this Office, and additional evidence may, of course, be in the possession of the Germans.

3. *Relationship of the Germans to the American companies.*—Usually the Germans continued to control the American companies rather than allow them to drift under the direction of the cloaks. As a rule, however, their directions were transmitted through the cloaks. For example, in one particular case, the Swedish cloak directed the American management to address all correspondence to it rather than to the German owner; in so directing, it indicated that it would seek the opinion of the Germans if it was advisable. This undoubtedly was done. Correspondence addressed to the American company showed a thorough understanding of the business (fur marketing), although the Swedish organization had no prior connection with the industry.

It is often difficult to establish, in those cases in which directions were given by cloaks, whether the Germans attempted to conceal their ownership from the American management. In some instances it is apparent that they did so successfully; in others, the American management was obviously in doubt; in still other instances there was apparently collusion between the Germans and the American manage-

ment in the concealment. In some cases, however, the American management was admittedly informed of the beneficial ownership; for example, the officers of Empire State Properties & Trading Corp., an investment holding company, whose German-owned shares were concealed from the German Government, were well acquainted with the existence of the cloaking arrangement.

4. *Frequency of cloaking.*—Approximately 60 German-owned enterprises in the United States appear to have been subject to some degree of cloaking. Other German-owned enterprises were nominally owned by non-Germans, but there was no apparent effort to conceal beneficial ownership.

Among the cloaked enterprises are many of the largest and most important German-owned companies controlled by the Custodian. In the field of chemical manufacturing, there are General Aniline & Film Corp., American Potash & Chemical Corp., and Schering Corp. In other types of manufacturing are American Bosch Corp., E. Leitz, Inc., Ferd. Mulhens, Inc., and American Wine Co. (the latter sold by the Custodian to American interests). In other fields are Spur Distributing Co., operator of a chain of filling stations; Nirosta Corp. and several other patent-holding companies: Pilot Reinsurance Co.; and, in wholesale trade, Thorer & Hollender, Inc., and General Dyestuff Corp., among others.

5. *Success of cloaking.*—By and large, the German attempts at hiding their ownership of American enterprises have apparently ended in failure. They have succeeded only in imposing on the Office of Alien Property Custodian a sizable task of investigation to uncover the German interests. The Office has had to make some degree of investigation of all enterprises nominally owned by residents of certain enemy-occupied and neutral countries and of other enterprises in which there was evidence of German control at any time since the First World War. Because of the thoroughness of our investigations it is not considered probable that successfully cloaked enterprises are either numerous or important. Yet it would be impossible to state categorically that there are not some ingenious schemes which have, thus far, withstood the scrutiny of investigation.

II. THE EXTENT OF GERMAN OWNERSHIP OF BUSINESS ENTERPRISE IN THE UNITED STATES

It has been the broad policy of the Office of Alien Property Custodian to vest enemy property in business enterprises when the interests of nationals of enemy countries are large enough to constitute actual or potential control of the enterprises. Smaller interests have been subject to freezing by Foreign Funds Control. Under Executive Order No. 9567, which was just issued on June 8, authority to vest these smaller interests was given to the Alien Property Custodian, and we now are preparing to take such action.

Taking statistics on the business enterprises in which controlling interests have been vested from Germans to represent the extent of German holdings, table 1 indicates the types and the total assets of German business enterprises in this country. It will be seen that the important fields of business activity are manufacturing, wholesale

trade, and investment holding. The total net worth of the 195 enterprises amounted to \$164,000,000 at dates of assumption of control. Of course, only the German interests in these concerns have been vested—the book value of the vested interests aggregated \$116,500,000 at dates of vesting. Most of the remaining interests in the enterprises are the property of Americans.

We have placed 117 of these enterprises in liquidation, since they serve no useful purpose in the American economy. The 117 include primarily wholesale companies which formerly imported their products from Germany and other enterprises which were incapable of standing on their own feet.

The remaining 78 companies have been continued as going concerns. These enterprises are important or useful business units which are capable of operating profitably without assistance from their former owners. Table 2 presents more detailed information on these companies.

Perhaps the most important point shown by this table is the predominant importance of firms engaged in manufacturing, particularly in the chemical field. In addition, two of the more important enterprises engaged in wholesale trade owe their importance to the fact that they act as distributors for manufacturing companies. The investment holding companies also account for a sizable portion of the assets of the group, but their holdings are predominantly European. The total assets of the patent-holding companies are not large in dollar figures, but these concerns control a number of important patents. It should be added, however, that the patent holdings of the manufacturing companies are of much greater importance.

TABLE 1.—*Business enterprises in which German interests have been vested in the Custodian, Mar. 11, 1942, to Dec. 31, 1944, classified according to kind of business activity*

Kind of business activity	Number of companies	Total assets at dates of assumption of control by the Custodian
Total.....	195	\$253, 920, 000
Manufacturing:		
Chemical.....	17	129, 750, 000
Miscellaneous.....	26	22, 810, 000
Agriculture.....	1	3, 580, 000
Mining and petroleum.....	3	1, 160, 000
Trade:		
Wholesale.....	63	15, 220, 000
Retail.....	5	3, 540, 000
Transportation and related services.....	8	610, 000
Holding:		
Investment.....	14	59, 210, 000
Patent.....	20	2, 100, 000
Real estate.....	17	7, 280, 000
Finance:		
Insurance.....	1	4, 380, 000
Miscellaneous.....	5	2, 000, 000
Services:		
Engineering.....	2	1, 960, 000
Nonprofit.....	13	310, 000

TABLE 2.—Financial data on business enterprises in which German interests have been vested in the Custodian and which are continuing as going concerns

Kind of business activity	Number of companies	Total assets at Dec. 31, 1944	Total sales in 1943	Net worth as of Dec. 31, 1944, distributed according to ownership shares		
				Total	Vested in Custodian	Owned by United States citizens and others
Total.....	78	\$234, 578, 000	\$231, 900, 000	\$145,858,000	\$105,972,000	\$39, 886, 000
Manufacturing:						
Chemical.....	12	146, 500, 000	137, 040, 000	97, 100, 000	73, 200, 000	23, 900, 000
Miscellaneous.....	17	36, 000, 000	78, 420, 000	16, 500, 000	10, 900, 000	5, 600, 000
Mining and petroleum.....	3	1, 050, 000	450, 000	600, 000	280, 000	320, 000
Trade:						
Wholesale.....	12	15, 140, 000	43, 130, 000	7, 100, 000	6, 200, 000	900, 000
Retail.....	2	2, 700, 000	4, 080, 000	2, 400, 000	1, 880, 000	1, 220, 000
Holding:						
Investment.....	8	23, 700, 000	(?)	14, 300, 000	9, 000, 000	5, 300, 000
Real estate.....	8	5, 930, 000	(?)	5, 400, 000	3, 320, 000	2, 080, 000
Patent.....	13	1, 620, 000	(?)	1, 150, 000	680, 000	470, 000
Miscellaneous:						
Engineering services.....	2	1, 930, 000	5, 420, 000	1, 300, 000	1, 210, 000	90, 000
Security brokers.....	1	8, 000	(?)	8, 000	2, 000	6, 000

¹ This total is \$36,640,000 less than the sum of the detail in the column. The \$36,640,000 represents the sales of 2 vested wholesale companies which act as distributors for vested manufacturing companies. This amount is included in the detail both as sales of wholesale companies and as sales of manufacturing companies.

² No sales information is given for companies of these types inasmuch as sales are not involved in these kinds of business activity.

NOTE.—Enterprises in liquidation are not covered by this table. Enterprises sold by the Custodian as active units (total assets, \$2,500,000) are, however, included.

III. BUSINESS ENTERPRISES SEIZED BY THE ALIEN PROPERTY CUSTODIAN IN BOTH WORLD WARS

In the interval between the two World Wars a number of firms which had been seized by the Alien Property Custodian in World War I passed again into German hands. Altogether there are 28 cases involving seizures of business enterprises in World War II which are related to seizures of business enterprises in World War I. In 14 instances the seized company found its way back into the hands of the original owners. In 10 instances, although the Germans from whom business enterprises were seized in World War I had not regained the firms taken from them, they had become the owners of interests in other American business enterprises, ordinarily in the same field of activity as their original company. One company, interests in which had been seized in World War I, was found again to be partly German-owned in World War II, but different Germans were the owners. In three other instances neither the companies nor the owners were the same in the two wars, but some connection existed between a firm taken in World War I and another taken in World War II.

The accompanying list names the companies in each of the above categories and includes a brief explanation of the manner in which control returned to nationals of enemy countries. The list shows the variety of ways in which German interests returned to this country, such as the reestablishment by a German steamship company of its branch office in the United States, the inheritance of property in business enterprises in the United States by Germans who happened

to be heirs of American citizens, and the resumption of control by Germans over firms in the field of chemical manufacturing.

List of enterprises vested by the Alien Property Custodian in both World Wars

A. CASES IN WHICH THE COMPANIES AND THE OWNERS ARE THE SAME IN THE TWO WARS

World War I companies		World War II companies		Comments on how interests were re-established by Germans
Name	Percent vested	Name	Percent vested	
American Platinum Works.	53	American Platinum Works.	30	Stock sold by APC to Americans but partly regained by former owners by trade of patents for stock.
Arabol Manufacturing Co.	25	Arabol Manufacturing Co.	30	Stock released by APC to former owners.
Joh. Barth Co.....	65	Joh. Barth & Sohn..	100	Stock released by APC to former owners.
The Bayer Co.....	100	General Aniline & Film Corp. General Dyestuffs Corp.	98	Bayer was sold by APC and its business was divided. Through a succession of transfers, its dyestuff business was ultimately repurchased by I. G. Farben. Its pharmaceutical business was ultimately transferred to Winthrop Chemical Co., 50 percent of the stock of which was owned by General Aniline & Film Corp. (The company which now bears the name of the Bayer Co. was not vested in World War II.)
Berlin Aniline Works	100			
Badische Co.....	100			
Bosch Magneto Co...	100	American Bosch Corp.	77	Original company sold to United States citizens. Germans started new company in competition, bought old firm, and merged them.
Rohm & Haas Co.....	60	Rohm & Haas Co...	38	Enemy interest bought by United States interests, a gift made to German interests.
Russ Estate Co.....	20	Russ Estate Co.....	20	Vested stock released to former owners by APC in 1929.

B. CASES IN WHICH THE OWNERS ARE THE SAME BUT THE COMPANIES ARE DIFFERENT IN THE TWO WARS

Hamburg-American Terminal & Navigation Co.	100	Hamburg American Line--North German Lloyd, United States branch.	100	New branch of German company established.
North German Lloyd Dock Co.				
The International Ultramarine Works, Ltd.	100	The Ultra Corp.....	100	Stock regained by German owner, who sold company to American Cyanamid in 1941; certain real estate assets not included in the sale were transferred to the Ultra Corp.
G. & W. Heller Co., Inc.	100	G. & W. Heller Co., Inc.	100	Former owners started a new company.
J. A. Henckels, Inc...	50	Fifth Ave. Cutlery Shop, Inc.	100	Enemy interests bought by United States citizens and resold to Germans.
		Graef & Schmidt, Inc.	100	
E. Leitz, Inc. (1916)...	80	E. Leitz, Inc. (1916)	100	Enemy interests bought by United States citizens and resold to Germans in 1930's.
J. M. Lehmann Co., Inc.	67	E. Leitz, Inc. (1941) ¹	100	
Markt & Hammacher Co.	43	J. M. Lehmann Co., Inc.	80	Enemy interest bought by United States citizens and resold to Germans in 1921.
Markt & Schaefer Co.	27	Markt & Hammacher Co.	30	Enemy interest in the Markt & Hammacher Co. stock bought by a United States citizen, relative of former German owners, and resold to them. Other 2 companies no longer exist.
Hammacher, Schlemmer & Co.	16			
Muhlen & Kropff (partnership).	50	Ferd. Muhlen, Inc.	99	Original company sold to United States citizens. Germans started new company in competition, bought old firm, and merged them.
Frederick Pustet & Co.	66	Frederick Pustet & Co.	36	Enemy interest bought by United States interests and resold to German interests.
Kny-Scheerer Corp..	100	Jetter & Scheerer Products, Inc.	100	Stock sold to American citizens; company absorbed in 1929 by American firm. New company started by Germans.

¹ Formed to take over the assets and business of the 1916 corporation.

List of enterprises vested by the Alien Property Custodian in both World Wars—Con.
 B. CASES IN WHICH THE OWNERS ARE THE SAME BUT THE COMPANIES ARE DIFFERENT IN THE TWO WARS—Continued

World War I companies		World War II companies		Comments on how interests were re-established by Germans
Name	Percent vested	Name	Percent vested	
Munich Reinsurance Co.	100	Pilot Reinsurance Co.	95	Former owners started a new company.
Henry Pels & Co.	100	Henry Pels & Co.	100	Do.
Riedel & Co., Inc.	100	Riedel-de Haen, Inc.	100	Riedel & Co. was sold by the APC to Americans. Former German owners in 1929 established Riedel-de Haen as a new company.
Siemens & Halske.	100	Adlanco X-Ray Corp.	100	Former owners started new companies.
		Roentgen Supplies, Inc.	100	
L. Vogelstein & Co., Ind.	100	Siemens, Inc.	100	Former owners started a new company.
		Central Mining & Securities Corp.	100	
Vogemann Shipping Co.	100	Vogemann-Goudriaan Co.	100	Former owners started new companies.
		Metropolitan Stevedoring Co.	100	
		Metropolitan Stevedoring is a 95-percent owned subsidiary of Vogemann-Goudriaan Co.		

C. CASES IN WHICH THE OWNERS ARE DIFFERENT BUT THE COMPANY IS THE SAME IN THE TWO WARS

Dresden Lace Works, Inc.	55	Rondak Corporation. Holding company for Dresden stock.	100	Stock sold to American citizen, who died and left part of his holdings to heirs in Germany (Rondak owns 40 percent of Dresden stock.)
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D. CASES IN WHICH BOTH THE COMPANIES AND OWNERS ARE DIFFERENT IN THE TWO WARS BUT SOME OTHER CONNECTION EXISTS

American Draeger Co.	50	Draeger Shipping Co., Inc.	100	Former owner of A. D. started a new company and sold it to Germans.
		Schenker & Co., Inc. Merchandise Factors, Inc.		
American Refractories Co.	16	American Magnesium Metals Corp.	36	Austrian property of American Refractories Co., was purchased by American Magnesium Metals Corp.; certain of the assets of the two firms are identical.
Haarman-de Larie-Schaefer Co.	33½	Maywood Chemical Works.	23	Stock sold to Americans. Company eventually absorbed by Maywood Chemical Works; part of whose stock passed by inheritance to Germans.

IV. THE FREEING OF AMERICAN FIRMS FROM DEPENDENCE ON GERMAN RESEARCH

Two of the most important firms interests in which have been vested by this Office, General Aniline & Film Corp. and Schering Corp., were dependent before the war upon research by their parent companies in Germany. The following statements describe the policies adopted by the managements installed by us in freeing these firms from this dependence.

1. *General Aniline & Film Corp.*—General Aniline manufactures three distinct types of products: (1) Dyestuffs and auxiliaries used

in the dyeing process, and miscellaneous chemical products including detergents, carbonyl iron powder, and Plectron resins; (2) films, photographic papers, and chemicals and cameras; (3) sensitized materials and machines for printing and developing such materials, used for the reproduction of drawings and printed or typed copy.

Under a series of agreements between General Aniline and I. G. Farbenindustrie the latter was obligated to furnish the benefit of all of its research, inventions, and technical and practical knowledge and experience in these fields to General Aniline. The research laboratories of I. G. Farbenindustrie in these fields were among the best in the world, and I. G. did not attempt to duplicate this research work in the laboratories of its principal American subsidiary, General Aniline. In the late 1930's a research laboratory in the dyestuff field was established and operated in a small way in one of the company's dyestuff plants, and a small amount of research in the photographic field was also conducted in its film plant. The research work thus done was chiefly in the field of simpler applied research and manufacturing processes. No fundamental research or research looking toward the manufacture of new products or expansion into new fields was undertaken. It was, moreover, in no sense commensurate with the size of the company or the volume of its business. For all practical purposes, General Aniline was, up to the time of its seizure by the Government, dependent upon I. G. Farbenindustrie for its research.

The result of this policy was the complete subservience of General Aniline to its German associate, for the results of the German research were never fully disclosed to the company. Thus, for example, the constitutions of the color-formers used in the manufacture of its color film were never disclosed by the Germans to the company. And in many cases important material was only communicated verbally to the most trusted employees of the company on the occasion of their visits to Germany for use as I. G. Farbenindustrie might direct. The information thus obtained was not disclosed to other employees of the company. Thus, on several occasions, when the man in possession of the information died, General Aniline was obliged to send another employee to Germany for instruction in the particular process.

General Aniline & Film Corporation was seized by the Government in February 1942. The new management installed by the Government considered that, if the company were to serve effectively in the war effort and be of value to the country, it must at once lay the groundwork for an integrated research organization of the highest caliber.

To this end the company organized a separate research division under the direction of Dr. E. C. Williams. It was decided to establish a central research laboratory, at which should be carried on the more basic research in the fields in which the company was operating as well as research in fields in which the company planned to expand, and that, in addition, applied research should be carried on in the company's manufacturing plants.

The central research laboratory was established at Easton, Pa., where General Aniline acquired in the summer of 1942 a five-story steel and concrete building that once housed a silk mill. The equipping of this building as a research laboratory was under wartime conditions a difficult undertaking. It was satisfactorily accomplished,

however, and the central research laboratory commenced operations in the late autumn of 1942.

In the meantime the company proceeded with the organization of a research staff embracing chemists, physicists, and engineers. This too presented serious problems in wartime, but has also been satisfactorily accomplished. Today the central research laboratory alone employs 107 trained research workers with scientific degrees (of whom 67 have doctor of philosophy or other comparable degrees) together with other auxiliary staffs, many of whom are men of outstanding research ability recruited from a wide cross section of American industry. Included in this number are a few technical men with long experience gained in the company's own factory operations.

