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Authority NND 785022
By AA NARA Date 6/15

Rest - General

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Finance Division
APO 742

File Nr 960.15

21 January 1946

SUBJECT: Claims for the Restitution of Property—Staff Study

TO : Property Control Branch

1. It is requested that the following comments be incorporated in the Finance Division reply to the Legal Division with reference to the subject "Staff Study".

a. Paragraph 4 (a) should be amended to read substantially as follows:

"The restitution of tangible and identifiable property, both real and personal but exclusive of foreign exchange assets as defined in Military Government Law No. 53, including works of art, literature and science; intangible property, exclusive of foreign exchange assets as defined in Military Government Law No. 53, including stocks, bonds, bank accounts, evidences of indebtedness, and interest in business or commercial enterprises, including patents and patent rights, which have been the subject of transfer under duress or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise. The method of settlement of claims arising out of Nazi persecution or discriminatory acts in Germany and involving foreign exchange assets will be made on exactly the same basis as other claims presented by individuals whose foreign exchange assets have been placed under Military Government control through the operation of Military Government Law No. 53. In all other respects, however, claims arising out of Nazi persecution or discriminatory acts in Germany and involving foreign exchange assets will be handled as outlined herein."

b. Paragraph 6 (a) should be amended to read substantially as follows:

"Return of the property in its present condition is all that the claimant can demand. Compensation measured by its present value in lieu of restitution will be permitted only in special instances and after Control Council approval has been given."

c. Paragraph 6 (c), next to the last sentence should contain the following additional statement:

"or by a charge against the German State."

d. Paragraph 6 (c), last sentence should include the same statement as noted in the paragraph next above.

e. Paragraph 6 (e), final sentence, delete "to the Marshalling Account" and change "or such indebtedness" to "of such indebtedness".

f. Paragraph 6 (f) should be amended to read as follows:

"A monetary award in lieu of property restitution (which will be permitted only with Control Council approval) or for damage or injury will be paid in RM and, in all those instances involving tangible or intangible property, exclusive of RM held in the form of cash or bank account, on the basis of the current RM value of the claim at the time of the award. Claims involving RM which were held in the

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form of cash or in bank accounts will be subject to restitution in the exact amount of the original confiscation, disposition, transfer under duress, etc. Any depreciation in the purchasing value of the RM will be borne by all the people of Germany and a claimant, as defined in this Study (Para. 7), should not be put in a better position than others similarily situated and who are not claimants."

g. Paragraph 6 (i) should be amended by deleting the clause "and a devaluation of its currency".

h. Paragraph 9 (a). It is suggested that the second and third sentences be deleted due to the fact that all claims will be paid in RM, and the two sentences are misleading as they indicate that payment to non-resident claimants may be in a currency other than RM.

i. Paragraph 9 (b 2). This paragraph should be amended to read substantially as follows:

"It must be accepted that many of the claimants in this class are not willing to return to Germany for the purpose of prosecuting claims and may seek their damages in the currency of the country in which they now reside. This will not be permitted as all claims must be settled in RM. The ability of the recipient to exchange such RM into a foreign currency or to remove to a foreign country movable chattels purchased with such an award in RM would, of course, depend upon Germany's future economic position. This cannot be predetermined."

j. Paragraphs 9 (b 3), 9 (b 3a), and 9 (b 3b), should be deleted entirely. There is no reason why non-resident claimants should receive compensation in a currency other than RM, thereby possibly receiving preferential treatment over claimants residing in Germany.

k. Paragraph 10 b, first sentence, should be amended to read substantially as follows:

"Such a Marshalling would assist the German State and its political sub-divisions in meeting the financial burden imposed by the program."

l. Paragraph 13, last sentence of first paragraph.

We raise the question as to whether any claim adjudicated under this program can be considered as a local rather than a national charge. It is our opinion that all of the claims which have been considered in this Staff Study as eligible for ultimate awards in the form of RM compensation, as distinguished from direct restitution of property other than cash or bank accounts, should be regarded as a charge against the German State or the Marshalling Account.

L A JENNINGS
Capt FD
Acting Chief
Foreign Exchange and Blocking
Control Branch

LAJ:cv
Tel. Berlin 43731
Room 319, Finance Bldg.

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By 7A NARA Date 6/15

Disposition of gold, silver, currencies, etc. held by Reichsbank Branches in U. S. Zone

24 January 1946

1 Curr. Branch, Fin Div OMGUSZ

External Assets Branch, Fin Div OMG (US) ATTN: Mr. Banning

24 Jan. 46

1. Information is requested whether final disposition of gold, silver, currencies and other assets held under Military Government Law No. 53 by Reichsbank branches throughout the U. S. Zone, will be effected directly through those branches or whether it is contemplated to have all of these items forwarded eventually to the Foreign Exchange Depository at Frankfurt.

2. Your views on the above would be appreciated and are especially desired at this time in connection with present planning for future operations of the Foreign Exchange Depository.

KURT L. WALITSCHEK
Major GSC
Chief, Currency Branch

KLW/leh

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E - Current
Red - General
File Nr. ~~940.17~~ 940.15

~~SECRET~~

Transmittal of Cable

21 May 1946

1 G-5 Foreign Exchange Depository. OMGGUS (Rear) Attn: Colonel BERRY — 21 May 1946

Attached cable has been assigned for action to Finance. Please prepare reply to include information which we will refer then to Economics Division, for further information. The necessity for a reply is urgent.

O. E. SANDS
Executive
Finance Division,
OMGGUS

1 Incl: Cable.
Telephone: FRANKFURT 2-3060. Col. Endtloff
OMS/ok

---

2 For. Exch. Dep. OMGGUS Rear APO 757 — OMGGUS Fin.Div. APO 742 — 22 May 46

The following cable is proposed in reply to W-88346:-

*TO : AGWAR for ECOLS
FROM: OMGGUS

1. Reference your W-88346 dated 1946.

2. Subject items now held in custody of Foreign Exchange Depository of Finance Division, OMGGUS, APO 757.

3. Detailed inventory of subject items only partially completed due to suspension of work for lack of qualified personnel. No appraisal of subject items started. Personnel now being obtained for inventory and appraisal of all assets. Inventory and appraisal of securities to commence approximately 1 June. List of Allied civilian personnel qualified in appraisal of precious stones, precious metals and jewelry is now being obtained for recruitment purposes.

4. Compilation requested can only be prepared after substantial completion of inventory and

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NCWN By ------- Date 11-14-6

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and appraisal. Any report prepared from existing information and records would be incomplete for desired purpose."