In addition research and process development groups are maintained at the factories of the company with the main function of bringing new products into commercial production, carrying on investigations necessary to efficient operating management and conducting research requiring close contact with the operating personnel. The factory research and process development groups include 68 men holding scientific degrees. The central research laboratory works in closest cooperation with the factory research and process development groups.

The expansion of General Aniline's research activities since its seizure by the Government is illustrated by the following comparison of its research expenses in the years 1939 to 1944:

1939.....	\$382, 000	1942.....	\$923, 000
1940.....	452, 000	1943.....	1, 868, 000
1941.....	534, 000	1944.....	2, 445, 000

The increased emphasis placed upon basic research is further illustrated by comparing the sum of \$13,000 expended for this purpose in 1941 with the sum of \$1,582,000 expended at the central research laboratory in 1944.

The research work of General Aniline & Film Corp. has up to date been concentrated on developing those of the company's inventions having the greatest possibilities for use in the war effort. With the war nearing its end the emphasis will be changed to the fields in which the company's normal expansion is considered to lie.

2. *Schering Corp.*—The most important products of Schering Corp. are endocrine glandular substances. Next in importance are roentgen diagnostic media, sulfa drugs, and a gold therapy product used in rheumatological arthritic conditions. In the proprietary field, the firm manufactures bulk laxatives, a cosmetic depilatory, and a sunburn preventive, among other products.

Prior to our vesting of its stock, Schering Corp. was almost entirely dependent upon German research. This dependence arose from the fact that the company was a wholly owned subsidiary of a large German chemical company, Schering A. G., which had one of the largest research laboratories in Europe and specialized in chemical research and manufacture on a very broad basis. The research developments of the German company were made available to its American subsidiary by assignment of patents and patent applications taken out by the parent company in the names of the German research workers.

Schering Corp. was principally a selling agency for the German company until 1934. In that year it established a research laboratory on a small scale. This laboratory did little research and was operated primarily as an aid to manufacturing operations of the company.

An informal exchange of information took place between the two directors of research of the American firm and its German parent, although by 1938 the value of information obtained from this exchange by the American concern was practically nil, possibly because of regulations imposed by the German Government which prohibited the divulging of technical information by German firms to their foreign subsidiaries. Matters of primary importance to the two firms concerning research and manufacturing problems were customarily discussed only at conferences between the staffs of the two organizations held annually in Europe. In 1936 such a conference took place in London and in 1937 and 1938 in Paris.

Section 2 of the preamble of the royalty agreement of January 1, 1938, between Schering A. G. and the Schering Corp. reveals the intention of Berlin to maintain research as the function primarily of the German parent firm:

Schering Corp. has an organization suited for national distribution and promotion of such preparations in the United States * * *. It also maintains and operates laboratories to carry on research and development work in connection with such preparations, but has not acquired the extensive scientific knowledge and practical experience in this field that Schering A. G. commands by reason of its longer and more extensive research work and experience.

Coincident with the general expansion in 1938 of the Schering organization in preparation for its assignment of supplying and holding the foreign markets of Schering A. G. for the duration of the anticipated hostilities, several additions to the personnel and facilities of Schering's research department were made. The same year marks the entry of the Schering research organization upon its first pure research project. This work, however, was on a limited scale, and continued on a limited scale until 1942 when the stock of the company was vested by this Office.

Immediately after vesting the management installed by this Office made a survey of the company's research facilities and concluded that they were inadequate in view of the fact that the company had been cut off from the large research facilities of the former parent company. Owing to war conditions and the limitations imposed by the War Production Board on plant expansion, it was not possible to conceive and execute a comprehensive plan for expanding Schering's research laboratories in a completely new building such as was desirable. By utilizing the space in available buildings, however, it was possible to make a substantial increase in the laboratory space of the chemical workers and to establish an adequate biological laboratory. This work was completed in 1943 and 1944.

The rapid increase in research activity after the vesting of Schering Corp. is indicated by the following tabulation, which shows the floor space devoted to research and total research salaries:

Year	Floor space devoted to research	Total research salaries	Year	Floor space devoted to research	Total research salaries
	<i>Square feet</i>			<i>Square feet</i>	
1933	400	\$6, 000	1940	1, 910	\$31, 130
1934	1, 350	10, 000	1941	1, 910	50, 961
1935	1, 350	13, 600	1942	2, 419	60, 037
1936	1, 350	13, 600	1943	6, 395	77, 149
1937	1, 540	17, 900	1944	9, 929	98, 652
1938	1, 700	21, 419	1945	10, 403	104, 000
1939	1, 700	26, 189			

¹ Estimated.

V. PATENT POLICY

1. *Nature of property held.*—Patent properties rank with interests in business enterprises as the two most important types of productive property held by Germans in the United States before the outbreak of war. We acquire direct or indirect control over patent properties of enemy nationals in essentially three ways: (i) Through vesting patents and pending patent applications owned by enemy nationals; (ii) through vesting the enemy interests in patent contracts by which patents had been licensed or assigned by enemy nationals to American firms or individuals; and (iii) through vesting the enemy interests in business enterprises which hold patents or patent rights.

As of December 31, 1944, the Office held (i) 25,566 patents and 3,906 patent applications, unpatented inventions, and part interests in patents, all formerly owned by Germans; (ii) 688 different interests of Germans in patent contracts involving a much larger number of patents (which were also vested in the case of license contracts, but were not vested if they had been assigned to Americans); and (iii) interests in business enterprises which owned over 7,000 patents and patent applications.

2. *Patent policy.*—The patent policy of the Alien Property Custodian has been guided by two major objectives: First, the winning of the war and, second, the permanent enlargement of our national production in the postwar period. In the pursuit of these two objectives it has been necessary to distinguish the following principal categories of patent properties: (a) Vested patents which had not already been exclusively licensed to Americans before the war—which may be referred to as “loose” patents; (b) patents already exclusively licensed to Americans at the time of vesting; (c) interests in patent contracts; and (d) patents owned by business enterprises in which the Custodian has vested interests.

(a) *“Loose” patents.*—The policy with respect to enemy patents not subject to outstanding exclusive licenses has been to make them available to American industry on the basis of nonexclusive, royalty-free licenses. The only cost incurred by the licensee is an administrative charge of \$15 per patent. Because it has not been clear whether the Custodian had the legal authority to issue irrevocable licenses, the licenses issued thus far have been revocable. The policy of this Office, however, has been not to revoke licenses except for failure of the licensee to live up to the license agreement or when a prior American interest in the patent is claimed and duly established. A recommendation that licenses issued by the Custodian may be irrevocable will be included in proposed legislation to be submitted to Congress shortly. It is believed that irrevocability of the licenses will stimulate an even wider use of the vested patents.

Where nonexclusive licenses are already outstanding under enemy patents, other licenses are granted upon application. Such new licenses carry, for the life of the patent, the same royalty terms as the licenses already outstanding. The royalties are collected by the Office of Alien Property Custodian.

(b) *Patents subject to outstanding exclusive licenses.*—With respect to enemy patents which, at the date of vesting, had been subject to valid outstanding exclusive licenses to American firms, the policy has been to respect the licensee's sole right to exploitation of the

patents, unless the licensor had reserved for himself the right to terminate the licenses. Some consideration was given to the possibility of abrogating outstanding exclusive licenses, but it was concluded that such a policy should not be adopted except where required for the prosecution of the war. In no instance was it deemed justifiable for this Office to abrogate any existing legal exclusive rights of Americans. Where the American licensee elected to give up his exclusive license in exchange for a standard APC license it was, for a time at least, the policy of this Office to effectuate the exchange. This Office, on principle, could satisfy the legal prerequisite that no Government agency can give away public property—the right to collect royalties—by pointing out that the licensee's relinquishing of rights for exclusive use of the patent constitutes in effect a consideration: but it proved to be administratively difficult to decide, in concrete cases, whether the national interest was sufficiently involved to justify such an exchange. New legislation might include provisions which would facilitate the voluntary exchange of exclusive for nonexclusive licenses.

(c) *Patent contracts.*—The Office has given a great deal of attention to the subject of patent contracts containing provisions restricting the use of foreign-originated patents in violation of the antitrust laws. Through vesting the enemy interest in possibly illegal contracts we have become successor to the enemy as a party to agreements which serve as the foundations of international cartels. Since we have thus become, as it were, members of international cartels, action on our part is considered necessary.

Many of the contracts contain agreements designed to limit production and market areas, and to fix the selling prices of the patented products. A preliminary examination of slightly more than one-third of the contracts in our files discloses that about 50 percent of them contained provisions which may warrant careful analysis from the standpoint of the probability or possibility that eventually they would be determined to have been made in violation of the antitrust laws. Our examination was largely undertaken to determine work load, and for budgetary purposes, and not to reach final conclusions or determinations as to the legal status of the contracts involved.

The state of flux of the antitrust law, particularly in relation to patents, and hence the uncertainty as to what the courts will decide in each concrete case with respect to the legality or illegality of the implied provisions, has hampered the progress of our program concerning the treatment of illegal patent contracts. As yet we have no established standards for a determination on our part that any provision or provisions in a vested contract render the contract illegal. We have, however, proceeded to work out some test cases to determine the extent of our authority in dealing with these matters.

This Office is at present considering several possible methods of dealing with illegal restrictions without invading the rights of persons who have acquired legitimate interests in the patents. In the light of uncertainties concerning the extent of our power to remove restrictions which we deem to be illegal, we have primarily relied on negotiations with the American party, either with the purpose of striking out the restrictive provisions from the agreements, or of entering into new agreements.

In a few instances this voluntary procedure has been applied successfully. We have refrained, however, from negotiations that would involve the surrender of any exclusive royalty-bearing licenses to this Office as a consideration for the granting of nonexclusive, royalty-free licenses by us, since, pending the establishment of a standard of illegality, we have necessarily treated all contracts as though legal.

Where voluntary negotiations are not feasible, either because of the lack of fixed standards of legality or because the American parties are unwilling to enter negotiations of this kind, a different procedure becomes necessary. At present this Office, pursuant to section 5 (b) of the Trading With the Enemy Act, is considering the possibility of nullifying contracts which we preliminarily determine to be illegal under the antitrust acts. In using this method we would immediately institute declaratory judgment proceedings seeking the determination of the rights of the Alien Property Custodian under the patents. Consideration is being given to the further possibility of going directly to the courts to obtain a declaration of the Custodian's rights under the patents, without first declaring the contracts null and void. As yet, however, as a result of the difficulties described above, no litigation has been initiated to establish the legality or illegality of vested patent contracts, and only very few exclusive patent licenses have been released or freed by reason of negotiations and none by litigations based upon the illegal nature of any patent contract.

In working out these problems the Office has kept in close touch with the War Division and the Antitrust Division of the Department of Justice. This cooperation is felt to be of mutual advantage in successfully dealing with the illegal restrictions placed upon American industry through the abuse of patents.

(d) *Patents held by vested or supervised corporations.*—It has been argued, frequently, by persons outside this Office that all enemy-originated patents should be made freely available to American industry. Among others, the Kilgore committee has held such a view. But within this Office it became clear, soon after its establishment, that the general policy which was so apply to unencumbered, directly vested patents could not be extended to patents which had been assigned to bona fide American firms, and not even to patents held by American subsidiaries of foreign enterprises. One crucial difficulty is the existence of legitimate American interests in the patents or in the corporations. Attempts were made to distinguish between patents assigned to bona fide American firms, and patents held by firms which, owing to foreign ownership interests, became subject to vesting or supervision by this Office.

For a time it was hoped that the patents held by vested corporations could be administered in a way that would closely correspond to the treatment of directly vested patents. But owing to the existence of American creditor and ownership interests, the idea of separating the patents from the remainder of the corporate assets and of throwing them into the general patent pool of the Office was given up. The separation of the patents from the remaining assets would have led to a serious impairment of the competitive position of the firms involved, not to mention the immediate reduction of their net worth,

with corresponding bad effects on the firms' ability to meet claims of American creditors.

As the idea of separating the patents from the other corporate assets was rejected, the Office, for a time, contemplated a procedure under which the firms would retain the patents but would grant non-exclusive licenses to American producers, with or without royalties, whenever the public interest indicated the desirability of such action. Where the firms were producing enterprises, even this indirect way of liberalizing the use of their patents was not regarded as practicable. It would have implied reduction of the equity and of the competitive position of the firms, possibly jeopardizing American creditor and ownership interests. In certain instances, however, where patents were essential for war production, vested corporations have offered to make them available at reasonable royalties to other firms for the duration.

Where, however, the vested enterprises consisted of patent-holding companies fully owned by us and with no assets other than the patents themselves, the general policy is to liquidate the companies and to throw their patents into our pool of loose patents. Exempted from this policy are only those patent-holding companies which, aside from holding patents, had performed, prior to the vesting, important engineering and marketing functions. On a temporary basis, such companies have been maintained as going concerns and their managements have been charged with the licensing of some vitally important patents which we had directly vested and for the placement of which the involved companies seemed well suited.

3. *Recommendations.*—The recommendations which I have to make concerning the disposition of vested patents are largely in accord with recommendations made by your committee.

(1) *Vested patents should not be sold.*—Your committee has recommended that vested enemy patents should not be sold, and we agree. We believe that sale of patents by the Government would be inadvisable for several reasons, including the following:

(a) The sale of monopolies: The patent laws were designed to grant a limited monopoly privilege to the inventor in order to encourage invention and disclosure. The granting of such privileges to the inventor is one thing, but it is another thing for the Government to sell monopolies to individuals or companies who have not been the originators of the invention and who could then tax the consumer. The money which the Government would derive from a sale of patents would in effect be an uneconomic tax on the people. Such a policy would not be in the public interest. We are in full accord with the view of this committee that the Government should not sell monopolies.

(b) The price: So far as we can determine, there are no accepted standards to use in setting a "fair price" for any patent. Thousands of patents are worthless; on the other hand, there are a few which may be extremely valuable to a firm capable of exploiting their monopoly advantages. Should this Office receive only one bid for a patent, how could we determine if this were an adequate amount? If we were offered \$50, who could determine if the patent were worth \$50, \$500, or \$5,000? Again and again, we reject bids received for real estate or other pieces of vested property because the prices offered are unsatisfactory in comparison with the appraised values. No such

appraisals are available for patents. The administrative problem of determining the value would be most difficult, and in any event the decision would be arbitrary.

(c) *The bidder:* Sale is generally made to the highest qualified bidder. However, the highest bid for a vested patent might be made by a company holding a strong monopolistic position in the market. How could this Office make the decision as to whether or not that bidder would be an appropriate buyer of the patent? The sale of a vested patent might easily increase the company's economic power in such a way as to work against the public interest. Again, the determination of who is a proper bidder would be a type of decision which a Government agency should avoid making wherever possible.

(2) *Vested patents should not be returned.*—It seems to be generally agreed that the Germans and the Japanese should never be permitted to regain control over the vested patents. No one who wishes that American industry should continue to have access to these patents can propose that we should return to the enemy the right to license, assign, or withhold them from use.

(3) *The "loose" vested patents should remain generally available.*—If it is agreed that the patents should neither be sold nor returned, two policies can be followed: the patents can be dedicated to the public by throwing them into the public domain or the Government can continue to license them on a nonexclusive basis. Dedication has the advantage of eliminating the need for governmental administration; licensing has the advantage of providing a current record of the effectiveness both of the system of "general availability" and of the efforts to assure the widest possible use of the patents by acquainting small business with patents which would prove advantageous to them.

Should it be decided that vested enemy patents should continue to be licensed, we recommend the continuance of royalty-free licensing for "loose" patents. The economic advantages of making patents freely available without royalty charges to the public more than outweigh any financial gain that the Government could achieve through charging royalties. Moreover, the administrative difficulties of setting a fair price for the sale of patents apply as well to the determination of a reasonable royalty rate for the licensing of patents. This Office has some experience in negotiating royalty rates for licenses under the patents of enemy-occupied countries and is very conscious of the problems and burdens involved. We cannot recommend that a governmental agency should be charged with negotiating with private business thousands of licensing agreements.

In summary, we should recommend that the "loose" enemy patents vested in the Office of Alien Property Custodian (1) should not be sold; (2) should not go back to the enemy; and (3) should either be dedicated to the public or continue to be generally licensed on a non-exclusive, royalty-free basis.

VI. SALES POLICY

All vested property except patents and certain trade-marks and copyright is being sold to American citizens as soon as enemy control has been removed and proper arrangements can be made. The basic reason for this policy is the belief that private enterprise is the most efficient form of control of property and that the Government, rather

than burden itself with the administration of property, should transfer it to private hands as speedily as possible. The sales policy of the Office has been described in the annual reports for the periods ending June 30, 1943, and June 30, 1944.

Regulations governing the sale of vested property were set forth in a general order. The main purpose of the regulations was to provide for the offering of the property at public sale in order to avoid any negotiated deals. Exceptions are rare and are made only for compelling reasons, such as the existence of first purchase rights or similar stipulations entered into by the former owners.

The most important type of property sold by the Office is property in business enterprises. It is our policy to maintain as economic units those firms which can be operated profitably and can perform useful functions in the American economic system. These enterprises are sold as going concerns, usually through the sale of the corporate stock which we have vested. Enterprises not qualifying for maintained operations are liquidated.

The preparations necessary before a firm can be sold as a going concern are complex and time consuming. It is first necessary to make certain that the investigation of the firm has been finally completed and full evidence of ownership by nationals of enemy countries compiled, so that it will not be necessary to go back to the office of the company for further investigation after it has been sold. If any residual rights remain to be vested, appropriate action is taken, so that we can offer good title to the entire assets of the enterprise and all possible insurance against interference by former owners. A prospectus is prepared for potential purchasers, making an adequate disclosure of information about the enterprise. All material facts are verified.

We then issue an order for the sale of the stock (if the firm is a corporation) and, after proper advertisement, it is offered at public sale. If a satisfactory bid is not obtained through such an offering, an attempt is made to obtain a fair price by other means. Such a situation may arise, for example, when the interest to be sold is not large enough to control the company. In a situation of this sort the number of prospective purchasers is likely to be small and the public sale may result in unsatisfactory bids. We may then reject these bids and seek to obtain better terms by negotiation.

One hundred and seventeen firms in which the German interests have been vested are being or have been liquidated. Seventy-eight firms are being operated and prepared for sale. Eight companies have been sold.

The firms which have been sold thus far were not of such a character as to require special safeguards against the reversion of control to German hands. I may mention, however, in this connection the sale of the Winthrop Corp. None of the stock of this corporation was vested by us, but prior to the sale 50 percent of the stock had been held by the General Aniline & Film Corp., which is under our control. For this reason we were interested in making certain that all possible safeguards were employed in the sale. The terms of the sale were worked out by the General Aniline & Film Corp. in close cooperation with our Office and the Department of Justice. A voting trust agreement was formulated whose purpose is to prevent the return of the shares of stock or control thereof to interests unfriendly to the United

States. The duration of the agreement is for 10 years, the maximum which may be imposed in a voting trust under applicable State laws. In addition, it was agreed that an existing consent decree entered into by the Winthrop Corp. with the Antitrust Division of the Department of Justice would be amended by adding a provision against the transfer of control of Winthrop or any interest therein to I. G. Farben or other foreign interests. I am offering for the record a copy of the documents relating to the offer for sale, which includes a detailed description of the terms of sale.

We intend to take similar precautions in the future when we offer for sale any business enterprises deemed sufficiently important either in terms of the amount of assets controlled by the firm, the strong patent position of the firm, or the position of the enterprise in the industry. We shall, before we offer such firms for sale, consult with the Department of Justice both for the purpose of excluding future German penetration and for the purpose of avoiding a strengthening of any existing monopolistic positions in the particular industry within the United States.

The proceeds of the sale of vested property are deposited with the Treasurer of the United States pending a decision as to their ultimate disposition.

VII. ULTIMATE DISPOSITION OF VESTED PROPERTY

A decision on the question of whether the net proceeds of enemy property should be returned to the former owners, or used to help meet the expense of the war, or whether some other disposition should be made of the money, is clearly outside the boundary of our authority and is specifically a function of Congress and the President. We are prepared, however, to participate in making recommendations.

There has, of course, been public discussion of this problem and proposals dealing with the subject were introduced into Congress during 1943 and 1944. A brief summary of some of the statements reflecting different points of view and a short description of the policy followed after World War I may be of assistance to the subcommittee.

1. *Different points of view expressed in public discussion.*—At its annual meeting in 1942 the National Chamber of Commerce made the following declaration:¹

The historic policy of the United States has been to hold immune from confiscation enemy private property in time of war. During World War I our Government endeavored to provide for the retention of the assets of enemy nationals until their governments made provision for the satisfaction of claims of our citizens who suffered loss and injury through aggression. Those considerations should underlie our policy in the treatment of the property of enemy nationals in the present war.

The chamber went on to point out that the American property in enemy and enemy-occupied countries exceeds in value enemy property in the United States. The policy of nonconfiscation, according to that view, is not only a "sound moral principle, but in this instance, is a course of enlightened self-interest."

Students of international law such as Edwin Borchard, John B. Moore, John Dickinson have for a long time stressed the "inviola-

¹ Statement by Foreign Commerce Department Committee (Chamber of Commerce of the United States) to the Board of Directors of the Chamber of Commerce, reported in Treatment of United States Property in Enemy Countries, September 1943. (Report by committee approved by Board of Directors, September 17-18, 1943.)

bility" of private enemy property. Referring to the "rule" that private property within the jurisdiction of citizens of enemy states is inviolable, Mr. Borchard, in 1924 said: ²

The rule was not adopted in any sudden burst of humanitarian sentiment, but was the result of an evolution of centuries. It rests upon a sound development in political and legal theory which was deemed natural and incidental to the evolution of civilization.

Mr. Borchard further stated that—

* * * to take enemy property to pay domestic persons is revolutionary in its effects and implications; confiscation of private property, as an incident of war, may afford an incentive to war rather than act as a deterrent, and the realization that the security of private property and investment abroad depends not on law but on force will tend to increase, not diminish armaments and, coincidentally, the chances to war.

In a discussion of this subject in 1943, Mr. Dickinson said: ³

If Germany is called on to pay reparations through her government, the burden of such reparations can and will be spread through taxation over the entire German population. Civic responsibility in this corporate sense for the acts of government is an altogether different thing from attaching such responsibility to particular individuals merely because they happen to have property within easy reach of an enemy state.

* * * if the United Nations intend to build a durable peace, there should be no confiscation of the privately owned enemy property which has been seized and sequestered. It should be held and administered for the benefit of its owners and duly restored to them at the conclusion of hostilities.

On the other hand it has been seriously questioned whether the inviolability of enemy private property within the jurisdiction is really a rule of international law and whether the "practical" arguments usually given in defense of inviolability are significant. Mr. Seymour J. Rubin, ⁴ Chief of the Division of Economic Security Controls of the Department of State, recently stated: ⁵

* * * the asserted rule of international law, binding on all nations, becomes doubtful when courts fail to recognize the asserted rule, and when the practice of nations contains so many violations that it may be questioned whether the violation is not itself the rule. * * * This is not to say that violations of international law negate the existence of rules of international law. But in a field built largely upon customs and usage, the establishment of widespread "violations" may bring into question the very existence of the "rule."

In this connection the conclusion drawn in a recent analysis based on public policy concerning enemy-owned property in the United States during the nineteenth century is of interest. According to the analysis written by a member of the staff of our office:

* * * the question what shall be done with private enemy property is not a question of law but of "policy." It is submitted, therefore, that according to American practice as pronounced by court decision and promulgated by congressional enactment, enemy-owned property may be, has been, and will be, confiscated as legislatively determined.

Mr. Rubin points out, moreover, that the line between public and private investment, especially in Germany, has been vague for some

² American Journal of International Law, 1924. Edwin M. Borchard, editorial comment on enemy private property, pp. 523-532.

³ Foreign Affairs, October 1943, p. 141. "Enemy-Owned Property: Restitution or Confiscation," John Dickinson.

⁴ In the article from which the quotation is taken Mr. Rubin states that the views expressed are his own and should not be construed to represent the views of the Department of State or of any other officer of that Department.

⁵ Law and Contemporary Problems, winter-spring, 1945, p. 169, "Inviolability of Enemy Private Property," by Seymour J. Rubin.

time and that there does not appear to be any cogent reason for granting private enemy property special immunity. The use of the cloaking device is in itself an indication that enemy owners have been aware of the risks involved in war. As far as the question of "enlightened self-interest" is concerned, it is doubtful that setting Germany a "good example" would result either in compensation for American property in Germany or act as a guarantee for permanent peace. Moreover, the use of the seized property to compensate Americans for losses in Germany does not concentrate the burden of reparations on a special group. The enemy state can compensate its nationals as provided, for example, in the Treaty of Versailles. Through taxation or other methods of public financing the enemy state can distribute more equitably the burden of losses of foreign assets.

Since our allies have been forced to liquidate their assets in the United States to carry on the war it would, according to Mr. Rubin, seem strange to return enemy assets intact. Moreover, since our claims against the enemy will probably far exceed their capacity to pay⁶—

The Allies * * * can hardly be expected to return to that enemy one of the chief assets, and perhaps the only large quick asset, which the enemy has available for payment of its just debts, or, at least, for pledge as security for such payment.

* * * If the United States holdings of the enemy are considered to be "inviolable," the enemy capacity to pay will be decreased by that much; and the decrease, whatever it is, will be reflected in increased American taxes—or in diminished provision for these obligations. An international law obligation which would thus force the American taxpayer to finance the retention of enemy foreign holdings would seem neither just nor desirable.

The Gearhart bill (H. R. 3672) introduced in November 1943 and reintroduced in June 1945, among other recommendations included the provisions that seized property and frozen assets should not be returned to the enemy and that enemy governments should compensate their own nationals for losses suffered in the United States. In justifying the policy of not returning enemy property, Mr. Gearhart says:⁷

Citizens of any country, having ventured for profit to invest or create assets in foreign lands, must in full fairness answer with those assets for wrongdoing of a marauding government which exists by their choice or acquiescence. * * *

Finally, your subcommittee in its report dated November 1944 entitled "Part I, Findings and Recommendations," has made the following statement:

* * * Your subcommittee has earlier recommended the confiscation of German property abroad by the United Nations. With respect to the United States, it urges further that seized property, excluding patents, be disposed of and the proceeds of sale revert to the general Treasury to meet part of our war cost.

2. *Policy followed after World War I.*—At the end of World War I, by treaty provision, the German Government undertook to reimburse persons in its territory whose property had been seized by the Alien Property Custodian. A Mixed Claims Commission was established to determine American claims against Germany.

⁶ *Ibid.*, pp. 179-180.

⁷ *Law and Contemporary Problems*, winter-spring 1945, p. 195, Post-War Prospects for the Treatment of Enemy Property, by Bertrand W. Gearhart.

In 1923 the Winslow amendment to the Trading with the Enemy Act was adopted allowing the return of property up to the value of \$10,000 to former enemy owners.

In 1928 the Settlement of War Claims Act became law. The act provided for the payment in full of claims of American nationals against Germany; the payment of claims of German nationals for ships, patents, and a radio station seized in the United States, the total for these, however, not to exceed \$100,000,000; the immediate return of 80 percent of the German property or its proceeds still held by the United States; and the ultimate return of the remainder.

In 1930 the United States and Germany entered into a debt funding agreement in which Germany undertook to pay a specified amount annually in satisfaction of awards made by the Mixed Claims Commission. When payments were not made by Germany, Congress adopted the Harrison resolution which provided that no further payment would be made under the act of 1928 as long as Germany remained in arrears. The Supreme Court held that the United States had acquired absolute title to the property which it seized and consequently the grant made by the act of 1928 "was made as a matter of grace" and withdrawal of the grant by the resolution did not violate the fifth amendment to the Constitution.

Whether Congress follows the same course of action at the end of this war or decides to use vested enemy funds for reparations or any other purposes, the Office of Alien Property Custodian will be ready to carry out its function to the best of its ability. All records of holdings, income, and outlay have been carefully kept and checked by certified public accountants with a view toward minimizing the accounting problems which must be faced, whatever course is determined in the ultimate disposition.

3. *Recommendations.*—In conjunction with the Treasury Department, we have prepared a series of proposals relating to German and Japanese property in the United States. These proposals, embodying the joint opinion of the two agencies most intimately concerned with the administration of enemy property in the United States, have been approved by the State Department.

It is contemplated that German and Japanese assets hitherto blocked by the Treasury Department shall be vested and liquidated by the Alien Property Custodian. Executive Order No. 9567 was issued on June 8, 1945, by the President, to authorize the execution of this part of the proposals. The agencies will join in recommendations to Congress that American creditors who have claims against any person whose property in this country has been vested should be paid on an equitable basis to the extent the vested assets of the debtor permit. It is further agreed to recommend that plans for ultimate disposition of the funds realized from vested German and Japanese property shall make no provision for any return or compensation, direct or indirect, by the United States to the former owners. This need not preclude payments to the former German and Japanese owners by their respective governments.

No formal recommendations to Congress will be made, however, concerning ultimate disposition of the net proceeds of vested assets until after the conclusion of the conference now being held in Moscow

with regard to German reparations. These funds will be available for the claims which the Government has against Germany or Japan, or for any other purpose that Congress may determine.

EXHIBIT No. 2

TYPICAL PROVISIONS CONTAINED IN VESTED PATENT CONTRACTS

1. *Nature of contracts studied.*—The provisions contained in 360 patent agreements in which the Custodian has vested the foreign interests have been statistically analyzed. The 360 contracts studied constituted about three-fourths of the total number of contracts vested up to the date of the study, December 31, 1943. The 360 contracts were chosen simply because copies were available. Twenty-seven of the contracts were found to be agency contracts or other agreements which contained nothing relating to the use of the patents affected; these contracts were excluded from further analysis. While it is impossible to know without additional study whether the remaining 333 contracts are typical of all the patent contracts (other than agency agreements) in which the Custodian had an interest at the date of the study, there is no reason to suppose that they are markedly different. However, since the most important cartel contracts tended to be vested earlier, it is probable that the proportion of contracts vested since December 31, 1943, which contain restrictive provisions is somewhat lower. (As of December 31, 1944, 1,018 foreign interests in 726 contracts of all types had been vested.)

The classification of provisions in vested contracts does not of itself indicate anything concerning the effects which these provisions may have upon our national economy. Such effects depend not merely on the provisions governing the use of the patents but on the existence of other related patents, unpatented substitutes and, in general, the position of the contracting parties in the industrial fields to which the patents are related. It is quite possible to negotiate a highly restrictive and illegal agreement in a field where neither of the parties has any opportunity of gaining and exploiting a monopoly and in fact this is frequently the case. The classification of the contracts merely shows what provisions the parties to a licensing contract are likely to regard as beneficial.

2. *Types of provisions.*—The following is a summary of the types of provisions found in the 333 contracts analyzed:

Type of provision	Number of contracts	Percent of 333 contracts classified
Agreements concerning license or assignment of future patents	198	59.5
Cross-licensing or cross-assignment of patents included in the contract	147	44.1
Restrictions on fields of use	142	42.6
Export restrictions	128	38.4
Restrictions on price	34	10.2
Restrictions on output	8	2.4
Restrictions on sales outlets	3	.9
Limitations on the use of trade-marks	31	9.3
Provisions requiring purchases by one party from the other party exclusively	19	5.7
Licensee confined to operation in the licensed field	11	3.3
Prohibitions of the use by licensee of other than the licensed patents in the field	10	3.0
Prohibitions against the furnishing by the licensee of raw materials to competitors	8	2.4
Provisions for exchange of technical information by both parties	104	31.2
Provisions for the furnishing of technical information and "know-how" by the licensor	96	28.8
Requirements that the licensee provide information on sublicenses or sales	48	14.4
Provisions for the licensor to furnish operational information on costs, prices, and sales techniques	11	3.3
Provision for exchange of operational information	6	1.8
Provisions that the technical information exchanged under the contract shall be kept secret	71	21.3

3. *Combinations of restrictions.*—Each provision becomes more significant when considered in relation to the other provisions of the agreement. The following table shows the extent to which contracts containing one of the four most frequent provisions contain each one of the other three most frequent provisions. Of the 128 contracts which contain export restrictions, for example, 71 also contain restrictions on fields of use.

TABLE 3.—Frequency of certain combinations of provisions contained in 333 selected patent agreements in which the foreign interests have been vested by the Alien Property Custodian

	Number of contracts containing different types of provisions			
	Export restrictions	Agreements to license or assign future patents	Agreements concerning cross-licensing or cross-assignment	Restrictions on fields of use
Total number of contracts containing each provision.....	128	198	147	142
Number of these contracts which include among additional provisions:				
Export restrictions.....		95	70	71
Agreements to license or assign future patents.....	95		117	98
Agreements concerning cross-licensing or cross-assignment.....	70	117		81
Restrictions on fields of use.....	71	98	81	

EXHIBIT No. 3

DOCUMENTS RELATING TO THE OFFER FOR SALE AT PUBLIC AUCTION BY GENERAL ANILINE & FILM CORPORATION OF 6,150 SHARES OF CLASS B COMMON STOCK OF WINTHROP CHEMICAL COMPANY

H. M. COLLINS, Auctioneer of ADRIAN H. MULLER & SON, Auctioneers

NOTICE OF SALE OF CLASS B COMMON STOCK OF WINTHROP CHEMICAL COMPANY

Notice is hereby given that on April 23, 1945, at 10:30 A. M. 6,150 shares of the Class B Common Stock of Winthrop Chemical Company, a Delaware corporation (hereinafter called "Winthrop"), will be offered at public auction, without any representation or warranty, at the auction block of Adrian H. Muller & Son, 75 Montgomery Street, Jersey City, New Jersey, for the account of General Aniline & Film Corporation as seller.

Winthrop holds all of the stock if certain Subsidiaries engaged in the manufacture and sale of pharmaceutical products, but does not itself engage in such manufacture or sale.

The 6,150 shares of Class B Common Stock being offered for sale, and 6,150 shares of Class A Common Stock now owned by Sterling Drug, Inc., constitute all of the issued and outstanding stock of Winthrop. The Class A and Class B Common Stock carry equal rights except that the Class A Common Stock has the right to elect two directors and the Class B Common Stock, one director.

The balance sheets as of December 31, 1934, to 1943, inclusive, and the statements of profit and loss and surplus for the years ended December 31, 1934, to 1943, inclusive, of Winthrop, and certain additional schedules supplementary thereto, all as reported in Form 10-K filed with the New York Stock Exchange, and a copy of an independent auditors' report for the year ended December 31, 1944, are available for inspection at the office of the undersigned at 230 Park Avenue, New York, New York.

The terms of sale are as follows:

1. The stock will be offered in a single block and in parcels. Bids for less than all of the stock will not be considered, unless the aggregate of such bids exceeds the amount of the highest bid for the entire subject matter.

2. No bid will be received unless the bidder at or before 4 P. M. of the day preceding the sale or any adjournment shall have deposited at The First National Bank of Jersey City, 1 Exchange Place, Jersey City, New Jersey, the sum of \$475,000 in cash or banker's or cashier's check approved by the undersigned and payable in New York funds to the order of the undersigned, as a pledge that the bidder will make good such bid in case of its acceptance. Any such deposit received from an unsuccessful bidder will be returned without interest when such bid is rejected by the auctioneer; the deposit received from the successful bidder shall be applied to the purchase price. In the event of the adjournment of the

sale or the withdrawal of the stock from the sale such deposit will be returned without interest, but a further deposit will be required in order to qualify a person as a bidder at any adjourned sale upon such terms as may be stated in the notice or announcement of the adjournment.

3. No bid or bids of less than \$9,500,000 for the entire stock being offered for sale will be accepted. Sterling Drug Inc. of 170 Varick Street, New York City, owner of all of the 6,150 shares of Class A Common Stock of Winthrop Chemical Company outstanding, has offered \$9,500,000 for the 6,150 shares of Class B Stock, and has further agreed if such offer is accepted, (a) to place one-half of the outstanding and issued shares of the Subsidiaries of Winthrop Chemical Company in a Voting Trust, with the Custodian as trustee; and (b) to join in an application to the United States District Court for the Southern District of New York to amend a decree in Civil Action No. 15-363 entitled *United States of America v. Alba Pharmaceutical Co., Inc., et al.*, by adding thereto a provision against the transfer of control of Winthrop or any interest therein to I. G. Farben or other foreign interests.