WILLIAM G. BREY
Colonel GSC
Chief, Foreign Exchange Depository

WGB:Fl
Telephone FRANKFURT 24 583

Above proposed reply phoned to Berlin via Red Line, 22 May 46, 1000 hrs, by Col. Brey

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Authority NND 765012
By 24 NARA Date 6/15

CONFIDENTIAL

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
(Rear Echelons)
Finance Division
Foreign Exchange Depository
APO 757

Mr. Lipson
Mr. Cronon
File
Bulgarian Gold

940.6095

Confidential

File Nr. ~~940.6095~~

11 October 1946

104

Mr. Roberts:

Mr. Kronan, Berlin 43634, 1st Floor, Economics Building, Restitution Branch, called 11 October and said the Russians are interested in the restitution of gold to Bulgaria and Albania. He wanted to know whether we had any of this gold here. There is some sort of directive being prepared, or negotiations underway on a high level so that these two countries will get back their gold. It is probably contrary to the gold pot idea. Russia is pushing for this restitution. I told Mr. Kronan that you would be in Berlin with all the essential records and possibly you could get together and work out the answer to his questions. I told him you would call him as soon as you conveniently could, possibly Saturday, and arrange a meeting with him.

First of all, take this memo up with Mr. Ball and get his okay on any arrangements which you make with Mr. Kronan.

Mr. Gabell

Information given to Restitution Branch

Gold on hand:

Bulgarian — none

* Albanian — 2,338 Kg (approx)

* also represents total gold received from Albania

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Roberts

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Authority NND 765072
By 24 NARA Date 6/15

S E C R E T

FROM: ASWAR FROM ECOLS

TO : OMGUS PERSONAL FOR CLAY

REFERENCE NO: W 88346

QUANTITY CMA DESCRIPTION CMA AND APPRAISAL DIAMONDS OTHER PRECIOUS STONES AND JEWELRY CMA GOLD PLATINUM SILVER AND OTHER PRECIOUS METALS REQUESTED CMA INDICATING SOURCE WHEREVER POSSIBLE CMA FIRST UNDER US CONTROL OR CUSTODY US ZONE CMA SECOND CMA IF AVAILABLE ESTIMATES FOR ABOVE ITEMS CMA PAREN A UNDER US CUSTODY NON US ZONE PAREN B UNRECOVERED ITEMS US ZONE AND PAREN C UNRECOVERED ITEMS NON US ZONE PD INFORMATION REQUESTED BY EDWIN PAULEY CMA US REPRESENTATIVE ON REPARATIONS WHOSE OFFICE ADVISES INFORMATION NEEDED ON ITEMS OWNED BY GERMAN GOVERNMENT AND IN EXCESS LOOT WHICH ARE SUITABLE FOR REPARATIONS OR FOR EXPORT AS MEANS FOR PAYING IMPORT PD SHOULD AMBASSADOR PAULEY BE IN BERLIN AT TIME YOU COMPLETE REQUIRED COMPILATION SUGGEST YOU PASS AVAILABLE INFORMATION DIRECT TO HIM CMA FORWARDING HERE AT LEAST TWO CPs INFORMATION FURNISHED AS WELL AS COMPLETE REPORT PD

ACTION : FINANCE

INFORMATION : G3S - CHIEF OF STAFF

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Authority: NND 765012
By 24 NARA Date 6/15

Files

File Nr. 940.08

OFFICE of MILITARY GOVERNMENT FOR BAVARIA
APO 170

AG 332.3-MGBFF 11 July 1946

SUBJECT: Valuables in the Vault belonging to Private Individuals

TO : Commanding General, United States Forces, European Theater (Main), Currency Section, APO 757, U.S.Army.

1. Reference is made to memorandum of this office of 18 May 1946, subject as above. Request was made at that time that you advise Office of Military Government for Bavaria, Fiscal Branch, whether your records reveal any possessions or names of persons listed on Schedule A attached to our memorandum.

2. As this office is anxious to bring this to an early conclusion we would appreciate an early reply to our inquiry.

FOR THE DIRECTOR:

JOHN W. TUTHILL,
Acting Chief,
Fiscal Branch

Telephone: MM 2166

1st Ind.

Foreign Exchange Depository, Finance Division, OMGGUS Rear, APO 757, U. S. Army. 23 July 1946

TO: Acting Chief, Fiscal Branch, Office of Military Government for Bavaria, APO 170, U. S. Army

1. Correspondence referred to in basic communication was received in this office and was replied to by 1st Indorsement on 27 May 1946. Attached is a copy of our reply.

For the Branch Chief:

FRANK C. GABELL
1st Lt. Inf
Executive Officer

Incls: 1st Ind dated 27 May 1946

Telephone: Frankfurt 24583

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B/L Acting Chief, Fiscal Branch, Office of Mil.Govt.for Bavaria, APO 170, dtd 18 May 1946, subj: Valuables in the Vault belonging to Private Individuals.

1st Ind.

Foreign Exchange Depository, Office of Mil.Govt.for Germany US (Rear), APO 757, US Army.- 27 May 1946.

TO: Office of Military Government for Bavaria,
Acting Chief, Fiscal Branch,
APO 170, U.S. Army.

1. Records this organization do not indicate any possessions tagged with the name or names of persons listed in Schedule A of basic communication.

2. To-date, inventory of assets held in Depository has not been completed and it is possible that items mentioned may be located at a subsequent date.

WILLIAM G. BREY
Colonel GSC
Commanding

Incl.: n/c

EPK:Fi
Telephone FRANKFURT 31 017

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OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
APO 170

AG 332.3-MGBFF 18 May 1946

SUBJECT: Valuables in the Vault belonging to Private Individuals.

TO : Commanding General, United States Forces, European Theater (Main), Currency Section, APO 757, U.S.Army. (Attention: Major Walitscheck.)

1. This Headquarters has received statements of 10 individuals near Ansbach listed in Schedule A alleging that during the early days of the occupation valuables were removed from the safe deposit boxes and taken into custody by the Fiscal officer.

2. It is believed possible that part or all of the items annumerated in the statements were collected and transmitted to Frankfurt on Main in one of the shipments of valuables prior to or on or about July 15, 1945.

3. Request that a search be made of your records to determine whether or not any possessions are tagged with the name or names of the persons listed in Schedule A and in the event that such is the case that an inventory of these items be given.

FOR THE DIRECTOR:

David W. Wallace
DAVID W. WALLACE,
Major, AUS,
Acting Chief
Fiscal Branch

1 Incl:
Schedule A.

Telephone: Munich Military 2166

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Authority NND 765012
By 7A NARA Date 6/15

SCHEDULE A

RECAPITULATION OF APP PROPERTY REMOVED FROM SAFE DEPOSIT BOXES:

Date Examined	Box No.	Name	Missing Property	Estimated Value RM
Bayerische Vereinsbank Filiale Ansbach:				
28 June 1945	15	Krieger Ernst & Emmy	Jewelry and Silverware	1,530.00
	32	Duemlein Heinz & Grete	Silverware	1,891.50
	65	Oberdörster Marie	Silverware	125.50
3 July 1945	38	Ringel Friedrich	Jewelry & Silverware	1,076.00
	238	Alwang Wilhelm	Property Deed	none
	388	Strebel Wilh.& Gunda	Jewelry & Silverware	1,459.00
Stadt- u.Kreissparkasse Ansbach:				
3 July 1945	20	Alias Modesta	Silverware	50.00
Bayrische Staatsbank Ansbach:				
29 June 1945	21	Schmidt Leonh.& Babette	unknown	unknown
	43	Dippold Hans & Auguste	Stamp Collection	unknown
3 July 1945	63	Herbstler Ludw.& Liesel	Silverware	750.00

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Yugo Claims Regarding Yugoslavia 940.104

Yugoslavian Claim No. 15/14, 879 8 Oct 1948

1 FED Rest. 8 Oct
OMGUS Contr. 48
APO Branch
757 APO
403

Subject claim is returned herewith as the securities and miscellaneous assets listed therein could not be identified as held by this Depository.