4. In order to be entitled to bid, each prospective bidder at or before 4 P. M. of the day preceding the sale or any adjournment thereof will be required to furnish to the undersigned:

(a) Satisfactory evidence by affidavit or otherwise that the prospective bidder is a citizen, corporation, organization, or other business enterprise organized under the laws of the United States and is not controlled, either directly or indirectly, by other than citizens or business enterprises organized under the laws of the United States.

(b) Satisfactory evidence by affidavit or otherwise that such prospective bidder is not purchasing for an undisclosed principal or for resale to or for the benefit of a person not a citizen of the United States or a corporation, organization, or other business enterprise not organized under the laws of the United States; and if for resale to a citizen, corporation, organization, or other business enterprise of the United States that he or it is not controlled directly or indirectly by other than citizens or business enterprises organized under the laws of the United States.

5. The highest bidder will be required at the place of sale and upon the conclusion of the bidding to sign a memorandum of purchase in which he will agree (a) to deposit the shares of stock in a Voting Trust with James E. Markham, as Alien Property Custodian, trustee, in accordance with the terms and conditions prescribed in "Agreement A" or (b) to cause the deposit, if able to do so, of one-half of the outstanding and issued shares of all of the Subsidiaries of Winthrop in Voting Trusts with the said Custodian as trustee in accordance with "Agreement B". Copies of "Agreement A" and "Agreement B" are available for inspection at the office of the undersigned at 230 Park Avenue, New York City, and at the place of sale and may be obtained by writing to the undersigned. The purpose of the Voting Trust is to prevent the return of the shares of stock or control thereof to interests unfriendly to the United States. Its duration is for 10 years, the maximum which may be imposed in a Voting Trust under applicable state laws. The bidding will be kept open until an opportunity is given the successful bidder to sign such memorandum of purchase, and, in case the highest bidder fails to execute such memorandum of purchase, the stock involved may thereupon again be put up for sale by the undersigned without further advertisement or notice.

6. The undersigned reserves the right: (a) to withdraw the shares of stock from sale at any time; (b) to reject any bid by announcement at the time and place of sale or any adjournment thereof; (c) to adjourn the sale by announcement at the time and place for the sale or any adjournment thereof or prior thereto; and (d) to change the terms of sale herein set forth at or before the sale; all without further notice or advertisement.

7. The balance of purchase price over and above the deposit shall be paid to the undersigned at The First National Bank of Jersey City, at 1 Exchange Place, Jersey City, New Jersey, within five days from the date of sale (unless the last day for such payment be a legal holiday, in which case payment may be made on the next succeeding day not a legal holiday) in cash or by banker's or cashier's check approved by the undersigned and payable to the order of the undersigned, and upon said payment the securities so sold shall be delivered to the purchaser with a proper assignment thereof made without recourse and without warranty express or implied. The right is reserved by the undersigned to extend the time for the payment of the balance of the purchase price to a date not later than thirty days after the date of sale. In case of failure of any successful bidder to complete his purchase by payment of the purchase price as aforesaid for any reason whatsoever

(whether within or outside of his control), the stock purchased by the successful bidder may, at the election of the seller, be offered for resale, in which event the deposit of \$475,000 shall be retained by General Aniline as liquidated damages, or the seller may elect to enforce the agreement of purchase and to collect the full purchase price.

GENERAL ANILINE & FILM CORPORATION,
By GEORGE W. BURPEE, *President*,
230 Park Avenue, New York, N. Y.

Dated, March 20, 1945.

"AGREEMENT A"

AGREEMENT TO CREATE VOTING TRUST

(Form to be used in event Winthrop Stock is to be placed in Voting Trust)

AND

VOTING TRUST INDENTURE "A"

AGREEMENT TO CREATE VOTING TRUST, dated April --, 1945, between
-----, GENERAL ANILINE & FILM CORPORATION
(Name of highest bidder)
(hereinafter "General Aniline"), and JAMES E. MARKHAM, as ALIEN PROPERTY
CUSTODIAN (hereinafter "Custodian");

WITNESSETH:

WHEREAS ----- has submitted, and General Aniline has
(Name of highest bidder)
accepted the highest bid at the public sale of all of the issued and outstanding
Class B Common Stock of Winthrop Chemical Company, a Delaware corporation
(hereinafter "Winthrop Delaware"), consisting of 6,150 shares of Class B Com-
mon Stock of the par value of Ten Dollars per share; and

WHEREAS such public sale was held with the consent of the Custodian who
has vested and holds approximately 98% of the voting stock of General Aniline,
and, since April 1942, has supervised and controlled the management thereof;
and

WHEREAS General Aniline desired to offer the said Class B Common Shares of
Winthrop Delaware for sale at public auction; and

WHEREAS the Custodian, deeming that the national interest required that
effective measures be taken to prevent the Class B Shares of Winthrop Delaware
from coming under the ownership or control of interests unfriendly to the United
States, consented to such public sale on condition that the Class B Shares of
Winthrop Delaware, purchased at such public sale, be placed in a Voting Trust
for a period of ten years, the maximum period which may be imposed under applic-
able state law; and

WHEREAS -----, as highest bidder for the shares of
(Name of highest bidder)
Winthrop Delaware at such public sale, General Aniline and the Custodian now
desire to make and execute this Agreement to create a Voting Trust:

Now, THEREFORE, IT IS AGREED AS FOLLOWS:

(1) The -----, will pay the balance of the sales
(Name of highest bidder)
price, over and above the deposit of \$475,000, by certified banker's or cashier's
check payable to the order of General Aniline at a designated bank in Jersey City,
New Jersey, at noon on or before the fifth day following sale; and

(2) Immediately upon payment of the balance of the sales price as above
provided, -----, General Aniline & Film Corporation
(Name of highest bidder)

and the Custodian will execute a Voting Trust Indenture, captioned "Voting
Trust Indenture A" and in the form attached hereto, and -----
(Name of highest bidder)

will thereupon immediately deposit with the Custodian, as Voting Trustee under
the terms of this Agreement, a certificate or certificates representing 6,150 Class B
Common Shares of Winthrop Delaware (hereinafter the "Deposited Shares")
duly endorsed in blank for transfer and will cause such transfer to be recorded
upon the books of Winthrop Delaware. The Voting Trustee will accept such
Deposited Shares and will issue in lieu thereof to the -----
(Name of highest bidder)

one or more Voting Trust Certificates representing the cessui que trust's interest
in the like number of Deposited Shares held in trust. The Voting Trust Certifi-
cates shall be in the following form:

VOTING TRUST CERTIFICATE OF CLASS B COMMON STOCK OF WINTHROP CHEMICAL COMPANY

-----No. of shares for which Ctf. issued.

A. This Voting Trust Certificate is issued pursuant and subject to a certain Voting Trust Indenture dated April --, 1945, between General Aniline, -----, and the undersigned Voting Trustee, defining

(Name of highest bidder)

the rights of the holder hereof, and the rights and duties of the Voting Trustee. Originals of the Voting Trust Indenture are on file at the principal office of Winthrop Chemical Company, 110 West 10th Street, Wilmington, Delaware, and the office of the Voting Trustee, Washington, D. C.

B. The holder of this Voting Trust Certificate is entitled to collect and receive a pro rata share of all dividends declared upon the Class B Common Stock of Winthrop Chemical Company (hereinafter "Corporation"), held in trust by the Voting Trustee: *Provided*, however, That dividends declared in the form of stock in the Corporation shall be paid to and held and controlled by the Trustee under the same terms as are the original shares under the Voting Trust Indenture.

C. The holder of this Voting Trust Certificate shall have the exclusive right to vote the share or shares of the Corporation stock for which this Certificate is issued in respect to the election of directors of the Corporation: *Provided*, however, That he shall not have the right to vote in favor of the election of any person who is not a citizen of the United States or a person who is controlled either directly or indirectly by any person who is not a citizen of the United States or by a business enterprise which is not organized under the laws of the United States, without the prior written consent of the Voting Trustee. The holder shall also have the exclusive voting rights and powers with respect to such share or shares in connection with all other matters: *Except*, however, That the Voting Trustee shall have exclusive voting right and power:

(a) To vote to sell all or a substantial part of the property and business of the Corporation;

(b) To vote to issue bonds or debentures or to mortgage or encumber the property or business of the Corporation to persons, corporations, organizations or other business enterprises not citizens of the United States or not organized under the laws of the United States, or to persons or business enterprises controlled either directly or indirectly by persons other than citizens or business enterprises organized under the laws of the United States;

(c) To vote in favor of dissolution, merger, or consolidation of the Corporation; and

(d) To vote in favor of amending the Certificate of Incorporation of the Corporation.

D. The Voting Trustee hereby irrevocably constitutes and appoints the holder of this Voting Trust Certificate the attorney and proxy of the Voting Trustee for the duration of the Voting Trust, with full power to vote the share or shares of the Corporation for which this Voting Trust Certificate is issued, to the extent that the certificate holder is entitled to vote, as above provided, but only to that extent. This Voting Trust Certificate may, at the request of the holder, and upon its surrender, be split up or consolidated into one or more Voting Trust Certificates.

E. The transfer or pledge of any Voting Trust Certificate shall be void unless made with the prior written consent of the Voting Trustee. In no case shall consent to any transfer or pledge be considered unless written request is made upon the Voting Trustee.

F. Upon the termination of the Voting Trust Indenture, the stock held in trust shall be distributed by the Voting Trustee on a pro rata basis to the holders of Voting Trust Certificates as soon as practicable after such termination and the surrender of the Certificates, properly endorsed.

G. The acceptance of this Voting Trust Certificate shall bind the holder and each successive holder hereof to all the terms and conditions of said Voting Trust Indenture in the same manner as if said holder and each successive holder had executed said Indenture as a party thereto.

H. In case this Voting Trust Certificate shall become mutilated or be lost, destroyed, or stolen, the Voting Trustee shall issue and deliver in exchange for, and upon cancellation of, the mutilated Voting Trust Certificate, or in lieu of the Voting Trust Certificate so lost, destroyed or stolen, a new Voting Trust Certificate, upon the production of evidence of such mutilation, loss, destruction or theft, satisfactory to the Voting Trustee.

I. The Voting Trustee shall not be liable for any action taken or omitted hereunder in good faith.

IN WITNESS WHEREOF, the Voting Trustee has caused this Voting Trust Certificate to be signed and dated.

JAMES E. MARKHAM, *Alien Property Custodian, Voting Trustee.*

Date

(3) The Voting Trustee will administer the Voting Trust in accordance with the terms and provisions set forth in the prescribed form of Voting Trust Certificate.

(4) The Voting Trust shall continue in force and effect until the close of business on April __, 1955, and shall be terminated at such time, unless terminated prior thereto by the Voting Trustee upon notice to the holders of the Voting Trust Certificates. Immediately after the close of business on April __, 1955, or upon the earlier termination of the Voting Trust Agreement by the Voting Trustee, the Voting Trustee, upon surrendering to him of the Voting Trust Certificates then outstanding, properly endorsed, shall distribute to the registered holders of such Voting Trust Certificates their pro rata share of the stock held in trust, duly endorsed for transfer, and shall cause such transfers to be recorded upon the books of the Corporation; and thereupon all responsibility of the Voting Trustee shall terminate.

(5) The Voting Trustee may at any time resign by delivering or mailing to the holders of the Voting Trust Certificates his resignation in writing to take effect ten (10) days thereafter. In case of the death, resignation or other inability of the Voting Trustee to act hereunder, or in case of the death, resignation, or other inability to act hereunder of any successor Voting Trustee, the person who shall then be in charge of the Office of Alien Property Custodian shall become successor Voting Trustee and remain such until the appointment and qualification of a new Alien Property Custodian, whereupon the latter shall become the successor Voting Trustee hereunder. In case the Office of Alien Property Custodian shall cease to exist, the person charged with the duties relating to the control of the property of nationals of foreign countries shall become the successor Voting Trustee, or, if no person shall be charged with such duties, then the Attorney General of the United States shall be the successor Voting Trustee. In no case, however, shall any person who is neither Alien Property Custodian, Attorney General, nor a person charged with the duties relating to the control of the property of nationals of foreign countries, be Voting Trustee under this agreement.

(6) In case any Deposited Shares shall be split up into a greater number of shares or consolidated into a lesser number of shares, or changed into shares of any other class or classes, the shares resulting from any such split-up, consolidation, or change shall forthwith be deposited hereunder in lieu of and in exchange for the Deposited Shares so split up, consolidated, or changed.

(7) It is the express intention of the Voting Trustee, in exercising the right to vote granted to him hereunder, to vote in favor of all corporate action proposed by the Board of Directors of the Corporation, unless the Voting Trustee in his sole discretion shall deem any proposed action to be against the national interest.

(8) The Voting Trustee shall not be liable for any action taken or omitted hereunder in good faith.

(9) The term "United States" when used herein shall be deemed to include the territories and possessions of the United States.

IN WITNESS WHEREOF, the parties hereto being thereunto duly authorized have executed this agreement on the date first above written.

GENERAL ANILINE & FILM CORPORATION

By
President

Attest:
.....
Secretary

By
Name of highest bidder

By
President

Attest:
.....
Secretary

.....
Alien Property Custodian

(FORM FOR VOTING TRUST INDENTURE PURSUANT TO "AGREEMENT A")

VOTING TRUST INDENTURE "A"

VOTING TRUST INDENTURE dated April __, 1945, between GENERAL ANILINE & FILM CORPORATION (hereinafter "General Aniline"), (Name of highest bidder) and JAMES E. MARKHAM, as ALIEN PROPERTY CUSTODIAN (hereinafter "Custodian");

WITNESSETH:

WHEREAS, pursuant to a contract (hereinafter "Agreement A") entered into on April __, 1945 between (Name of highest bidder), General Aniline and the

Custodian, it was agreed that, upon payment of the balance of the sales price for the 6,150 shares of Class B Common Stock in Winthrop Chemical Company (hereinafter "Winthrop Delaware), (Name of highest bidder) will, among

other things, deposit in trust with the Custodian, as Voting Trustee, a certificate or certificates representing 6,150 Class B Common Shares of Winthrop Delaware; and

WHEREAS, such payment of the balance of the sales price has been duly made by (Name of highest bidder);

Now, THEREFORE:

1. General Aniline and (Name of highest bidder) hereby transfer, assign, and deliver the aforesaid 6,150 shares of Class B Common Stock in Winthrop Delaware to the Custodian, to be held in trust by him in accordance with the terms and conditions of the Voting Trust, agreed upon and set forth in Agreement A, originals of which are on file with the Winthrop Delaware and the parties hereto.

2. The Custodian hereby accepts in trust the aforesaid shares of stock and agrees to hold such shares in trust under the terms and condition set forth in Agreement A.

3. One of the signed copies of this indenture shall be filed at the principal office of the Winthrop Delaware at 110 West 10th Street, Wilmington, Delaware, and at the principal office of the respective parties hereto.

4. This Indenture may only be modified by written agreement between the Voting Trustee and the holders of all of the issued and outstanding Voting Trust Certificates.

IN WITNESS WHEREOF, the parties hereto being thereunto duly authorized have duly executed this Indenture in quadruplicate originals the day and year first above-mentioned.

GENERAL ANILINE & FILM CORPORATION

By _____ President

Attest:

Secretary

Name of highest bidder

By _____ President

Attest:

Secretary

For Alien Property Custodian

"AGREEMENT B"

AGREEMENT TO CREATE VOTING TRUST

(Form to be used in event stock in the Winthrop Subsidiaries is to be placed in Voting Trust)

AND

VOTING TRUST INDENTURE "B"

AGREEMENT TO CREATE VOTING TRUST, dated April ..., 1945, between -----
 -----, GENERAL ANILINE & FILM CORPORATION
 (Name of highest bidder)
 (hereinafter "General Aniline"), and JAMES E. MARKHAM, as ALIEN PROPERTY
 CUSTODIAN (hereinafter "Custodian");

WITNESSETH:

WHEREAS ----- represents that it is the owner of 6,150
 (Name of highest bidder)
 shares of Class A Common Stock of Winthrop Chemical Company, a Delaware
 Corporation (hereinafter "Winthrop Delaware"), and the said -----
 (Name of highest bidder)
 has submitted and General Aniline has accepted the highest bid at the public
 sale of all of the issued and outstanding Class B Common Stock of Winthrop
 Delaware, consisting of 6,150 shares of Class B Common Stock of the par value
 of Ten Dollars per share; and

WHEREAS such public sale was held with the consent of the Custodian who has
 vested and holds approximately 98% of the voting stock of General Aniline and,
 since April 1942 has supervised and controlled the management thereof; and

WHEREAS Winthrop Delaware is a holding corporation which owns all of the
 issued and outstanding stock of Cook-Waite Laboratories, Inc., Cook Labora-
 tories of Canada, Ltd., General Drug Company, The Val-O-Cain Corporation
 and Winthrop Chemical Company, New York (hereinafter "Subsidiaries"); and

WHEREAS General Aniline desired to offer the said Class B Common Shares of
 Winthrop Delaware for sale at public auction; and

WHEREAS the Custodian, deeming that the national interest required that
 effective measures be taken to prevent the Class B Common Shares of Winthrop
 Delaware or their equivalent from coming under the ownership or control of
 interests unfriendly to the United States, consented to such public sale on con-
 dition that the Class B Common Shares of Winthrop Delaware purchased at public
 sale be placed in Voting Trust for a period of ten years, the maximum period which
 may be imposed under applicable state law; and

WHEREAS -----, as highest bidder for the shares
 (Name of highest bidder)
 of Winthrop Delaware at such public sale, General Aniline and the Custodian
 now desire to make and execute this Agreement to create a Voting Trust;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

(1) The ----- will pay the balance of the sales
 (Name of highest bidder)
 price, over and above the deposit of \$475,000, by certified banker's or cashier's
 check payable to the order of General Aniline at a designated bank in Jersey City,
 New Jersey, at noon on or before the fifth day following sale; and

(2) Immediately upon payment of the balance of the sales price as above pro-
 vided, Winthrop Delaware, ----- General Aniline
 (Name of highest bidder)

and the Custodian will execute and deliver a Voting Trust Indenture, captioned
 "Voting Trust Indenture B" and in the form attached hereto, and General
 Aniline and ----- will forthwith cause Winthrop
 (Name of highest bidder)

Delaware to deposit with the Custodian as Voting Trustee under the terms of this
 Agreement certificates representing one-half of all of the outstanding and issued
 shares of the Subsidiaries (hereinafter the "Deposited Shares") duly endorsed in
 blank for transfer, and to cause such transfer to be recorded upon the books of the
 respective Subsidiaries. The Voting Trustee will accept such Deposited Shares
 and will issue, in lieu thereof, to Winthrop Delaware one or more Voting Trust
 Certificates representing the cestui que trust's interest in the Deposited Shares
 held in trust. The Voting Trust Certificates shall be in the following form:

VOTING TRUST CERTIFICATE OF ONE-HALF OF ALL OF THE OUTSTANDING AND
ISSUED STOCK IN

----- No. of shares for which Ctf. issued.

----- (Name of Subsidiary)
A. This Voting Trust Certificate is issued pursuant and subject to a certain Voting Trust Indenture dated April , 1945, between Winthrop Chemical Company, ----- (Name of highest bidder), General Aniline & Film Corporation and the undersigned Voting Trustee, defining the rights of the holder hereof, and the rights and duties of the Voting Trustee. Originals of the Voting Trust Indenture are on file at the principal office of ----- (hereinafter referred to as the "Corporation"), and the office of the Voting Trustee, Washington, D. C.

B. The holder of this Voting Trust Certificate is entitled to collect and receive a pro rata share of all dividends declared upon the stock in the Corporation held in trust by the Voting Trustee: *Provided*, however, That dividends on the stock held in trust, declared in the form of stock in the Corporation, shall be paid to and held and controlled by the Trustee under the same terms as are the original shares under the Voting Trust Indenture.

C. The holder of this Voting Trust Certificate shall have the exclusive right to vote the shares of the stock of the Corporation for which this Certificate is issued in respect to the election of directors of the Corporation: *Provided*, however, That he shall not have the right to vote in favor of the election of any person who is not a citizen of the United States, or a person who is controlled either directly or indirectly by any person who is not a citizen of the United States or by a business enterprise which is not organized under the laws of the United States, without the prior written consent of the Voting Trustee. The holder shall also have the exclusive voting rights and powers with respect to such shares in connection with all other matters: *Except*, however, That in the Voting Trustee shall have exclusive voting right and power:

(a) To vote to sell all or a substantial part of the property and business of the Corporation;

(b) To vote to issue bonds or debentures or to mortgage or encumber the property or business of the Corporation to persons, corporations, organizations, or other business enterprises not citizens of the United States or not organized under the laws of the United States, or to persons or business enterprises controlled either directly or indirectly by persons other than citizens or business enterprises organized under the laws of the United States;

(c) To vote in favor of dissolution, merger, or consolidation of the Corporation; and

(d) To vote in favor of amending the Certificate of Incorporation of the Corporation.

D. The Voting Trustee hereby irrevocably constitutes and appoints the holder of this Voting Trust Certificate the attorney and proxy of the Voting Trustee for the duration of the Voting Trust, with full power to vote the share or shares of the corporation for which this Voting Trust Certificate is issued, to the extent that the certificate holder is entitled to vote, as above provided, but only to that extent. This Voting Trust Certificate may, at the request of the holder, and upon its surrender, be split up or consolidated into one or more Voting Trust Certificates.

E. The transfer or pledge of any Voting Trust Certificates shall be void unless made with the prior written consent of the Voting Trustee. In no case shall consent to any transfer or pledge be considered unless written request is made upon the Voting Trustee.

F. Upon the termination of the Voting Trust Indenture, the stock held in trust shall be distributed by the Voting Trustee on a pro rata basis to the holders of Voting Trust Certificates as soon as practicable after such termination and the surrender of the Certificates, properly endorsed.

G. The acceptance of this Voting Trust Certificate shall bind the holder and each successor holder hereof to all the terms and conditions of said Voting Trust Indenture in the same manner as if said holder and each successive holder had executed said Indenture as a party thereto.

H. In case this Voting Trust Certificate shall become mutilated or be lost, destroyed or stolen, the Voting Trustee shall issue and deliver in exchange for, and upon cancellation of, the mutilated Voting Trust Certificate, or in lieu of the Voting Trust Certificate so lost, destroyed or stolen, a new Voting Trust Certificate, upon the production of evidence of such mutilation, loss, destruction or theft, satisfactory to the Voting Trustee.

I. The Voting Trustee shall not be liable for any action taken or omitted hereunder in good faith.

IN WITNESS WHEREOF, the Voting Trustee has caused this Voting Trust Certificate to be signed and dated.

JAMES E. MARKHAM, *Alien Property Custodian,*
Voting Trustee.

Date

(3) The Voting Trustee will administer the Voting Trust in accordance with the terms and provisions set forth above in the prescribed form of Voting Trust Certificate.

(4) The Voting Trust shall continue in force and effect until the close of business on April --, 1955, and shall be terminated at such time unless it shall have been terminated prior thereto by the Voting Trustee upon notice to the holders of the Voting Trust Certificates. Immediately after the close of business on April --, 1955, or upon the earlier termination of the Voting Trust Agreement by the Voting Trustee, the Voting Trustee, upon surrender to him of the Voting Trust Certificates, then outstanding, properly endorsed, shall distribute to the registered holders of such Voting Trust Certificate their pro rata share of the stock in the respective Subsidiaries held in trust, duly endorsed for transfer, and shall cause such transfers to be recorded upon the books of the Subsidiaries; and thereupon all responsibility of the Voting Trustee for the shares in the Subsidiaries held in trust shall terminate.

(5) The Voting Trustee may at any time resign by delivering or mailing to the holders of the Voting Trust Certificates his resignation in writing, to take effect ten (10) days thereafter. In case of the death, resignation, or other inability of the Voting Trustee to act hereunder, or in case of the death, resignation, or other inability to act hereunder of any successor Voting Trustee, the person who shall then be in charge of the Office of Alien Property Custodian shall become successor Voting Trustee and remain such until the appointment and qualification of a new Alien Property Custodian, whereupon the latter shall become the successor Voting Trustee hereunder. In case the Office of Alien Property Custodian shall cease to exist, the person charged with the duties relating to the control of the property of nationals of foreign countries shall become the successor Voting Trustee, or, if no person shall be charged with such duties, then the Attorney General of the United States shall become the successor Voting Trustee. In no case, however, shall any person who is neither Alien Property Custodian, Attorney General, nor a person charged with the duties relating to the control of the property of nationals of foreign countries be Voting Trustee under this agreement.

(6) In case any Deposited Shares shall be split up into a greater number of shares or consolidated into a lesser number of shares, or changed into shares of any other class or classes, the shares resulting from any such split-up, consolidation, or change shall forthwith be deposited hereunder in lieu of and in exchange for the Deposited Shares so split up, consolidated, or changed.

(7) It is the express intention of the Voting Trustee, in exercising the right to vote granted to him hereunder, to vote in favor of all corporate action proposed by the Boards of Directors of the Subsidiaries unless the Voting Trustee in his sole discretion shall deem any proposed action to be against the national interest.

(8) Upon the delivery of the Deposited Shares in trust pursuant to this Agreement, General Aniline will transfer, assign and deliver to.....

(Name of highest bidder)

6,150 shares of Class B Common Stock of Winthrop Delaware duly endorsed for transfer, and shall cause such transfer to be recorded on the books of Winthrop Delaware.

(9) The Voting Trustee shall not be liable for any action taken or omitted hereunder in good faith.

(10) The term "United States" when used herein shall be deemed to include the territories and possessions of the United States.

IN WITNESS WHEREOF, the parties hereto, being thereunto duly authorized, have executed this agreement on the date first above written.

GENERAL ANILINE & FILM CORPORATION,
By _____
President

Attest:

Secretary

Name of highest bidder
By _____
President

Attest:

Secretary

For Alien Property Custodian

(FORM FOR VOTING TRUST INDENTURE PURSUANT TO "AGREEMENT B")

VOTING TRUST INDENTURE "B" *

VOTING TRUST INDENTURE dated April __, 1945, between WINTHROP CHEMICAL COMPANY, a Delaware corporation (hereinafter "Winthrop Delaware"), _____, GENERAL ANILINE & FILM CORPORATION

(Name of highest bidder) (hereinafter "General Aniline"), and JAMES E. MARKHAM, as ALIEN PROPERTY CUSTODIAN (hereinafter "Custodian");

WITNESSETH:

WHEREAS, pursuant to a contract (hereinafter "Agreement B") entered into on April __, 1945, between _____, General Aniline and the Custodian, it was agreed that, upon payment of the balance of the sales price for the 6,150 shares of Class B Common Stock in Winthrop Delaware, _____ and General Aniline would, among other things, cause Winthrop

(Name of highest bidder) Delaware to deposit in trust with the Custodian, as Voting Trustee, certificates representing one-half of all of the issued and outstanding shares of stock in Cook-Waite Laboratories, Inc., Cook Laboratories of Canada, Ltd., General Drug Company, The Val-O-Cain Corporation, and Withrop Chemical Company, Inc., (New York) (hereinafter referred to as the "Subsidiaries"); and

WHEREAS, such payment of the balance of the sales price has been duly made by _____; (Name of highest bidder)

Now, THEREFORE:
1. Winthrop Delaware, General Aniline, and _____ hereby

(Name of highest bidder) transfer, assign, and deliver to the Custodian one-half of all of the outstanding and issued shares of stock in _____ to be held in trust by the

(Name of Subsidiary) Custodian in accordance with the terms and conditions of the Voting Trust agreed upon and set forth in Agreement B, originals of which are on file with the said Subsidiary and the parties hereto.

2. The Custodian hereby accepts in trust the aforesaid shares of stock and agrees to hold such shares in trust under the terms and conditions set forth in Agreement B.

3. One of the signed copies of this indenture shall be filed at the principal office of _____ (Name and address of Subsidiary)

and at the principal office of the respective parties hereto.

4. This Indenture may only be modified by written agreement between the Voting Trustee and the holders of all of the issued and outstanding Voting Trust Certificates.

* A separate indenture will be required for each of the five Subsidiaries.

IN WITNESS WHEREOF, the parties hereto being thereunto duly authorized have duly executed this Indenture in quadruplicate originals the day and year first above mentioned.

By **WINTHROP CHEMICAL COMPANY**

President

Attest:

Secretary

By -----
Name of highest bidder

President

Attest:

Secretary

By **GENERAL ANILINE & FILM CORPORATION.**

President

Attest:

Secretary

Alien Property Custodian

ELIMINATION OF GERMAN RESOURCES FOR WAR

FRIDAY, JUNE 29, 1945

UNITED STATES SENATE,
COMMITTEE ON MILITARY AFFAIRS,
SUBCOMMITTEE ON WAR MOBILIZATION,
Washington, D. C.

The subcommittee met at 10:50 a. m., pursuant to adjournment June 28, 1945, in room 357, Senate Office Building, Senator Harley M. Kilgore (chairman) presiding.

Present: Senator Harley M. Kilgore, of West Virginia.

Also present: Dr. Herbert Schimmel, chief investigator.

The CHAIRMAN. The committee will come to order.

General Hilldring, will you go ahead, please.

TESTIMONY OF MAJ. GEN. JOHN H. HILLDRING, DIRECTOR, CIVIL AFFAIRS DIVISION, WAR DEPARTMENT

General HILLDRING. Mr. Chairman, when our tactical forces crossed the German border we had trained and available behind our lines more than 10,000 American officers and enlisted men assigned exclusively to the problems of military government and civil affairs. While these men were essentially soldiers, they were also specialists in civilian economy and government—economists, public utility and railroad experts, ex-mayors of cities, ex-police chiefs, and so forth. They had been trained in schools of military government which the Army had established in the United States in anticipation of its responsibility in Germany. After that, many of them were given more intensive training and more opportunity for a study of German problems in England prior to D-day. After the landings in Normandy and Sicily, practical experience in the field was obtained in assisting the local authorities in the administration of government in France, Belgium, and the Netherlands, and in actual military government in Italy.

While many of our military government officers were gaining this valuable field experience, special planning for Germany was not neglected. It has for some time been considered that the military government of Germany would be conducted on a zonal basis. Before D-day a special planning group was established in London, composed of officers who had special capabilities for planning to meet the problems of military government in Germany. This group devoted its time exclusively to consideration of the political, economic, and financial problems which it was expected would confront the Army upon its entry into Germany. During the period of the operations in the liberated areas of Europe this staff was in close contact with the

American civil affairs officers at the Supreme Headquarters of the Allied Expeditionary Force. In this way it was possible not only to keep those planning for Germany abreast of practical field developments and to give those operating in the field the benefit of planning studies, but also to provide a means whereby upon our entry into Germany the two groups, i. e., those who had engaged in special German planning and those who had obtained the benefit of field experience, could be rapidly integrated into an effective military government.

As was announced in the Yalta declaration, Germany is to be governed through a Control Council, on which the Union of Soviet Socialist Republics, the United Kingdom, the provisional government of the French Republic, and the United States are to be represented. This decision was given effect in Berlin on June 5, 1945, with the Allies' declaration announcing the assumption of joint control of Germany and the terms of surrender.

What I am going to say in the next few paragraphs has partly been announced before. However, I am including here the integration of the United States Group Control Council into the Allied Group Control Council, and that part of this material is new. However, to make the story understandable we repeated some things that have heretofore been announced.

For the purpose of occupation, Germany is to be divided into four zones within her boundaries as they were on December 31, 1937, before the annexation of Austria. Each of the four powers is to be allotted a zone as follows:

- An eastern zone to the Soviet Union.
- A northwestern zone to the United Kingdom.
- A southwestern zone to the United States.
- A western zone to France.

The occupying forces in each zone will be under a commander in chief designated by the responsible power.

The commanders in chief of the military forces in the four zones of occupation constitute the membership of the Control Council. In the period when Germany is carrying out the basic requirements of unconditional surrender, supreme authority in Germany will be exercised by these commanders, acting under instructions from their Governments, individually in their respective zones of occupation and also jointly in matters affecting Germany as a whole. Such joint action is to be achieved through the Control Council, which, acting only by unanimous decision, is to insure appropriate uniformity of action by the commanders in chief in their respective zones. It should be noted that in the absence of decisions by the Control Council, each commander in chief will actually govern his zone in accordance with the basic policies of his government.

The CHAIRMAN. I believe that General Eisenhower had been assigned as a Commissioner. Is that right?

General HILLDRING. He is the American member of the Control Council, yes, sir.

The CHAIRMAN. He is also commander in chief of our forces there? General HILLDRING. He is also commander in chief of our forces.

Basic agreement has been reached between the Governments as to the machinery which will be created under the Control Council. There will be a permanent Coordinating Committee composed of one

representative of each of the four supreme military commanders, and under present plans a Control Staff composed of 12 divisions, each headed by four representatives to be designated by the governing powers. The staffs of the divisions will include civilian as well as military personnel. The functions of the Coordinating Committee and the Control Staff will be to advise the Control Council and to implement Control Council decisions.

Present plans contemplate that for the administration of the United States zone there will be a deputy to the Supreme Commander, under whom will be set up 12 staff divisions which it is now contemplated will form a part of the staff of the Control Council for Germany. The head of each of these divisions in addition to acting in the United States zone will constitute the United States representative on the comparable staff division organized under authority of the Control Council. The following brief enumeration and summary of duties of the staff divisions referred to will serve to indicate their scope and purpose:

(a) Three military divisions—Army (ground), Naval, and Air—will deal with the demobilization of the German armed forces and the disarmament of Germany.

(b) The Transport Division will deal with traffic movements, supervise railway, road, and inland water transportation systems, and, with the Naval Division, will handle port and coastal operations.

(c) The Political Division will deal with all foreign affairs, handle domestic political matters, protect American interests in Germany, and advise other sections dealing with control of public information services in Germany, reporting of political intelligence, and public relations.

(d) Tremendous tasks lie ahead of the Economic Division, which will deal with such problems as food, agriculture and forestry, fuel and mining, price control and rationing, public works and utilities, internal and foreign trade, industry, conversion and liquidation, and requirements and all allocations. This Division will see to it that the Germans are forced to exert all efforts to feed themselves, and also to insure that the liberated United Nations are given first consideration on essential commodities.

The CHAIRMAN. There is a problem which the Economic Division faces which worries me. I am afraid that with our efficiency we will go in and allow the Germans to lie down on their own planning.

I ran into an example of that in one German city in which a part of the city revenue normally came from the operation of their utilities. I asked the burgomaster how much coal he needed to run his utilities during the winter. The burgomaster looked wildly about him for the American military government adviser, and admitted that he was relying on the adviser even for such information as that.

Here was a German burgomaster, trained for public service, and with 24 years' experience, and he was relying upon the military adviser to figure out how much coal he needed for his utilities.

I am afraid that with our typical American impatience with inefficiency, we will tend to take over and do the work for them.

General HILLDRING. Mr. Chairman, I can't argue, because in my trip overseas last fall I discovered instances of the same thing. However, I believe that all responsible military authorities are cognizant of that risk and will be on the alert to repress any evidence of attempt-

ing to take over and impart into Germany the standards of American efficiency. I think some recognition should be made of the fact that the Army has a little unusual role here. I think it is natural for a soldier to want the outfit he has under his charge to be highly efficient according to our standards, and we are going to have to reckon with that as part of the human nature of the soldier and be on the alert to contend with it. The Army here in this business is a little in the position of the fire department that is told to go to the fire and not completely put it out, and we recognize that point, Mr. Chairman.

The CHAIRMAN. In railroad and mining operations, for instance, in much of Europe—in parts of England and Russia and France and Germany—the tempo has been slow by American standards. They have used 800-pound cars where we have used 3- to 5-ton cars. We have used huge hoists where they have used very small hoists. They have used hand haulings where we have used power haulings. I believe that I could detect a little impatience on the part of our officers in Europe, and an attempt to step up the tempo; and, in fact, if the tempo is not stepped up the needs are not going to be met.