Incl:
a/s

EDWIN P. KELLER
Acting Chief, Foreign Exchange Depository

- -

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Authority NND 785022
By 24 NARA Date 6/15

FILE NO. 940.0701

12 May 1947

1. Rest. Contr. Br. OMGUS (Rear) APO 757 US Army — Foreign Depository Fin. Div. OMGUS (Rear) APO 757 U.S. Army — 12 May 1947

1. Transmitted herewith are fifteen (15) claims, submitted by the Yugoslav Mission for Restitution, for securities, bonds, money etc.

2. It is requested this office be notified of action taken on subject claims.

For the Chief:

WILLIAM W. FURIE
Major, AC
Executive

RES/mk
Frankfurt/Hoechst, 14-713

2. Incl. Rest. OMGUS Rear APO 757 — 21 May Contr. Br. OMGUS H APO 757 US Army 1947

1. Receipt is acknowledged of 15 claims, submitted through you by the Yugoslav Mission for Restitution.

2. These claims have been set up in our files, and are identified under the following numbers:

Claim No.	Rest. No.	F.E.P. No.:
15/14	879	940.0701
14/14	878	940.0702
13/14	877	940.0703
12/14	876	940.0704
11/14	875	940.0705
10/14	874	940.0706
9/14	873	940.0707
8/14	872	940.0708
7/14	871	940.0709
6/14	870	940.0710
5/14	869	940.0711

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FILE NO. 940.0721

Claim No.:	Dest.No.:	F.E.D.No.:
4/14	868	940.0712
3/14	867	940.0713
2/14	866	940.0714
1/14	865	940.0715

Yugoslav

12 May 1947

You will be advised of any further developments in connection with the above claims.

1. Dest. Country. Br. OMGUS (Dest. Div.) AFO 757 Army

Foreign Deposit-tory Fin.

12 May 1947

1. Transmitted herewith are fifteen (15) claims, submitted by the Yugoslav Mission for Restitution, for securities, bonds, money etc.

2. It is requested this office be notified of action taken on subject claims.

For the Chief:

WILLIAM G. [illegible]
Colonel, (GSC)
Chief, Foreign Exchange Depository

Army 757
U.S.
Army

RES/mk
Frankfurt/Hoechst, 14-713

2. Dest. Country Br. OMGUS (Dest. Div.) AFO 757 US Army

12 May 1947

1. Receipt is acknowledged of 15 claims, submitted through you by the Yugoslav Mission for Restitution.

2. These claims have been set up in our files, and are identified under the following numbers:

Claim No.	Dest.No.	F.E.D. No.:
15/14	879	940.0701
14/14	878	940.0702
13/14	877	940.0703
12/14	876	940.0704
11/14	875	940.0705
10/14	874	940.0706
9/14	873	940.0707
8/14	872	940.0708
7/14	871	940.0709
6/14	870	940.0710
5/14	869	940.0711

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By 9A NARA Date 6/15

THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

Claims No 15/14 — 6th May 1947

APPLICATION FOR THE RESTITUTION OF PROPERTY FROM GERMANY TO THE YUGOSLAV GOVERNMENT

1. General description of goods applied for:

   Securities: State bonds, shares, guaranty letters, cheques, bills of exchange, receipts, intabulations.

2. Details given in Appendix A, etc.:

   See enclosed specification.

3. Present location, giving details of exact address, name of the firm, etc., by whom the property is held:

   Presumably in various German Banks.

4. Was the property in existence in the claimant country at the time of the German occupation? If not, state circumstances in which it came into existence, e. g. under contract with German Government, for home consumption, etc.:

   Yes, it existed.

5. Details concerning removal to Germany: date, by whom, type of transaction, i. e. looted, requisition or forced sale, etc.:

   Looted on April 26th 1941.

6. Address in claimant country to which property is to be sent, and suggestions as to Transport thereto:

   Reparacionoj Komisiji - za Ministarstvo Finansija FNRJ
   Beograd - Jugoslavija.

MILITARY MISSION
of the Federal People's Republic of Yugoslavia
to the Control Council for Germany
Rest. No. 829
BERLIN

For and on behalf of the Government of
F. P. R. of Yugoslavia
Bozidar BREJC, Major

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SPECIFICATION

of property subject to restitution, application No 15/14

No.	Quantity	Specified description of property	Remarks Value in Diners
1	102.479	2.5 % War damage bonds	102.479.000.-
2	1.000	7 % stabilization loan bonds	1.000.000.-
3	308	7 % investment loan bonds	80.800.-
4	140	6 % financila liquidation of the agrarian "begluk" bonds in Bosnia and Herzegovina	70.000.-
5	700	4 % financial liquidation of large estate bonds	350.000.-
6	90	6 % agrarian liquidation bonds for Dalmatia	45.000.-
7	10	Public work and national defence bonds	1.000 .000.-
8	98	4 % agrarian liquidation bonds for Bosnia and Hercegovina	9.800.-
9	1	4 % loan for the 1895	500.-
10	7	3 % bonds for the liquidation of the financial state depts	51.000.-
11	9.852	Shares of the "Privilegovana Agrarna Banka" (Privileged Agrarian Bank)	4.926.000.-
12	9.355	Shares of the "Agencija Avala A.D."- Beograd (Agency "Avala" Ltd.)	4.677.500.-
13	8.900	Shares of the "Štamparsko izdavačko društvo Vreme A.D." (Publishing and Printing Society "Vreme a.d.")	8.900.000.-
14	9	Shares of the "Srpsko Brodarsko Društvo" (Serbian Shipping Society)	900.-
15	15	Shares of the "Srpska Centralna Banka- Osijek" (Serbian Central Bank)	1.-
16	16	Treasury bills for the Railway Company Čakovec-Zagreb	12.403.817.60
17	15	Letters of guaranty	998.175.70
18	47258	Lottery tickets of the "Srpskog društva Crvenog krsta" (Serbian Red Cross)	945.160.-
19	461	Lottery tickets of the "Srpskog društva Crvenog krsta" (Serbian Red Cross)	7.-
20	9	Obligations of the National Bank	321.202.-
21	4	Cheques	4.441,12
22	13	Bonds for the rehabilitation, aid and finishing of buildings	330.326,31

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No.	Quantity	Specified description of property	Remarks Value in dinars
23	25	Bills of exchange	11.264.967.87
24	1	Certificate	1.-
25	149	Various securities	429.098.-
26	1	Saving book	10.680.-
27	1.054	Unsettled deposits	406.513,74
28	14.653	Out of date coupons	18.-
29	116	Officials' and pensioners' paying rolls	232.-
30	154	Spare keys	146.-
31	5	Utensils for coin minting	104.-
32	142	Various seals and moduls	1.-
33	1	Intabulations	1.-
		Total:	150.655.390.34