General HILLDRING. We recognize our position between Scylla and Charybdis in that matter, Mr. Chairman, and that being the case, with respect to those who are responsible for the administration of the United States military government, I think we can safely promise that it is an instinct in the American and the American soldier that we will not let get out of control.

The CHAIRMAN. Every person I talked to who had examined the situation was worried about that, because it looked like they were going to lean back in the collar and let us do all the work they possibly could. We saw evidence of that on every hand. We are going to have to make them do the work if we are going to be successful in the job.

General HILLDRING. We intend to make the Germans do what we want done and not do it ourselves.

The CHAIRMAN. In the city of some 300,000 which I mentioned, the officials were saying: We can't collect taxes on industry because industry is not operating; we can't get revenue from utilities because we don't have the coal for the utilities.

When I asked, "Where are you going to get your coal?" the German official looked over to the American military government officers as much as to say: It is up to you to furnish the coal.

The German official said: "The Reich quoted us three and a half million marks for pension advances to soldiers, but we can't do that because you have done away with the Reich," and so on.

It is a situation which has me worried because of the temptation to take over and run things for them.

General HILLDRING. It is. The temptation is there and we recognize it in the War Department, and General Eisenhower recognizes it, and I believe we will be able to handle it, but I agree with you, sir, that there will be instances where an individual who has been the city manager of a city in the United States and now finds himself supervising a burgomaster, is going to be strongly tempted on many occasions to tell him how they did it in Toledo.

The CHAIRMAN. I am not worrying about his telling them how they did it in Toledo. I am worrying about his doing it like they did it in Toledo, and letting the burgomaster fold his hands.

Please go ahead.

General HILLDRING. (e) The Finance Division will deal with public finance and deal with financial institutions, foreign exchange, currency, and accounts and audits. In connection with your question, I would like you to notice the words "dealing with." We carefully avoid the use of "manage" or control. It is a supervisory relationship that these agencies will have.

(f) The Reparations, Deliveries, and Restitution Division will supervise, so far as the American zone is concerned, the execution on behalf of the Control Council of policies established by the Reparations Commission dealing with reparations and restitution questions, as well as handling property control and the supervision of monuments, fine arts and archives.

(g) A most important division will be the Internal Affairs and Communications Division. This division will supervise public safety, including control of civil police forces, public health and welfare, post, telephone and telegraph, military communications, civil services, and local government, education, and religious affairs.

(h) The Legal Division will give legal advice to the commander and other divisions, and exercise proper controls over Allied military courts, German ordinary and military courts, and prisons.

(i) The Prisoners of War and Displaced Persons Divisions, as its name indicates, will be responsible for the care and repatriation of United Nations displaced persons and prisoners of war found in Germany.

(j) The Manpower Division will deal with problems of labor relations and allocations, wages, and labor policies, housing and labor information. This Division will be charged with dissolving the notorious Nazi labor front, and laying the ground work for the normal growth of democratic labor organizations and practices.

Each of the divisions listed will be responsible in its own field for the elimination of Nazi influence. We are fully cognizant of the fact that we have undertaken to administer an enemy nation steeped in the Nazi philosophy. We are sensitive to the problems with which we may be confronted as the result of an organized Nazi underground. An Intelligence Section has therefore been created which, in addition to the work of the divisions referred to above in this field, will maintain general supervision over the entire denazification program and provide a continuous surveillance to the end that underground activities may be prevented and suppressed.

Our feeling is that the problems which will arise out of the occupation of Germany will be as difficult of solution as any which have ever challenged the science of government. We are also fully conscious of the fact that the best possible organization cannot function if it is inadequately staffed. Conversely, an able and efficient staff can make almost any administrative machinery function. Accordingly, we have used every effort to obtain the most competent personnel available for the task of administering Germany.

As you know, the United States member of the Control Council for Germany will be Gen. Dwight D. Eisenhower. General Eisenhower's recent experience as the Supreme Commander, Allied Expeditionary Forces, in which capacity he was honored not only with the confidence of his own Government but with that of our allies, admirably equips him to discharge the new responsibilities with which he will be con-

fronted. Lt. Gen. Lucius D. Clay has been selected to serve as General Eisenhower's deputy, and as the American member of the permanent Coordinating Committee.

So far in this statement I have dwelt on the preparation which the War Department has made for the task confronting it and the immediate plans for the administrative machinery and personnel to carry out the task. I would like to tell you something of our experience in Germany up to this time.

The CHAIRMAN. Before we go into that, let me ask you one question. Does the general Control Council, the central board of four with their staffs, lay down an over-all policy? Or do we have a limited capacity there so that each zone commander can do as he pleases in his own zone?

General HILLDRING. No, sir.

The CHAIRMAN. For example, to get newsprint paper out of Germany you would have to operate in three zones.

General HILLDRING. That is right, sir.

The CHAIRMAN. That is true also in regard to fuel. Several zones would be crossed. Some uniformity would be needed. Can the Control Council provide that uniformity?

General HILLDRING. The answer is "Yes," Mr. Chairman. The decision of the Control Council is binding on all zone commanders, and we are acquainted with the pulp business, we are acquainted with the necessity of having an integrated railroad system and not try to run the German railroads as four separate entities.

With respect to coal, while the coal is in the British and French zones, the pit props are in our zones, the food is in the Russian zone. In order to produce the coal we need, it has to be an across-Germany decision, and obviously these four soldiers sitting in Berlin are going to recognize it and come to a conclusion, and once they have, that decision of the Control Council is binding in all four zones.

The CHAIRMAN. My question is, do we have an agreement now as to the binding effect of the joint control commission decision in each of the zones? I know there is inevitably some friction, you could never get four nations to run a thing like that without some friction, but has the basic policy been agreed upon?

General HILLDRING. As I understand it, they have agreed——

The CHAIRMAN. That the Commission shall lay down the over all rulings?

General HILLDRING. That is right, sir.

The CHAIRMAN. I was not able to find that out abroad.

General HILLDRING. Yes, sir; it has been decided that policies unanimously agreed upon by the Control Council will be applied in all zones.

The CHAIRMAN. You remember that 3 weeks ago we still had a one-legged quadruped. That is, only one nation was ready at that time to appoint a Commissioner; that was the United States.

General HILLDRING. That is right, sir.

The meeting of the Allied commanders in Berlin on June 5 last did not mark the Army's first introduction to the problem of military government in Germany. From the time our forces crossed the German border we have been operating military government in combination with the British under SHAEF. We have been gaining experience in the technic of governing the Germans and of adminis-

tering the German society and economy. Admittedly, this experience has been short and limited in scope. For a large part of this time we have been administering only a fraction of Germany. The areas occupied by our armies have recently been fought over. Communication and transportation has been disrupted. Basic utilities have been badly damaged. Homes have been destroyed. Normal business has been paralyzed. The task of gaining information about an enemy people and the society in which they live has been further complicated by the fact that in many cases basic statistics such as ration records, birth and death records, records of title, and similar information have been destroyed or sequestered.

One of the subjects of vital interest to all of us is what is the state of Germany's war potential and what must we do in order to control it. Casual observation in many areas of Germany would indicate that Germany's war potential is now destroyed so badly as to be of little significance for a long period of time. Such casual observation, however, cannot be relied upon in forming definite conclusions. One of the officers of my staff, who was in Cologne in March, reported to me that his first impression in viewing the Ford plant in that city was one of considerable destruction, with portions lying in rubble. However, closer inspection revealed that falling walls and roof had buried the heavy machinery with layers of bricks and mortar which had in fact served to protect the equipment against the weather. Despite the impression of rather complete destruction which the Ford plant presented, the military authorities succeeded in a short time in requiring the Germans to put the plant in condition to produce 500 units monthly of transport equipment which was badly needed by the occupying forces.

The CHAIRMAN. That is the answer to the story that that plant had been spared.

Dr. SCHIMMEL. General, isn't it true that if we had not kept pounding away at German industry in the last months of the war, they would have been able continually to recuperate so as to stay in the war?

For example, we were told the other day that while the German synthetic oil producing facilities had been knocked out, they were going underground with those facilities and within 6 to 9 months they would again have had synthetic oil with which to operate their planes.

General HILLDRING. That, I think, is substantially true, Dr. Schimmel. On the rapidity with which they could have restored their war-making power, that is, the essentials of petroleum and bombs and so on, I would rather have one of the fighting soldiers testify as the result of the bomb survey reports, which I have not studied.

Dr. SCHIMMEL. One of our major targets was the German ball-bearing industry, and though we concentrated on it with our strategic bombing, I understand that they were able to go underground and maintain a minimum supply of ball bearings to the end.

General HILLDRING. That is also my impression, but again I have not seen and studied the specific reports, Dr. Schimmel, so I would rather let one of the bomb survey people testify on that point.

The CHAIRMAN. I want to say that I have been very much impressed with the work of the bomb survey people, which has led to a change

of our tactics in the Pacific. What we learned of the effectiveness of our bombing when we got inside Germany has had much effect on our system of bombing generally.

General HILLDRING. I understand that is true. But again, that is a little out of my field, so I haven't first-hand knowledge of it, Mr. Chairman.

Dr. SCHIMMEL. General, while we were working on this problem with your staff, we came across the Speer Ministry report, a report of the German Minister of Munitions, which discussed their situation at the beginning of 1945. It discusses many of these problems, and the rapidity with which they could recuperate.

Don't you think, Mr. Chairman, that if that document can be reclassified it would be a valuable addition to our record?

The CHAIRMAN. General, would you see if it could be reclassified?

General HILLDRING. I will, Mr. Chairman. My own impression, from what I know of the problem, is that it can be.

The CHAIRMAN. Will you let us have it for the record, as their own appraisal of their situation, as soon as you can get it reclassified.

(The report was marked "Exhibit No. 4" and appears on p. 632.)

General HILLDRING. I cite this example only to emphasize the fact that any true appraisal of the industrial situation in Germany must await the result of accurate surveys and analysis. This has not been possible in the short time which has elapsed since our occupation.

One of the principal media by which the German economy was sustained was the cartel system. Accurate appraisal of the extent and effect of this system again presents a problem of research and analysis which it has been impossible to solve in the short time which has been available to us.

A brief recitation of some of the problems which have already confronted us in connection with the I. G. Farben Co. will serve to illustrate the problem.

Allied Military Government troops entered Frankfurt, the site of the main offices of I. G. Farben, while the area was still under artillery fire. When the situation was first surveyed our people found 6 floors of the west wing of the main building piled high with a miscellaneous assortment of bound records, personal correspondence folders, and office equipment from various I. G. Farben administrative departments. The floors of the rooms and halls were knee deep in sets of correspondence and files. The stair wells were deep in materials that came out of filing cabinets and drawers and had been given the appearance of trash. In one heap of rubbish we found the index to the foreign exchange system maintained by the industry.

The methods utilized to conceal and sequester vital I. G. Farben records were numerous. One of the members of the board of directors buried a large suitcase full of important documents covering international agreements in his garden.

Another member of the board of directors, after appropriate persuasion, was found to have concealed various important documents in 60 different locations in Frankfurt. One of the other officials of the company had sequestered one of the most important files of the company in one corner of a room so covered with masses of rubbish, books, file cases, and so forth, that it took 12 prisoners over 2 hours to dig through the mass of overlying material to reach the documents. This same official urged the release to him of a small lock box which it was

alleged contained only his personal belongings. Upon investigation, this box was found to contain a 2-inch layer of silver knives, spoons, and other heirlooms. However, beneath the heirlooms lay a 10-inch layer of international dyestuffs agreements.

Records of the I. G. Farben Co. were found hidden in monasteries, sale mines, beer halls, and caves. In some cases records were placed on boxcars and dispatched to miscellaneous destinations in Germany. Transportation difficulties have been such that many of them never arrived at their intended destinations. In many cases the car numbers of these cars are known. In other cases we have not yet been able to discover them. As a result many of the most valuable financial files of the I. G. Farben Co. are scattered throughout Germany. As investigation is continuously proceeding, and vigorously, I might add, it is expected that this material will eventually be located.

Another major problem in eliminating Germany as a future menace to the peace of the world is to purge from its government, business, and industry the influence of the Nazi Party. To cleanse German Government, business, and industry of the Nazi influence at all levels is a tremendous task. A brief statement of the steps taken to denazify the Reichsbank in Frankfurt will illustrate not only the magnitude of the problem, but the method which we are using to solve it.

Representatives of the local banks were called together by military government officers and informed that all supervisory employees were to be screened. The director of the Reichsbank and the president of the local banking association were each ordered (a) to list all supervisory personnel, and (b) to issue and collect questionnaires for all persons on the list.

Parenthetically, I have a fragebogen here, which represents one of the things we have learned in our 2 years of military government in this war, and we find it is a most useful document. In Italy we did a pretty good job, but we learned a great deal about running down Fascists through such a form. I talked to Oilando Wilson, who is Chief of Public Safety, yesterday in Washington and he praises the fragebogen highly. I will leave one with the committee, if you don't mind. You will notice that among other things, the individual is asked as to what affiliation he has had with any of 56 Nazi organizations, and there are some blank spaces for others if he has belonged to any of them.

The merit of it is that falsification of any record in that multitudinous questionnaire is vigorously prosecuted and the individual who fills it out understands that. It has been very successful in ferreting out the Nazis, particularly the little fry.

Dr. SCHIMMEL. In view of the testimony which was given to us earlier this week, General, which showed that certain of the industrial hierarchy in Germany were coconspirators with the Nazis, and that plans for this war were being made even before the Nazis, do you think it is adequate just to go after the Nazis?

General HILLDRING. No, I shouldn't leave the record in that form. We are just as much interested in the Junkers and the militarists as we are in the Nazis. They are just as objectionable to us as the provable Nazi.

Dr. SCHIMMEL. Would the directors of I. G. Farben be locked up?

General HILLDRING. Yes.

The CHAIRMAN. They were in jail when I was over there.

Dr. SCHIMMEL. Do you know how many people would be locked up from an organization like I. G. Farben?

General HILLDRING. I couldn't answer the question as to how many in I. G. Farben would be locked up. I know our target on the number we are seeking out, but I rather doubt that it is wise to put it in the record. It is a very large number, however.

Dr. SCHIMMEL. Usually there is an organizational hierarchy, or several layers of leadership, in an outfit like that.

For example, in connection with some of the alien properties that have been taken over, there have been a number of complaints that after the top board of directors have been cleaned out the next layer contains more virulent Nazis than the top board.

General HILLDRING. We go from the chairman of the board down to the janitor, Dr. Schimmel. Nobody is exempt from a screening. That is true not only in industry; in schools, for instance, we go from the principal of the school to the janitor; that is why I say this is a tremendous job.

Dr. SCHIMMEL. I am not thinking just now of determining who is a Nazi, but of determining rather who is in a position of industrial leadership in Germany. Do you stop at the board of directors, or do you go to the next level of plant managers who, in many cases, are the men who really run the company?

The CHAIRMAN. I think I can supply an answer from my own personal observation. I found that both Schmitz, the president of Farben, and his personal attorney were in custody. Much more information was being got out of the attorney than out of Schmitz.

Dr. SCHIMMEL. If I. G. Farben has 80 plants, that would mean picking up 80 plant managers? Are we doing that?

General HILLDRING. Yes.

The CHAIRMAN. The German schools have been closed pending a screening of the teachers.

General HILLDRING. I will leave the fragebogen with you.

(The document referred to was marked "Exhibit No. 5", and filed with the committee.)

General HILLDRING. Previously the military government officers had been furnished with directives to guide them in accomplishing the denazification program. Upon receipt of the questionnaires, they were evaluated by military government officers after supplementary intelligence checks of the personnel involved. The employees were then placed in three classes: (a) Satisfactory for employment; (b) to be removed; and (c) to be suspended pending further investigation.

After classifying the bank employees on the basis of their questionnaires, military government officers consulted with a special advisory committee of five local bankers, all of whom had clear records of unsympathetic relations with the Nazis and who had first been carefully screened and approved by intelligence officers. The assistance of this special advisory committee was very valuable in identifying Nazis who could not be identified as such on the basis of the questionnaires and in verifying the evaluation of the questionnaires. As a result of this screening it was possible to open the banks staffed with non-Nazi personnel. A continuing check of employees is being maintained in order that any Nazi who may have escaped detection in the first screening may be discovered.

The foregoing information serves to illustrate the important fact that military government in Germany has not yet reached what might be called the settled phase. Communication is still very difficult. Transportation remains badly disorganized. Public utilities are not yet providing light or power on a scale sufficient even to meet the most basic elemental needs. Side by side with the efforts I have described of searching out records and denazifying German institutions, we have had to concentrate on taking the necessary first steps to meet the acute emergency problems which were the inevitable effect of our military operations.

The coal situation in Europe is acute. Normally, the industry of Europe runs to a very large extent on German coal. Although Belgium and Holland are normally practically self-sufficient in coal, France normally imports more than 40 percent of her coal requirements. Italy has always been an importer of coal, and Denmark and Norway are now dependent completely upon imports. Despite the efforts of military government to increase coal production in Germany to alleviate this situation by the 2d of June, the last date as to which statistical reports have been received, production in the Ruhr and the Saar had only been raised to an annual rate of 13,250,000 tons, which may be compared with the annual production in these areas in the year 1938 of approximately 141,700,000 tons. In this connection it is significant to note that despite the small fraction of normal coal production which we have been able to obtain, coal production at the beginning of this month was still greater than the ability of the transportation system to carry it away from the mines.

The CHAIRMAN. The transportation problem in regard to coal is not generally understood here. It is a most terrific problem. River transportation was used extensively, and that has been largely blocked off by the very thorough way in which the Germans blew the bridges. The bridges are all down across the rivers. Plants were built near the mines, so far as possible, in order to have a minimum of transportation. With part of that shot out, and no river transportation, it is a very serious problem.

General HILLDRING. It is, Mr. Chairman, without a doubt.

The CHAIRMAN. Their wagons are only 20-ton ones, and their track is light and the curves are so bad that we couldn't put our long-type coal car on them. And, of course, a great bulk was handled on river barges and, as I have said, the rivers are blocked every 10 miles or so with a bridge down.

General HILLDRING. Or with a sunken ship or a barge or something else.

The CHAIRMAN. Transportation is a key problem in Europe.

General HILLDRING. Yes, sir; transportation and coal.