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By NARA Date 5/11/99

RG 260
Box # 394

FOREIGN EXCHANGE DEPOSITORY

FINANCE DIVISION

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

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RG 260 - Records of the U.S. Occupation Headquarters - World War II
Records of the Office of the Military Governor (OMGUS)
Financial Advisor Records
RECORDS OF THE FOREIGN EXCHANGE DEPOSITORY
Box 394
File - 900.10

300164

Authority NND775059
By RB NARA Date 5/11/99

FOREIGN EXCHANGE DEPOSITORY

FINANCE DIVISION

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

1. Origin and Organization

a. The Foreign Exchange Depository, located in the Reichsbank Building, Frankfurt a.Main, is a successor organization to the Currency Branch, SHAEF, which Branch was created by Supreme Headquarters, Allied Expeditionary Force on 7 September 1944. The primary function of the Currency Branch was the receiving, holding and supplying of occupation currency for Allied Armed Forces and for Military Government operations, but it was also empowered "to act as required as depository for and/or to exercise control over assets seized or impounded by Allied Military authorities".

b. The Currency Branch/Depository has always been under the control, supervision and direction of the Finance Division of the following successive Headquarters:

SHAEF	G-5	to 14 July 1945
USFET	G-5	to 1 Oct 1945
OMG (US Zone)		to 1 April 1946
OMGUS		to date

c. With the termination of operations in other European countries and restriction of remaining operations to Germany, the Currency Branch became a Section of the Foreign Exchange Depository.

d. The Foreign Exchange Depository was completely organized in April 1946, with Executive, Administration, Depository, Claims, Currency and Accounts sub-sections.

2. Present Functions

a. In the course of its development the Depository has established its primary functions into five categories as follows:

(1) Custody, inventory and accounting for assets uncovered in Germany by Allied Forces.

(2) Custody of assets delivered in U.S. Zone under Mil. Govt. Law 53.

(3) Investigation of ownership and claims pertaining to assets held.

(4) Custody, issue, retirement and accounting for Allied Military marks of U.S. Forces.

(5) Accounting for Military Government Court fines.

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By RO NARA Date 5/11/99

b. Under special authorization additional services have been rendered from time to time of which the following are examples:

(1) Acting as custodian for special jewel collections.

(2) Acted as custodian for Military Payment certificates prior to their issuance by Disbursing Officers.

(3) Acting as custodian for valuables seized by G-2 Censorship Division.

(4) Acting as central clearing agency in processing payments to released German Prisoners of War.

3. Personnel

a. The staff of the Depository consists of its Chief, William G. Brey, Colonel, GSC, RA, twenty-two U.S. military and civilian personnel, six Allied technical experts, and sixty-five German employees.

b. As required by the nature of operations the civilian personnel includes specialists in banking, accounting and vault safe-keeping procedures. The allied technical experts are essential for the detection, classification, description and appraisal of precious metals, jewelry and rare coins. Military Officers are utilized for internal security purposes. German employees perform clerical duties, routine counting operations, and act as assistants where required.

4. Security

Early in the operation of the Depository, a security system was instituted. Triple control was established for the main vault where the most valuable material is stored and dual control for all other strong rooms. Persons entering the vault and strong rooms are accompanied at all times by security officers. Barbed wire barriers and a flood lighting system are maintained around the premises which are under guard twenty-four hours daily by a detail from the 18th Infantry Regiment. U.S. Army Officers supervise the handling of all valuables and provide internal security.

5. Evolution and Achievements

a. In addition to its normal currency operations the Depository during the early part of 1945 began to receive foreign exchange assets from various sources in Germany. A suitable structure for the latter purpose was found in the Reichsbank Building in Frankfurt, which was taken over and altered in certain respects to provide greater vault space and security. Since that time other repairs and improvements have been effected with the result that at present the offices and vaults are adequate for the purpose and permit efficient operation.

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b. The first shipment of valuables, from the Merkers Mine cache, was received at the Depository on 15 April 1945. Depository personnel at Merkers Mine supervised the loading and transport of this enormous hoard consisting of gold bullion, gold and silver coin, platinum, jewelry, a large quantity of "SS Loot", and various currencies, including 2,700,000,000.-- RM. Almost 12000 containers of various types were transported by truck convoys, over a period of several days, guarded by military escort. Before the end of 1945 a total of 76 additional shipments of foreign exchange assets were received. They came principally from what is now the U.S. Zone of occupation in Germany, but also from Austria, Czechoslovakia and other areas into which the Army had penetrated. It has been said that the Depository contains one of the largest single collections of wealth in the world.

c. In June 1945, a team of gold experts from the U.S. Treasury Department arrived in Frankfurt to make a survey of the major precious metal stocks in the Depository. They continued their labors for some 60 days with the assistance of Depository personnel, and at conclusion submitted a comprehensive report with a total valuation close to $ 300,000,000 for precious metals, consisting principally of gold bullion and gold coins.

d. The staff of the Depository, which about the middle of 1945 consisted of some 16 officers and 190 enlisted men, had barely started on the task of inventorying, sorting, cataloging and storing the heterogeneous material in its vaults, when the redeployment program caused a drastic reduction in personnel that all but the most essential currency functions had come to a halt by October. This curtailment lasted well into 1946. Subsequent to April 1946 a plan of operation was adopted, qualified military and civilian personnel engaged, and suitable counting rooms prepared. The latter eight months of 1946 have witnessed substantial progress, with the resumption, of all operations on an increasing tempo. A list of major accomplishments follows:

(1) Depository Section

(a) The task of inventorying and accounting for the great variety of valuables, concentrated in the vaults of the Depository and estimated to be worth in excess of $ 500,000,000, is the first such assignment performed in the history of the U.S. Army. The currency on hand is representative of over sixty nations and operations began with the verification of that asset. The inventorying of jewelry and precious stones started late in August 1946 with the arrival of the first Jewelry Experts. Up to the present, priority has been given to the examination of S.S. Loot recovered from Merkers Mine, Buchenwald and Dachau, which consists largely of unidentifiable assets destined for delivery to the Inter-Governmental Committee on Refugees. Under special circumstances certain other shipments have also been cataloged and reflected in detail on the accounting records.

* Shipment of captured and confiscated asset continued to be accepted but the delivery to Reichsbank of Form 53 asset was temporarily discontinued and has not since been resumed. The reorganization of the Depository with the arrival of new personnel began about April 1946. A plan of operation including the preparation of forms and installation of accounting was established. Vault interior were rearranged and material stored in an orderly manner

about april 1946

Released?

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(b) In general terms quantities inventoried to date are as follows:

Currency -	3,500,000.	U.S. Dollars
	200,000.	English Pounds
	9,000,000.	Norwegian Kroners
	2,500,000.	Dutch Guilders
	2,700,000,000.	French Francs
	2,000,000,000.	Greek Drachmas

Currencies of many other countries in lesser amounts.

Coin - Segregated and counted many thousands of gold, silver and base metal coins of numerous countries. Many numismatic types of coin, medallions etc. noted and separately inventoried.

Jewelry - Sorted many containers of precious and semi-precious stones, beads, costume jewelry etc. resulting in the separation of thousands of carats of precious stones of all types. Inventoried thousands of watches, rings, brooches, jeweled ornaments, and tons of scrap silver of damaged table ware. Also inventoried were the jewel collections of Hermann Goering and Eva Braun.

Securities - Other than the relatively minor amounts of this asset recorded in the Merkers cache, no large security holdings have yet been inventoried except about 500,000 shares of Concordia stock against which a claim has been filed.

Released

(c) The Foreign Exchange Depository has effected the following releases of assets to date:

Released

1.1 grams Radium	Released to Office of Theatre Chief Surgeon for shipment to U
813 bags of Russian rubles	Released to USSR without verification.
33 million dollars gold bullion and coin ascertained to have been the property of the Hungarian National Bank	Released to the Hungarian Government
22 tons silver bullion	Released to Land Greater Hesse as a loan to the German economy
Crown jewels, religious vessels and monstrances, Russian Tabernacle, etc.	Released to the M & FA in Wiesbaden

(d) See para.

Included with the assets uncovered in Merkers Mine were the books and records of the Precious Metals Department of the Berlin Reichsbank. This has proved a fruitful source of information as to gold movements in Germany during the war years. Depository personnel has been called upon many times by the U.S. State

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Department and representatives of certain European Governments to investigate these records and render detailed reports. On one occasion these records, consisting of five large cases were transported to the Finance Headquarters in Berlin for study, to facilitate negotiations pending with Switzerland, Spain and Portugal.

(2) Currency Section

(a) Previous to the advent of scrip currency this Section supplied the currency requirements of various U.S. Disbursing Offices and therefore was obliged to maintain certain necessary functions despite personnel limitations. During the redeployment period however operations involving the verification and storage of currency were curtailed. The Section has now caught up with its work in all respects and a resume of operations for 1946 is as follows:

Received, verified and stored 1,458 boxes containing 2,408,201,635 marks.

Received deposits for account Central Disbursing Officer aggregating 1,666,268,545.75 marks.

Received captured and confiscated funds amounting to 1,321,963.81 marks.

Received and refunded M.G. Court Fines, resulting in a net increase, in fines received, of 17,403,829.55 marks.

Received Prisoner of War funds totaling 1,881,144.75 marks

Received unclaimed funds totaling 225,151.94 marks.

Reimbursed Finance Officers for Civilian Payrolls in the amount of 19,748,303.61 marks.

Advanced to Allied Government Missions 351,154.00 marks.

Redeemed mutilated ABM, totaling 3,491,527.00 marks.

Increased deposits in its accounts with Reichsbank by the sum of 104,994,029.50 marks.

Redeemed counterfeit ABM in accounts of Finance Officers.

Prepared monthly Finance Division report for submission the War Department.

(b) At present, this Section is mainly engaged in continued Military Government Court Fines operations, the gradual

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retirement of Allied Military marks, the settlement of its accounts and operations which have covered the period from 7 September 1944, the settlement of Sub-Accountants' accounts, the payment of Military Payment Orders and Certificates of Credit held by German former PWs, an audit of vouchers redeemed from Disbursing Officers, issuance of AM marks as required by U.S. Disbursing Officers and Land Central Banks and additional routine operations.

6. Problems - Depository Section.

a. In the plan of procedure which was devised for the accomplishment of objectives of the Depository Section problems have been anticipated and provided for as far as possible. It is expected that many unforseen contingencies will present themselves as unusual and unexpected items are encountered in the process of inventorying and disposing of all assets. A final comprehensive and clear record of the quantity, value and disposition of the material in custody will eventually be available.

b. A recent study was made of directives and proposals, and other documents having to do with restitutions and reparations. As a result thereof it appeared that there were various inconsistencies that required clarification or amplification. Accordingly a cable (Ref. No. CC-7904) was sent to Washington on 1 February 1947 in which the following questions were raised:

(1) What disposition is to be made of monetary gold falling under WX-85682 ?

Released? → The reference cable directs that unidentifiable personal property removed from racial and political victims of the Nazis be turned over to the IGCR. Included in such loot are found moderate amounts of gold bars and gold coin. Gold in these forms, however, had been defined as Monetary Gold which as stipulated in the Paris Reparation Agreement is to be accumulated as a "Gold Pot" for restitution on a ratio basis to governments who lost gold to Germany.

(2) Whether the term 'currencies' includes, in addition to paper money, coins of silver, gold and other metals.

(3) Whether currencies of United Nations never under German occupation, will be restituted to another United Nation formerly under German occupation, if a claim by the latter United Nation is established.

Existing directives appear subject to two interpretations:

(a) Restitution of identified owned currencies looted from occupied United Nations is a pre-requisite to delivery of residue currencies to issuing countries.

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(b) Delivery of all currencies to issuing countries, the claims of occupied United Nations to be settled later between governments.

(4) Determination of the order of precedence of cable WX-85682 (loot directive) as regards any other disposal directive, especially as to whether WX-85682 is to be considered a standing exception to all present and future restitution or disposal directives.

(5) Whether United States unilateral action is contemplated under existing disposal directives prior to, or despite absence of, agreement within Control Council.

Securities

(6) Whether securities may be excepted or suspended from delivery to IGCR due to:

(a) Their insignificant value compared to bulk of loot.

(b) The obstacles which would be encountered in their liquidation.

(c) The United States position taken in Control Council which has been contrary to the disposal principle now embodied in WX-85682 (loot directive)

(7) No directives or proposals have been received as to disposition of (A) monetary gold, and (B) other precious metals including silver, platinum and gold which is neither monetary, or non-monetary under WX-85682 such as gold nuggets and large quantity gold deposited under Law 53 without suggestion or presumption of having been looted.

e. In addition to the problems raised by this study, an early settlement of the following matter would be desirable:

Other depositories?

(1) It is believed that financial assets and other valuables are held by and under control of various custodians in the U.S. Zone, with differing methods of security and accounting procedures. Concerted action in response to restitution directives such as WX-85682 (loot directive) is therefore difficult. It was originally contemplated that the Foreign Exchange Depository should act as the sole custodian for all financial assets in the U.S. Zone and accordingly Law 53 assets, as well as valuables uncovered by Allied Forces were received by the Depository during 1945. Due to lack of personnel resulting from redeployment program deliveries of Law 53 assets were temporarily discontinued and have never been resumed. It is recommended that staff studies be undertaken with the following objectives:

(a) Delivery of all financial assets and other valuables to the Foreign Exchange Depository as the sole depository for such material.

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(b) Consideration as to whether delivery of Law 53 assets by German Land Central Banks to Foreign Exchange Depository shall be resumed.

d. In summary, the Governmental level is mainly interested in problems concerning the disposition of the assets (6b) while OMGUS/Finance Division is mainly interested in problems concerning preparing such assets for disposition (6a).

7. Problems - Currency Section

a. There are no particular operating problems confronting the Currency Section. The main problems will arise upon the final liquidation of the Currency Section and in preliminary action before such liquidation.

b. The monthly balance sheet of the Currency Section shows many accounts which must be settled or disposed of. Questions concerning such settlements will arise along the following lines:

Disposition of currency

(1) Allied Military marks redeemed and on hand consist of U.S., British and Russian printed notes. What disposition is to be made of these notes ?