The CHAIRMAN. And you have to get the transportation before you can get the coal.

General HILLDRING. Before you can move the coal, that is right. There is this encouraging note: In the last month or 6 weeks, transportation has been improving. The situation is improving more rapidly than the coal production. There is a hopeful sign, but it is a tremendous job.

The CHAIRMAN. There is one other thing you have to look at: The average coal production of the mines in Europe is only 1 ton per man per day, as compared to our production of 6 or 7 tons per man per day.

Under that condition you have to get a new miner in for each ton of coal per day that you increase the production, and the shafts may not be able to handle many additional men.

General HILLDRING. And to get the man to go in the mines you have to give him more food than the average quota, and you have to give him clothes and shoes.

The CHAIRMAN. And under the Geneva Convention, he can't be put in a mine while he is a prisoner of war. He must be released before he can go into the mines, and then he must go in voluntarily.

Dr. SCHIMMEL. Is that necessarily so? Does the Geneva Convention apply after unconditional surrender?

The CHAIRMAN. It doesn't make any difference whether it is unconditional or conditional surrender, you can't use a prisoner of war for mining.

General HILLDRING. However that may be, we have been releasing German prisoners, as you know, Senator, to work in the mines.

All information which we have received indicates that as the result of battle damage, dislocation of transportation, and mass movements of the population, Germany's ability to feed herself through the next winter has been seriously impaired. In order, if possible, to solve this problem without the resort to imports, every effort is being made to stimulate German production. Seeds have been distributed, the available supply of farm labor is being increased by the demobilization of carefully screened German soldiers. Efforts have been made to restore food processing plants to production, and a system of strict rationing is being enforced.

Dr. SCHIMMEL. How does the food situation in Germany compare with other countries? Isn't the situation in Greece, for example, much worse than it is as a whole in Germany?

General HILLDRING. I can answer that out of recollection, Dr. Schimmel. As you probably know, the United States Army, with the British Army, established the relief system in Greece, Yugoslavia, and Albania after the liberation. Perhaps there was no area in Europe—so far as we know there was no area in Europe—that was as bad off as to food as was Greece. That activity in April was turned over to UNRRA, so on the condition of Greece today and on its self-sufficiency, I am not prepared to speak because we have been out of there now for nearly 3 months.

Dr. SCHIMMEL. UNRRA submitted a very elaborate document to the committee, one so elaborate that it is difficult to see exactly what it shows, but it seems to show that the food situation in Germany is actually better than in most of the liberated countries. Germany is apparently getting the benefit of our efficient Army methods in increasing food production, while in other areas the food problem is complicated by the kind of situation that arises in UNRRA, so that it appears that the food situation in Germany may improve more rapidly than it will in Greece.

General HILLDRING. I am just asking the question, Dr. Schimmel. Is it objectionable to make the Germans produce the most food possible if the rationing controls are properly exercised in Germany, so that we can drain off the surplus to help displaced persons and others who suffered from German aggression?

Dr. SCHIMMEL. I just wondered whether you had any facts which showed that the German food situation was actually superior to that in most of the liberated countries except Denmark.

General HILLDRING. It isn't superior, for instance, to Belgium, to France, or Denmark or Norway, but of course there are factors—

Dr. SCHIMMEL. How about urban France?

General HILLDRING. The fact is that we have imported large quantities of food into France, Belgium, Holland, and Norway. Our reports indicate that the food situation in urban Germany is much worse than in urban France.

The CHAIRMAN. One of the things which impressed me when I went into Germany was that our efforts were forcing them to get their own crops distributed to their own cities, while in other countries quite a different condition existed. As far as food for the individual German is concerned, the unconditional surrender of Germany was probably a godsend.

General HILLDRING. However, Senator, we know that on a calorie basis the ration in Germany is pretty low.

The CHAIRMAN. I know it is, but there is better distribution.

General HILLDRING. Of what they have, there may be better distribution.

The CHAIRMAN. That is the point I am getting at. In other countries, the ration is high in some sections and in others food is very hard to get. The poor distribution there, of course, is not our fault.

General HILLDRING. And I would rather not discuss that.

The CHAIRMAN. Certainly I agree that it should not be discussed by you.

Another thing, the section of Germany that we take over is probably the best equipped for food of all Germany, with the possible exception of the extreme eastern section.

General HILLDRING. That is correct, Senator. If we don't find there a large surplus population, I think within our zone we will find ourselves practically self-sustaining as to food but, of course, until we take a census and find out just how many Germans there are in the zone, we can't speak finally and authoritatively on that point.

One of the most serious complicating factors in the German food situation has been our policy of requiring that displaced persons to the maximum extent possible be fed from German resources. The advancing British and American Armies uncovered approximately 5,850,000 displaced persons in Germany. Many of these people were torn from their homes by the Germans and impressed as slave labor to support the Nazi war machine. Included in them are also those unfortunate persons who were persecuted because of their race or religious or political beliefs. Despite the critical transportation situation, Allied military authorities, by June 19, 1945, had repatriated 3,182,809 of these unfortunates. These people have been returned to their homes by all methods of transportation, including air. Repatriates include: 1,236,360 French, 138,527 of whom were transported by air; 1,357,399 Russians; and 412,406 Belgians and Dutch, of whom 11,383 were transported by air.

As of June 19, 1945, approximately 2,671,167 displaced persons remained in the areas occupied by the Allied Military Government. Of these persons, approximately 2,100,000 were in camps operated by military government with the balance outside of such camps. As facilities for returning repatriates at the rate of 250,000 per week are now available, it is expected that the displaced-persons problem will soon resolve itself into a question of the residuum of nonrepatriables

and stateless persons. For those persons able to eat ordinary foods, it has not been necessary to date to provide imported supplies except in emergency. However, many persons were found in the concentration camps, such as Buchenwald and Dachau, who were in such desperate physical condition that they could not eat normal food. To these people the Army brought by air, doctors, nurses, medical supplies, and special medical feeding equipment and supplies.

I have endeavored merely to illustrate the administrative problem which confronts the Army in Germany. No exhaustive or complete analysis is as yet possible. Further information which might be provided at this time would be equally as fragmentary as that set out above and would merely serve to reemphasize the fact that we are still feeling our way along a path which lies more in darkness than in light.

The Army and the War Department fully appreciate the responsibility which is theirs. We will do our utmost in our administration of Germany to carry out successfully such policies as have been and may be established by our Government, and such joint policies as may be established by the four powers which jointly will govern Germany.

The CHAIRMAN. General, I heard while over there a story of one chaplain's attempts to denazify Germany which were rather amusing. He happened to be chaplain of a field army. Every time they captured a city, the first thing he would do, with the Army commander's permission, was to round up the citizens, make them clean up and repair first the synagogue, then the biggest Catholic church, and then the biggest Protestant church. I know him and I asked him why he did that, and he said, well, he thought that was the first step in denazifying them. Then he would immediately call up a chaplain of each denomination and have them hold church for the soldiers, with the civilians looking on, and as he went through he rehabilitated the churches in every town, but he always made them clean up the synagogue first.

Dr. SCHIMMEL. I have here a statement from 30 precision instrument and optics manufacturing companies in New York, which, with the employees of these companies, appointed a committee which met with the chairman of the subcommittee yesterday. The statement is in that connection, Mr. Chairman, and with your permission it should be made part of the record.

The CHAIRMAN. It may be made part of the record.
(The document referred to follows:)

Thirty precision instrument and optics manufacturing companies engaged exclusively in supplying the armed forces have lodged a protest in Washington against the reported opening of German optical plants. Representatives of the companies and of more than 3,000 union laborers employed by them met yesterday at the Hotel Taft to appoint the committee which placed their findings before Senator Harley Kilgore and others investigating the status of German war industries.

Members of the committee include J. J. Shapiro, president of the Universal Camera Co.; M. J. Mayer, of the Mayberg Optical Co.; Thornton Lewis, Jr., of Rudolph Wendel, Inc.; R. L. Reich, of E. Leitz, Inc.; Theodore R. Nathan of Ultima Optical Corp.; Thelma Ostrow and Marcel Sherer, of Local 1225, United Electrical, Radio, and Machine Workers of America (CIO). Although all of the firms are in the New York area, the committee is reflecting the sentiment of optics and instrument manufacturers' throughout the country.

Full text of the statement is attached.

Thank you.

THEODORE R. NATHAN.

BRITISH INSTRUMENT MAKERS DEMAND BAN ON GERMAN RIVALS AS A PREVENTIVE OF WAR

(By wireless to the New York Times)

LONDON, June 5.—The Allies' authorities in Germany are following a "suicidal policy in permitting Germany to continue making optical instruments and photographic apparatus for the war against Japan," the Scientific Instrument Manufacturers Association of Great Britain charged here today.

So strongly does the organization feel on the question that its members have been urged to see that the matter is brought up for discussion in the House of Commons. F. Wakeham, the association's president, said that he had been informed that 6,500 persons in Germany were now producing optical goods for the allies under American supervision.

"We view with dismay the fact that German production in these vital industries should be allowed to continue," he said. "Germany knows very well that a country which could keep these industries in a healthy condition has the means to be aggressive or to fight aggression.

"By the formation of cartels and price rings abroad, Germany endeavored to cripple the optical glass and scientific instrument industry in all other countries and to make them dependent on German supplies. Deprived of her optical industry, Germany could find it practically impossible to fight another war, and the council of the British industry have, in the interest of Britain's survival, demanded that the production of optical glass in Germany shall cease for a period of at least 20 years."

Others recalled that after the First World War Germany had been permitted to manufacture optical glass for nonwar uses. To maintain her research in the martial optical field she set up a dummy corporation in the Netherlands and operated through it until the time came when all pretense of observing the Treaty of Versailles could be dropped.

Cartel agreements concluded between German companies and American optical houses provided the basis for an antitrust action by the American Department of Justice. At hearings on the question of cartels before a Senate committee, Government witnesses charged that the United States Navy's designs for a special type of periscope had been turned over by the American company to experts of the German company for study.

STATEMENT PREPARED BY JOINT COMMITTEE OF OPTICAL AND INSTRUMENT MANUFACTURERS AND UNITED ELECTRICAL, RADIO, AND MACHINE WORKERS UNION, CIO

Before the outbreak of hostilities in the Second World War, the United States depended almost solely on Germany for its supply of precision optics. Their superiority, at that time, was unquestioned and very little progress had been made toward the development of an adequate American optical industry.

The shock of war brought an immediate concentration of our optical engineering facilities. They were weighed in the balance of conflict and found desperately wanting. The industry had been prevented from developing in this country through cartel agreements. These cartel agreements between German companies and American houses have provided the basis for an antitrust action by our Department of Justice. At hearings on the question of cartels before a Senate committee, Government witnesses charged that the United States Navy designs for a special type of periscope had been turned over by an American company to a German company for study. Fortunately, the realization of optical and instrument shortcomings was followed by Government aid in the birth of small- and moderate-size plants within our own borders. These plants gave "eyes" to Uncle Sam, without which our armed forces could not have matched the fire-control devices of the enemy.

We broke the bottleneck of optics through the investment of vast sums for tooling and training. We broke it just in time by building an industry overnight where none had existed before. Are we going to abandon it now and permit German optical manufacture to resume at the point where it was interrupted by the bombs of our airmen? An outstanding contribution was made by small instrument and optical plants—American plants without foreign entanglements. A good section of these small plants are in New York.

Reports of trained observers disclose that despite the widespread destruction of Germany from the air, much of her industrial strength remains intact. Enough plants and machinery have been left undamaged to enable Germany to regain a

significant position in the manufacture of optics. This would not be desirable from either the economic or the military standpoint. And it can only come to pass if the occupation authorities permit the reemployment of German labor to reopen these centers that once placed us, optically speaking, at the mercy of the enemy.

If there be any doubt that we were, indeed, at their mercy, here are the words of the United States Ordnance Department report on optical glass in war:

"In industries of highly technical nature such as the optical and instrument industry, the Germans had established such effective control that at the beginning of the war we were seriously embarrassed because we did not manufacture those commodities and did not know how to make them."

That kind of "control" and that kind of "embarrassment" might well have lost us the war. Optical arts and skills were acquired by Germany and closely guarded for decades.

It was an outstanding miracle of American industry, labor, and government that plants were financed and tooled and that American labor learned so astonishingly swiftly the intricate skills required of optical craftsmen. It is a miracle that this was done in time.

In 1940, Fortune magazine stated that the Army considered the shortage in optical instruments as the fourth most serious bottleneck in our armament program. Today, in 1945, America's fledgling precision optical instrument industry has emerged victorious over an enemy whose optical ingenuity is legendary. Is the reward to be relegation to the scrap heap while the plants of Germany are solicitously propped up, perhaps for another blow against us in some future era?

Much rumor and some facts have seeped through from Europe, which indicate that the German optical industry has been given the green light by Allied occupation authorities. We hear, for example, that in Brunswick, Germany, they are producing 6 x 30 binoculars and that in other parts of Germany they are making the most important optical instruments of war, such as periscopes, bomb sights, gun sights and aerial cameras. If this is true, it is a tragic blunder and we submit our recommendation that the matter be sifted thoroughly so that all of the facts are brought to light. Our own optical plants and instrument plants are laying off thousands of workers each week, workers who have developed valuable technical skills. They fought the war at the grinding, polishing, and precision assembly benches. There are more than 30,000 of them in America.

Now that their part of the conflict is won, shall we reward them with the loss of their livelihood while German laborers are called back to remain the optical plants of Jena, Brunswick and Strasbourg? Are we to leave ourselves once again at the mercy of the cartels that had maneuvered us into a position where we in this country were without an optical industry?

Isn't this, in a way, reminiscent of how we scrapped our armaments after the last war while we helped our German "friends" get their house of hate in order?

We feel that no German should be employed to produce optics or precision instruments in Germany while American optical workers are losing their jobs through contract terminations or cut-backs.

We feel that, outside of munitions themselves, optics and precision instruments are a nation's most vital weapons of war. We are handing Germany a dagger that may one day be aimed at our own throat if we assist in the revival of her once world dominant optics industry.

We feel that American economic security and American military security demand that we maintain a strong, expanding native optical industry. The extent of cut-backs and curtailments in the industry is so great that we feel the entire industry is in danger of disappearing.

We feel that the resumption of German optical manufacture will prove a bitter fruit of sacrifice and victory to a laid-off American optical worker. His anguish and privation become the burden of hundreds of thousands of his dependents.

We ask that the facts be brought to light. We make the "eyes" through which our armed forces are looking ahead toward complete and final victory. We must go on making them to fortify us for the future. We must never be dependent on other lands for "eyes" through which we can aim our guns.

We may never need them; but let's be sure we have them. Let us never be blind not now, most of all.

Dr. SCHIMMEL. I would like to mention some of the points in that statement. They say:

We broke the bottleneck of optics through the investment of vast sums for tooling and training. We broke it just in time by building an industry overnight where none had existed before. Are we going to abandon it now and permit German optical manufacture to resume at the point where it was interrupted by the bombs of our airmen?

The CHAIRMAN. Their kick, General, is that they are informed that German optical plants are now being rehabilitated, whether by us or the English, and are furnishing optical instruments for the Army which may shut down our own plants. They want to find out from the Army if this is the case.

General HILLDRING. With respect to that particular complaint, I don't know, Mr. Chairman. I have received no report in the War Department that indicates that any optical plant is producing equipment for the United States Army, but I will immediately investigate it and will file a report with the committee, if that is agreeable.

Dr. SCHIMMEL. Mr. Chairman, in view of the fact that there have been numerous complaints of this type, could we prepare an over-all statement of these various complaints and then get a full report on the entire picture?

General HILLDRING. Yes, Mr. Chairman.

The CHAIRMAN. I want to state that abroad I did check certain plants, like the Ford, that were being used to fill a need we couldn't fill in this country, but I found nothing over there that was being used to compete with this country. Of course, if there is we want to know about it.

GENERAL HILLDRING. That is right, sir.

The CHAIRMAN. And we must take steps to stop it if such a thing exists.

General HILLDRING. The War Department wants to know it, too, Mr. Chairman.

Dr. SCHIMMEL. Is there any pressure to get war production out of German plants, either by any of the American agencies, not only the War Department, but Navy and other agencies?

General HILLDRING. We have only one case that I know of pending, Dr. Schimmel, and no decision has been made on that one, but it is similar to the question of Ford trucks that I mentioned here. I understand there is no possibility of getting this particular commodity in the United States. That is being investigated, and for that reason no final action has been taken with respect to this other matter.

The CHAIRMAN. I found, also, that in Italy they were trying to get some parts made for repair and rehabilitation of our trucks—made locally, if they could get the mechanics from among the Italians to do it, and they were trying the same in Germany because the parts were unavailable from the United States, but I found no evidence of an endeavor to build up a competing industry.

General HILLDRING. I know of none, either.

The CHAIRMAN. But if there is such a thing we want to find out. Someone with typical American enthusiasm and desire to exploit what he has might do it without the knowledge of the War Department.

General HILLDRING. That is right, and I would be glad to investigate and will report to the committee as soon as we find anything.

The CHAIRMAN. Thank you very much, General Hilldring, for this carefully prepared evidence.

We will recess until Monday at 10:30. At that time Senator Thomas will preside, and the Treasury Department will present evidence which has been gathered by their own representatives abroad.

(Whereupon, at 11:45 a. m., the hearing adjourned until 10:30 a. m., Monday, July 2, 1945.)

EXHIBIT No. 4

REPORT OF THE GERMAN REICHSMINISTRY FOR ARMAMENTS AND WAR PRODUCTION, 1944

FACTORY MANAGERS AND ADMINISTRATIVE STAFF

The total achievement in armaments and war production, as shown in the following report of performance was significant in the year 1944, despite the difficult conditions.

The thanks for this great achievement is due first and foremost to the millions of munition-making women and men and to the factory managers. With unreserved devotion and without consideration of their own health or their families' they have, in the last year of labour, under the most difficult living and working conditions, given their best to supply the fighting front.

The morale and success of our people engaged in production compel us to observe that in 1944 the German worker has fulfilled his duty to the utmost.

With this observation my thanks go out to all those who have cooperated with me and who, with me have in the last 3 years brought German armaments and war production up to this level. This circle of genuine and solid professional men, formed in the rigorous testing time of the most recent war years provides by its unbreakable faith in our work and by its success an example to labour; by its knowledge it constitutes an important factor in the preservation of our nation's strength.

In this hardest hour of our nation I ask all of the factory managers, workers, and administrative staff: Be conscious of your duty at all times and in all circumstances assist unreservedly and with all your strength in this struggle on which lies the fate of our nation. Continue to help, all of you, united in comradeship—trusting in a higher justice—to conquer fate so that the essentials for the future of our nation may be safeguarded.

The production of basic industry was maintained in the first part of 1944, but in the last quarter it fell off as a result of air-raid damage and loss of territory. Nevertheless, it was still possible to keep the armament industry continuously supplied with the necessary material, a task which could be fulfilled only by drastic measures of control.

Many instructions which had to be issued for this purpose were naturally incomplete. In general, however, they have achieved their purpose: That of placing at the disposal of the German armament industry those quantities which it required.

DEVELOPMENT IN BASIC INDUSTRY

The most difficult task was to obtain the necessary coal. The falling off in coal output is due in the main to reduced transport facilities and, to a lesser extent, to the loss of coal-producing areas.

Taking the basis of 100 percent, in 1942, hard-coal production in 1943 was 104 percent, in 1944, 93 percent.

On the same basis, brown-coal production was 105 percent in 1943 and 96 percent in 1944.

Production of crude steel in 1943 increased by 8 percent, as compared with 1942. In 1944 it was 11 percent less than in 1942.

The production of aluminum in 1943 increased by 3 percent as against 1942, and in 1944 by a further 11 percent, so that the target for 1944 was not merely fulfilled but exceeded by 2 percent.

CHEMICAL INDUSTRY AND MINERAL-OIL PRODUCTION

The chemical industry has been the main objective of enemy air attack since May. Every effort was made to repair and rebuild the plants which had been damaged. In spite of air-raid damage we succeeded to some extent in continuing the production of synthetic oil.

The most urgent requirements of the armed forces and of the civilian population for aviation spirit, motor fuel, and Diesel oil have been met up to the present by the output of finished products and by withdrawals from reserves.

Production in other chemical fields has likewise been badly affected by air raids. It was nevertheless possible to carry on partial production, which up to now has still covered urgent requirements.

We must here refrain from quoting figures in detail.

For the maintenance of the fighting power of our troops the production of powder and explosives is of the greatest importance.

In spite of air attacks on the chemical industry, extensive measures or reorganization and the sacrifice of other important chemical products has enabled us to increase production of powder and explosives.

If the production of powder in 1942 be considered as 100 percent, it increased in 1943 to 158 percent and reached 171 percent in 1944.

Forty-five percent more explosives was produced in 1943 and 75 percent more in 1944 than in 1942.

SUBCONTRACTING

Since 1942 subcontractors have by quiet, tenacious, and insufficiently recognized work made possible the final assembly of armaments.

Looking back over the year 1944 it must be pointed out that without the extraordinary performance by those who were responsible for the supply of components and parts, including the intermediate processing of iron and steel, output of all armaments would have fallen considerably by the end of the year.

At the beginning of 1942 the supply of parts and components was the bottleneck in all forms of German armament production. By the autumn of 1944 sufficient reserve of material had been accumulated, with the result that, in spite of more difficult conditions in the basic industry and also among subcontractors, output of armaments was able to be maintained and in some cases even increased.

PRODUCTION OF GENERAL EQUIPMENT

General equipment in 1944 has to give way to the production of armaments. Nevertheless astonishing achievements were attained in this field.

1. Electro-technical articles: The number of condensers produced rose by 85 percent. Five percent more radio valves were produced than in 1943. Output of portable radio sets was 50 percent greater than in 1943. On the other hand, the number of field transmitters fell by 30 percent. Aircraft radio sets increased by 31 percent, searchlights, 150 cm. diameter, by 50 percent, those with a 200 cm. diameter by 245 percent. Output of the 60 cm. searchlight on account of its minor importance was reduced by 17 percent.

2. Precision and optical instruments are contributing substantially to the equipment of German armaments. The following percentages give some idea of the increase in important products, taking 100 percent as the basis in 1943: Telescopic sights for tank turrets increased to 152 percent; telescopic sights for self-propelled guns to 245 percent; telescopic rifle sights 4x to 790 percent; reflector sights for aircraft armament to 245 percent; machine-gun sights M. G. Z., .40 to 360 percent; gun sight, 35 to 200 percent; scissor telescopes, 14 to 195 percent; and panoramic sight, 36 to 370 percent.

3. Remarkable achievements have also been attained in other fields of general equipment without special priorities for manufacture. These products have had to be supplied together with the rest in order to meet the urgent requirements of the Armed Forces, the essential services, the armament industry, and last but not least, the civil population.

It was possible to meet fully the requirements for all kinds of fortification tools in 1944:

	1943	1944
Shovels and spades.....	22,000,000	20,670,000
Steel pickaxes.....	3,240,000	3,130,000

The following were produced in addition:

	1943	1944		1943	1944
Scythes and sickles	8,060,000	5,060,000	Textiles for working clothes.....M	50,000,000	37,200,000
Forks	5,640,000	4,886,000	Cloth for uniforms		
Rakes	2,140,000	1,803,000	do	40,600,000	24,000,000
Large and small field kitchens	13,100	13,200	Blankets	30,500,000	23,000,000
Field and R. A. D. cooking stoves	16,800	18,700	Leather working shoes		
R. A. D. bottles	57,000	48,500	pairs	17,400,000	15,750,000
Receptacles for transport of food	(1)	13,270	Wooden working shoes		
Stoves	(1)	2,260,000	do	43,500,000	37,100,000
Frying pans	1,150,000	1,218,000	Leather walking shoes		
Pails	10,350,000	10,357,000	do	54,000,000	26,640,000
Cooking saucepans	20,200,000	13,620,000	Light shoes	49,600,000	48,500,000
Knives	14,800,000	11,300,000	House and gym shoes		
Forks	25,600,000	21,000,000	do	52,500,000	31,100,000
Tablespoons	44,000,000	34,400,000	Shoes (total)	217,000,000	159,090,000
Coffeespoons	15,450,000	10,100,000	Plates	50,500,000	52,000,000
Infantry carts	38,500	40,700	Cups and mugs	92,600,000	101,500,000
Field carts	120,400	150,000	Food bowls and dishes	31,900,000	45,200,000
Bicycles	689,135	513,355	Bedsteads	1,091,000	1,900,000
			Linen and clothes cupboards	416,000	265,000

¹ Not ascertained.

PRODUCTS FROM WOOD

Production in 1944 based on 1943—100 percent, nitrocellulose, 110 percent; fibrous cellulose, 60 percent; plywood (total), 71 percent; aircraft boards, 185 percent; light boards of wood wool, 101 percent; hard boards of wood-fibre, 101 percent; plates of wood fibre, 95 percent.

STONE AND EARTHEN GOODS

	1943	1944
Roof tiles	864,000,000	886,000,000
Cement	11.3	11
Fireproof bricks	2.7	2
Sheet glass	64.6	66.5

Although it has not been possible to deal fully with all aspects of general equipment, it must be agreed that great achievements have been made. Only in certain essential products for the civil population has there been a reduction in output as a result of the assumption of control of all production by the Rustungs Ministerium. In the main this falling off of output has been caused by lack of raw materials (shoes). Although the necessity of replacing goods destroyed in air raids had outstripped our ability to supply from the resources which were still left at our disposal, our performance in this sphere of war production should not be in any way minimized.

POWER

For years past the supply of power has not been able to keep pace with increasing demand due to the extension of armaments and war production. The additional demands on factory power stations has led to a falling off in efficiency and as a result it has not been possible since 1941 to meet fully the demands for power which come in the peak period of the winter.

In spite of all the difficulties of new construction, additional power plant was made available in 1944 and there was an increase in the output of power, by far the greater part of which went into armaments and war industry. Output of electricity in 1943 was 1.3 percent greater than in 1942 and in 1944 it was 2.4 percent greater than in 1943.

BUILDING TRADE

Within the framework of armaments and war production, building activity has had to be switched to an increasing extent from new building to industrial bomb-damage repairs, to improvisations and to railway repairs.

Toward the end of 1944 additional restrictions were placed on building in order to permit the transfer of labour, plant, and transport to actual armaments and war production.

The most decisive and important task of the Reich Ministry for Armaments and War Production is the maintenance and increase of weapons and equipment for the German armed forces.

In 1943 Grossadmiral Doenitz decided to entrust the arming of the Navy to us. The more important phases of aircraft production were transferred to us on March 1, 1944, and the whole of it on August 1.

The basis was thus created for joint planning of all armament production. This occurred at a time when owing to the difficulties caused by air-raid damage, advance planning could no longer be carried out, with the result that we had continually to rely on improvisation. That it has been possible to attain an increase in production is due to the efficiency of the industrial staff and personnel.

The details of quantities produced are given below. Only those taken over by ordnance depots are included:

Weapons	1944	1940	1941	1942	1943
Carbines and self-loading rifles (total).....	191	100	100.5	101	166
Machine guns.....	490	100	150	148	300
Machine carbines.....	450	100	210	204	235
Automatic infantry weapons (total).....	461	100	190	185	277
Mortars (total).....	705	100	97	223	500
2-cm. A. A. guns.....	388		100	203	250
3.7-cm. A. A. guns.....	692		100	180	200
Aircraft armament.....	2,540		100	300	800
A. A. and automatic aircraft armament (total).....	1,401		100	248	500
ARTILLERY FROM 7.5-CM. UPWARDS AND HEAVY A. A.					
7.5-cm. antitank guns, model 40 on wheels.....	790			100	539
8.8-cm. antitank guns, model 43, on wheels.....	240				
Light infantry howitzer.....	567	100	131	140	231
Medium infantry howitzer.....	520	100	159	135	278
Mountain gun, model 36.....	651	100	120	300	346
10.5-cm. gun-howitzers on wheels.....	640	100	84	89	256
10-cm. long-barrelled gun.....	2,003	100	369	386	1,297
Medium field howitzers.....	407	100	89	110	134
17-cm. long-barrelled guns on howitzer mounting.....	44		100	138	96
21-cm. howitzer, model 18.....	37	100	61		36
21-cm. long-barrelled gun, model 39, 39/40, and 42.....	199	100	244	33	122
8.8-cm. A. A. gun, model 18, 36, 37, and 41.....	525	100	166	255	391
Heavy A. A. guns.....	620	100	176	260	520
Heavy A. A. guns from 7.5-cm. upwards (total).....	740	100	129	218	489

If guns built into tanks had been included in the above, the gun production should have been:

1944.....	938
1940.....	100
1941.....	136
1942.....	240
1943.....	600

ARMoured FIGHTING VEHICLES

In order to compare our production of A. F. V.'s with that of the enemy it is necessary to include the armoured troop-carrying vehicles which, in armament, armour, and cross-country mobility, can be regarded as equal to the light tanks of the Americans still being built today, since they are now all provided with a 7.5-cm. gun.

In detail, the following production was attained:

Number of vehicles	1944	1940	1941	1942	1943
Light armoured fighting vehicles:					
1-ton troop-carrying vehicles.....	126			100	216
3-ton troop-carrying vehicles.....	2,241	100	272	342	1,221
Armoured reconnaissance vehicles.....	240	100	236	358	376
Pz Kpfw. I and II.....	78	100	2,589	3,400	856
Pz Kpfw. 38 (t).....	45	100	254	71	32
Light armoured fighting vehicles (total).....	1,259	100	285	455	997
Medium armoured fighting vehicles:					
Pz Kpfw. III.....		100	206	285	38
Pz Kpfw. IV.....	1,202	100	171	344	1,097
Assault gun III/IV and Pz Jager 38.....	5,014	100	299	450	1,804
Self-propelled equipments.....	100			100	213
Medium armoured fighting vehicles (total).....	890	100	212	411	691

Number of vehicles	1944	1940	1941	1942	1943
Extra heavy armoured fighting vehicles:					
"Panther".....	226				100
"Jagd Panther".....					
"Tiger I".....					
"Tiger II".....					
"Jagd Tiger".....	162				100
Extra heavy armoured fighting vehicles	210				100
Armoured fighting vehicles (grand total).....	1,269	100	239	431	920

A better idea of the increase in armoured fighting vehicle production in the last few years is obtained if the weights are compared with one another; the weight being the criterion of fighting strength.

Weights	1944	1940	1941	1942	1943
Extra heavy armoured fighting vehicles:					
Pan troop-carrying vehicles.....	126			100	216
Pan troop-carrying vehicles.....	2,241	100	218	342	1,221
Armoured reconnaissance vehicles.....	522	100	253	398	496
Kpfw I and II.....	78	100	2,593	3,406	858
Kpfw 38 (c).....	45	100	254	71	32
Light armoured fighting vehicles (total).....	1,119	100	277	370	810
Medium armoured fighting vehicles:					
Kpfw III.....		100	206	285	39
Kpfw IV.....	1,202	100	171	344	1,098
Assault guns III/IV.....	4,595	100	299	450	1,803
Wager 38.....					
Self-propelled equipments.....	174			100	303
Medium armoured fighting vehicles (total).....	994	100	212	364	649
Extra heavy armoured fighting vehicles:					
"Panther".....	226				100
"Jagd Panther".....					
"Tiger I".....					
"Tiger II".....					
"Jagd Tiger".....	1,310			100	829
"Jagd Tiger".....	2,550				100
Extra heavy armoured fighting vehicles (total).....	5,486			100	2,638
Armoured fighting vehicles (grand total).....	1,730	100	225	375	990

AIRCRAFT PRODUCTION

Aircraft production had to cope with particularly difficult conditions in 1944; in the first place it was subjected to concentrated air raids and in the second place had to carry out the adaptation to new types already prepared and planned by the Director-General of Equipment (Generalluftzeugmeister).

At the end of 1944 the serial output of the new types is in general assured.

In considering numbers produced the fact must of course be considered that heavy and very heavy aircraft could in the main be eliminated from production and a greater number of light aircraft be produced.

	1944	1940	1941	1942	1943
	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Fighters.....	1,128	100	167	252	514
Night fighters.....	871			100	247
Fighter bombers.....	767	100	107	169	435
Bombers.....	87	100	113	149	169
Reconnaissance aircraft.....	155	100	108	99	104
Operational aircraft (total).....	428	100	118	160	273
Training aircraft.....	195	100	66	70	138
Military aircraft (total) (without gliders).....	370	100	108	143	246

MUNITIONS

Munitions production is extremely sensitive to all fluctuations in deliveries as there is only a short production period.

Despite this, it was again possible to attain considerable achievements in 1944, which were very difficult to carry out as a result of the decreasing steel production.

	1944	1940	1941	1942	1943
Ammunition for infantry weapons:					
Rifle and revolver ammunition, machine carbine ammunition	182	100	45	45	108
Rifle grenades	387			100	273
Mines	3,400	100	72	510	1,438
Hand grenades	244	100	89	91	300
"Faustpatronen" projectiles	1,610				100
"Panzerschreck" projectiles	1,100				100
Mortar bombs	480	100	20	83	210
Infantry ammunition (total) (without rifle and revolver ammunition)	580	100	67	136	403
Ammunition for light A. A. and aircraft armament:					
2-cm. A. A. German	220	100	78	105	179
3.7-cm A. A. German	488	100	174	122	187
Ammunition for machine gun M. G. 131	700		100	182	318
Ammunition for machine gun M. G. 151	450		100	431	494
Ammunition for light A. A. aircraft armament (total)	340		100	168	254
Artillery ammunition from 7.5-cm. upwards:					
7.5-cm. antitank gun	225			100	246
7.5-cm. tank gun	559	100	50	104	435
Light infantry howitzer	342	100	31	132	301
8.8-cm. antitank gun	114				100
8.8-cm A. A. gun	440	100	386	417	402
10.5-cm. gun-howitzer	348	100	32	169	269
Long-barrelled 10-cm. gun	220	100	24	62	137
10.5-cm. A. A. gun	390	100	121	168	229
12.8-cm. A. A. gun	9,900	100	200	500	6,100
Medium infantry howitzer	460	100	90	130	450
Medium field howitzers, including 12.2 and 15.2 cm. (r)	280	100	90	170	290
17-cm. long-barrelled gun	1,080		100	340	960
21-cm. howitzer	165	100	98	86	160
Nebelwerfer	1,400	100	301	780	810
Total of projectiles above 7.5 cm	400	100	100	210	344
Of which for—					
Antitank and tank	1,116	100	50	302	1,036
A. A.	500	100	420	455	455
Field artillery	330	100	46	160	276
Nebelwerfer	191	100	110	180	180

According to calculations in tons agreed with the "Quartermaster General" (General quartiermeister) the following deliveries of all kinds of ammunition were made:

	Percent
1944	390
1940	100
1941	65
1942	150
1943	290

A picture is thus provided of the performance of the German armament industry in 1944 which clearly shows to all concerned in the work the achievements reached in this field in spite of all the difficulties. They would certainly have been better if the basic and subcontracting industries had not been continually attacked from the air and if transport had been easier.

While basic production sank in the fourth quarter of 1944, it was possible, by means of drastically restrictive measures in all other economic spheres, to avoid a corresponding decrease in armament production.

A comparison between the monthly average of 1944 and that of the fourth quarter provides the following:

	Increase in percentage as against 1944
Carbines (K 98, K 41, K 43)	-3
Automatic infantry weapons (machine guns and machine pistols)	+60
Mortars	+42
Light A. A. and weapons mounted on aircraft	+20
Guns from 7.5 cm. upwards	+22
Of which—	
Antitank	+9
A. A.	+4
10.5-cm. gun-howitzers	+16
Medium field howitzers	+16
Tanks	+8

	<i>Increase in percentage as against 1944</i>
Of which—	
Light tanks.....	- 14
Medium tanks.....	+ 33
Extra heavy tanks.....	- 7
Fighters.....	+ 36
Night fighters.....	+ 7
Fighter bombers.....	- 19
Operational aircraft (total).....	+ 11
Military aircraft (total).....	+ 9

This summary shows that some inroads were made in the production of basic materials. These did not, however, reduce the high output of the weapons and equipment required by the troops.

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