(2) What settlement is to be made for unpaid mark advances made to Czechoslovakia, Netherlands, Poland and USSR. ?

(3) What disposition is to be made of payroll vouchers redeemed from U.S. Disbursing Officers ?

(4) What disposition is to be made of Captured and Confiscated funds?

(5) What disposition is to be made of Military Government Court fines ?

(6) What disposition is to be made of unidentified Prisoner of War funds ?

(7) What disposition is to be made of the Encashment Differential resulting from payment of Military Payment Orders of former Prisoner of War ?

c. In addition to the balance sheet settlement problems, other types of questions will arise:

(1) Will the Currency Section eventually retire all AM marks now outstanding in the U.S. Zone ? Large amounts of such notes are presently held by German banks, U.S. Army Disbursing Officers, and individuals ?

(2) To what extent will the Currency Section participate in any change of German currency ?

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RELATIONSHIP BETWEEN USFET - OMGUS - FED

1. **Prior to 14 July 1945 - SHAEF Period**

Organization: SHAEF, G-5, FINANCE, CURRENCY SECTION FOR GERMANY.

The Currency Section was determined to be the proper organization within SHAEF to take possession of the valuables uncovered in Germany and to retain custody thereof.

2. **26 April 1945**

JCS 1067/76, Part III, Para 49(a)"Financial". This directs the Commander in Chief, US Forces, as follows:

"....To effect these purposes the Control Council should

a. Seek out and reduce to the possession and control of a special agency all German (public and private) foreign exchange and external assets of every kind and description located within or outside Germany."

Note: JCS 1067 specifies "Control Council" which organization subsequently became OMGUS.

3. **7 July 1945**

Letter Hq USFET, File AG 014.1-1, Subject "Administration of Military Government in the U. S. Zone in Germany". Directive. Section XVI Finance, Part 6, Para 3.

"3. Disposition of Bullion and Foreign Exchange

a. There will be shortly established in the American Zone and perhaps in all of Germany a special agency established by the Commanding General of the USFET or the Control Council respectively which will reduce to its possession and control all German foreign exchange and external assets of any kind and description located within or outside of Germany.

b. In the meantime, you will forward monthly, unless unusual amounts are delivered, to the Finance Division, G-5, USFET, at the Reichsbank in Frankfurt all quantities of gold and silver bullion or coin or foreign currencies or other foreign exchange as defined in Para 5, Article III, Law 53, held by or turned over to the Reichsbank in your District, or looted gold or silver objects or jewelry located in your District."

4. **14 July 1945**

Dissolution of SHAEF and establishment of USFET.

Organization - USFET, G-5, FINANCE, CURRENCY SECTION FOR GERMANY.

The Currency Section retained its custody of the valuables.

RG 260 - OMGUS
RECORDS OF THE FOREIGN EXCHANGE DEPOSITORY
Box 394
File 900.10

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5. 1 October 1945

Letter dated 26 Sept 1945, Hq USFET, File AG 014.1 GEC-AGO, Subject "Organization of Military Government".

G-5 →

Changed designation of USFET, G-5, to the Office of Military Government (US Zone)

AC of S, G-5, designated Director of the OMG (US Zone) but continues to exercise same authority heretofore exercised.

Main office of Finance function located in Berlin with a rear echelon in Frankfurt.

Organization - OMG (US Zone) FINANCE, CURRENCY SECTION.

The Currency Section retained custody of the valuables but control passed from USFET, G-5, to OMG (US Zone).

6. 9 March 1946

Publication of U S Military Government Organizational Manual dated 9 March 1946, which listed "Foreign Exchange Depository Field Unit" under Finance Division. Hq OMGUS. Effective 1 April 1946.

7. 19 March 1946

Letter dated 19 March 1946, File AG 123.7 GEC-AGO, Hq USFET, Subject "Foreign Exchange Depository, Reichsbank Building, Frankfurt (copy attached).

8. 1 April 1946

G061, 7 March 46, Hq USFET.

Letter 19 March 46, File AG 461, GEC-AGO, Hq, USFET, Subject "Instructions regarding existing directives, etc. to implement GO 51".

Establishment of USFET, G-5, with definite functions such as information and advice to Theater Commander, liaison with OMGUS and UNRRA, control over DPs and civil affairs outside Germany.

Abolishing OMG (US Zone) and transfer of functional activities to OMGUS.

Establishment of OMGUS Rear Echelon in Frankfurt consisting of certain reduced rear elements of functional divisions closely related to military activities.

Organization - OMGUS, FINANCE DIVISION, CURRENCY SECTION.

Currency Section, still retaining its custody of the valuables in addition to continuing performance of regular functions, remained in Frankfurt due to vault facilities, security and currency activities relating to US Disbursing Officers.

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9. 1 April 1946

Name of OMGUS, Finance Division, Currency Section, became the Foreign Exchange Depository Field Unit of the Finance Division, OMGUS. Its functions were divided between (1) custody of assets and (2) AM Mark currency.

Organization - OMGUS, FINANCE DIVISION, FOREIGN EXCHANGE DEPOSITORY

FED was organized, t/o approved, operating plan and organization chart approved, currency section functions continued, depository section activated, all under the supervision and control of Finance Division.

10. 1 April 1946

GO 38 dated 4 June 1946, Hq OMGUS.

Establishing OMGUS (Rear), listing attached units, one of which is listed as Foreign Exchange Depository, Finance Division.

CONCLUSION

1. The Foreign Exchange Depository and its two basic functions (i.e. (1) receipt, custody, inventory, appraisal and release of valuables and foreign exchange assets, (2) AM mark currency matters) has always (and still is) been under the control, supervision and direction of the Finance Division of the following consecutive Headquarters:

SHAEF G-5	to 14 July 1945
USFET G-5	to 1 October 1945
OMG (US Zone)	to 1 April 1946
OMGUS	to date

2. This continuity can be traced through the documents outlined above.

3. In GO 61, USFET did not retain control of any Finance Division functional operations and FED passed to the control of OMGUS (US Zone). This is specifically set forth in letter from USFET.

4. This continuity of control can be traced through the following documents:

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		Control Passed
a. Letter Hq USFET	26 September 1945	From USFET G-5 to CMG (US Zone)
b. GO 61 Hq USFET	7 March 1946	FED not ~~accepted~~ ex by USFET so passed to CMGUS
c. Letter Hq USFET	19 March 1946	Specifically to CMGUS
d. GO 38 Hq CMGUS	4 June 1946	Control accepted by CMGUS

5. Foreign Exchange Depository is now under control, supervision and direction of CMGUS Finance Division. USFET has no interest in its operations, EXCEPT AS TO LOSSES.

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A

S E C R E T

SUPREME HEADQUARTERS
ALLIED EXPEDITIONARY FORCE

AG C40-1 GB-AGM

APO 757 (FWD)
7 September 1944

SUBJECT: Establishment of the Currency Section for Germany.

TO : Headquarters, 21 Army Group, Main
Commanding General, Twelfth Army Group

1. The Currency Section for Germany is hereby activated in accordance with Administrative Memorandum Number 11, this headquarters, as, dated 4 May 1944, and will be composed of a Head Office, attached to Supreme Headquarters, AEF, and two branches.

2. One of the two branches will be initially under command of Twelfth Army Group and one under command of 21 Army Group.

3. This headquarters will designate the personnel for the Head Office and branches of the Currency Section. Until the TO/WE of the Currency Section has been approved, the U. S. personnel will be carried on the TO of the European Civil Affairs Division, APO 658, U. S. Army, and the British personnel will be carried on the WE of any Civil Affairs Group.

4. The Currency Section will have the following functions and powers:

a. Functions:

(1) Receive, hold and supply adequate currency for pay and procurement of Allied Armed Forces and for Military Government operations.

(2) Provide a central depository and clearing house for funds issued to and deposits received from the Allied Expeditionary Force, including Military Government.

(3) Provide a central financial medium for such measures as may be necessary in the interests of the Allied Expeditionary Force.

(4) Receive, hold and supply such stocks of postage stamps as are necessary in the interests of the Allied Expeditionary Force.

(5) Maintain such control and subsidiary accounts as may be required for the purposes of the U. S. and British Governments.

(6) Maintain the necessary accounting and operational procedures in accordance with the instructions from this headquarters.

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b. Powers:

(1) Establish branches and sub-agencies.

(2) Designate one or more banks as its agents and make and withdraw deposits with banks.

(3) Make advances directly or indirectly to governments and their political sub-divisions, para-statal institutions, banks, industrial enterprises and others in the absence of other loan sources, when such advances are justified by military necessity, and to hold all evidence of debt or obligations arising from such transactions and to take any steps necessary to recover funds so advanced.

(4) To act as required as depository for and/or to exercise control over assets seized or impounded by Allied Military authorities.

5. This Currency Section will immediately take control, for Supreme Headquarters, AEF, of all currency, coin and postage stamps, for operations in Germany, held by the British War Office as agent for the Supreme Commander, Allied Expeditionary Force. Appropriate signatures of officers designated to act for the Currency Section will be initially provided to the War Office and/or others by notice above the signature of the Chief, Financial Branch, G-5 Division, Supreme Headquarters, AEF, and thereafter by the DCCAO, your command, or the CFA, Military Government, your command.

6. All currency requirements of the Allied Forces in operations of your command in Germany, except any RMA or yellow seal dollars, both for military pay and procurement and for Military Government purposes, will be drawn from the Currency Section. When currency is to be delivered in the United Kingdom to the Pay Branches, the Currency Section will authorize deliveries of funds by the War Office to designated officers of the respective pay branches of the U. S., British and Allied Services. The respective pay branches will arrange directly with the War Office all details relating to the physical delivery and handling of currency in bulk.

7. Pay branches of the respective services will arrange for the Currency Section to be provided with continuing estimates of their future currency requirements for military purposes, at such times and in such forms as are required by the Currency Section for organization of a proper flow of deliveries. Pay branches of the respective services will arrange for the provision in their shipping schedules and estimates for the movement forward from the United Kingdom of sufficient funds in bulk to take care of all currency requirements for military purposes overseas for the first thirty (30) days of any operations.

8. Funds for Military Government purposes will be provided to the MG organizations in overseas operations of your command directly by the Currency Section, which under agreement with the War Office, U. S. Fiscal Officers and the British BPEE, may use their facilities for the physical handling and movement of currencies to the extent it considers necessary.

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The Currency Section, with bulk funds for both MG and military purposes, will move forward as soon as movement considerations justify.

9. Upon notice by the Currency Section that it is in a position to operate in the overseas area, the U. S. and British Pay Services will make arrangements for their currency requirements in the area to be provided by the Currency Section. The Pay Branches of all other services may make arrangements for their currency requirements in the area to be provided either by the Currency Section, or the U. S. or British Pay Services, whichever is most expedient. After movement of the Currency Section, currency requirements in the United Kingdom for forces in the overseas operations of your command in Germany, will be drawn by the respective pay branches directly from the War Office in accordance with arrangements to be notified to them by this headquarters. This headquarters will, in turn, notify the Currency Section of all such withdrawals.

10. All funds advanced by the Currency Section to the respective pay branches for military purposes will be reported by the receiving branch to the U. S. War Department, the U. S. Navy Department, or the British War Office, in accordance with the recipients nationality. The U. S. and British pay services will likewise report to the Currency Section all advances made by them for military purposes to any other Allied pay service. The Currency Section will report independently to this headquarters all advances, including advances made for Military Government purposes.

11. The Currency Section will have no further responsibility for funds disbursed by it to the respective pay branches for military purposes, except that a monthly statistical report will be provided by each pay branch, giving in summary form the approximate amount of currency on hand at the beginning and end of each month, and receipts and disbursements, by major categories, during the month. Reports covering operations of the pay branches overseas will be provided to the Currency Section; a consolidated report including transactions in the United Kingdom in connection with overseas operations of your command in Germany will be submitted to this headquarters in duplicate. The form of the subject reports will follow in general that now used in France.

12. In order to facilitate the operations of the Currency Section in its financial dealings with local civilian institutions and governmental authorities, necessary evidences of authority will be supplied to the Currency Section by your headquarters. To the extent practicable, these evidences of authority will bear the signature of the highest authority in the area.

13. To the extent that existing arrangements for the movement of funds are in accordance with the policies expressed above, no changes in them are required.

By Command of General EISENHOWER:

(sgd) E. S. Bochnke
E. S. BOSENKE
Colonel, AGD
Adjutant General

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B

RESTRICTED

SUPREME HEADQUARTERS
ALLIED EXPEDITIONARY FORCE

APO 757
7 March 1945

ADMINISTRATIVE MEMORANDUM :
NUMBER 49 :

DISPOSITION OF CURRENCY AND OTHER FINANCIAL ASSETS SEIZED FROM ENEMY FORCES OR FOUND ABANDONED

1. Definitions. For the purpose of this Administrative Memorandum;

a. Liberated territory means the territory of any of the United Nations in the European Theater of Operations.

b. Enemy territory means the territory of the German Reich and Austria prior to 31 December 1937.

c. Financial assets, exclude currency but includes, inter-alia, uncancelled stamps of all kinds, cheques, securities of all kinds, including certificates of deposit or receipts therefor, foreign exchange assets, gold (in bullion or coin), silver or platinum in bullion form, warehouse receipts, bills of lading, commercial paper, bank books, postal, giro or other money orders, letters of credit and jewels.

2. Currency Seized from Enemy Forces. All currency, except that taken from Prisoners of War or agents or suspects taken into custody, seized by the Allied Forces from enemy forces, whether in Allied or enemy territory, will be handed over against receipt, to the nearest Finance Officer/Paymaster, or Civil Affairs/Military Government Sub-Accountant with a detailed report of the circumstances in which the currency was found. Currency so turned over will be treated as follows;

a. If still legal tender in the country of issue, it will be brought on to the books of the Finance Officer/Paymaster or Civil Affairs/Military Government sub-accountant as captured funds and used for requirements in the territory in which the currency is legal tender. The Finance Officer/Paymaster will send in duplicate, to the Controller of Finance and Accounts G-5/Civil Affairs of the appropriate Army Group, details of the amounts thus taken on to his books.

b. If no longer legal tender in the country of issue, the Finance Officer/Paymaster or Civil Affairs/Military Government Sub-Accountant will accept the money on a hand receipt and will not enter it into his accounts. Finance Officers/Paymasters will turn over the currency, securing hand receipt, to the Controller of Finance and Accounts, G-5/Civil Affairs of the appropriate Army Group.

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3. Financial Assets Seized from Enemy Forces. Financial assets taken from enemy forces, other than Prisoners of War or agents or suspects taken into custody, will be treated as follows:

a. If taken in liberated territories, they will be handed over against receipt to nearest Civil Affairs Officer, who will deposit them, against receipt, in the nearest branch of the central bank and will furnish full particulars to the Controller of Property of the Supreme Headquarters, AEF Mission to the Government in whose territory the articles have been found.

b. If taken in enemy territory, they will be turned over, against receipt, with full particulars of the circumstances in which they were discovered to the nearest Military Government Officer to be treated as enemy property under Military Government Property Control instructions.

4. Currency and Financial Assets found on Prisoners of War. Currency and financial assets found on Prisoners of War will be treated in accordance with current instructions, provided the circumstances are such that the Prisoner of War appears to be the owner. Where there is adequate reason to believe that the Prisoner of War is not the owner, currency will be disposed of according to the provisions of paragraph 2, above, and other financial assets according to the provisions of paragraph 3, above.

5. Currency and Financial Assets found in possession of Agents and Suspects. Currency and financial assets found on agents or suspects, taken into custody, will be treated in accordance with current G-2 instructions whether or not the person appears to be a bona fide holder. Current instructions on this subject are contained in a Supreme Headquarters, AEF G-2 document entitled "Disposition of Personal Effects of Agents or Suspects Detained by the AEF", dated 24 August 1944.

6. Currency and Financial Assets found Abandoned or Unprotected.

a. Currency and financial assets abandoned by the enemy forces will be treated respectively according to the provisions of paragraphs 2 and 3, above.

b. In all other cases currency and financial assets found unprotected will be treated in the same way, and disposed of in accordance with the provisions of paragraph 3, above.

7. Currency and Financial Assets which are Adequately Protected. All funds and financial assets whether in public or private premises adequately safeguarded against misappropriation will be left alone. If currency and financial assets which are left in situ include foreign exchange assets such as gold and silver bullion or non-German currency, securities, cheques, drafts, etc., the existence of these assets should be reported to the nearest Military Government Officer.

By direction of the Supreme Commander:

N. H. NEWMAN
Colonel, AGD

Assistant Adjutant General

DISTRIBUTION:

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HEADQUARTERS
EUROPEAN CIVIL AFFAIRS CURRENCY SECTION - GERMANY
U. S. ARMY

APO 658
4 May 1945

SUBJECT: Currency Section for Germany - U. S. Branch

TO : G-5, Twelfth Army Group, APO 655, U. S. Army

1. Yesterday you visited the undersigned Commanding Officer of the European Civil Affairs Currency Section, and inquired about our mission, chain of Command, etc. I had just taken over command from Lt. Col. Moore, (who was not present at the time), under par 6, SO 111, Headquarters European Civil Affairs Division, APO 658, and could not answer all the questions asked.

2. At your request I gave you a copy of our Letter Order No. 554, 10 April 1945, SHAEF Main, APO 757, under which we are now operating and which ordered us as individuals "to Frankfurt; Germany and such other places in western Europe as may be necessary to carry out the instructions of the Supreme Commander, AEF". These instructions are being given me through the Deputy Chief, Financial Branch, G-5, Supreme Headquarters Allied Expeditionary Force.

3. Upon arrival in Frankfurt by plane, we contacted, Headquarters 3rd Army, local representatives of G-5, Division, 12th Army Group, and Headquarters Advance Group of SHAEF, which is preparing the Farben Building for occupancy.

4. Since our conversation yesterday I find that the basic functions and powers of our Section are laid down in the Supreme Commander's Letter of 7 September 1944, AG 040-1 GB-AEM, SHAEF (Fwd) APO 757, addressed to the Commanding General, Twelfth Army Group and Headquarters, 21 Army Group, Main. This directive stated that the Currency Section for Germany will be composed of a Head Office, attached to Supreme Headquarters, AEF, and two branches one to be initially under command of Twelfth Army Group and the other one to be initially under command of 21 Army Group.

5. It appears from the foregoing that our section was initially placed under command of Twelfth Army Group but that it is now under the command and direction of the Supreme Commander, AEF, under the order of 10 April 1945. It is my belief that this is the basis under which we are operating at the present time. Moreover, it is my understanding that our office and depository in the Reichsbank building is in the area now under control of Supreme Headquarters Allied Expeditionary Force, or which will be under its control.

R. B. CRAGUN
Lt. Col., FD
Commanding.

Copy TO: Deputy Chief, Fin Br., G-5 SHAEF Main

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By RO NARA Date 5/11/99

CURRENCY SECTION (Germany)
U. S. ARMY BRANCH

G-5 Fin. Br.
APO 757
8 May 1945

SUBJECT: Report on Section

TO : Commanding Officer, European Civil Affairs Division, APO 658, U. S. Army

1. During the past month, this Section has been assigned a mission that was not contemplated at the time of its activation, and as a result, certain problems have arisen. It is the purpose of this report to acquaint you with these problems.

2. The unit was activated by GO #39, Hq. European Civil Affairs Division, dated 14 October 1944. The T/D and A was dated 9 October 1944 and provided for a strength of 6 officers and 12 enlisted men. Of this strength 2 officers and 5 enlisted men were to be at SHAEF and the remainder at the 12th Army Group. This split was made and at the present time, this Hq. has 4 officers and 6 enlisted men.

3. When the unit was activated, its primary mission was the receipt, distribution and custody of Allied Military Marks. Then on 10 April 1945, the members of this Hq. were ordered by SHAEF to proceed to Frankfurt where they were assigned the mission of receipt, custody, verification and accounting of the tremendous stocks of gold, foreign currency and looted property captured by our forces. This is a large undertaking and one that demands the entire efforts of all available personnel. In addition it is expected that the Section perform its original mission, but this has proved impossible to do with the limited personnel. Already it has been necessary to refuse a requisition for Allied Military Marks because there was no personnel available to make the delivery. Further, for the same reason, various reports pertaining to both the function and administration of the Section have not been made when due.

4. The Section, in preforming its recent duties, has been operating under orders of the Deputy Chief, Financial Branch, G-5, SHAEF. In view of this situation, the above matters have been discussed with him and incorporated into a memo, copy of which is attached.

(sgd) H. D. Cragon
H. D. CRAGON
Lt. Col., FD
Commanding

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File 900.10

File 900.10

9 January 1947

SUBJECT: Accomplishments of the Foreign Exchange Depository during 1946

TO : Director, Finance Division, Office of Military Government for Germany (US), APO 742, US Army

1. Following are considered the main accomplishments of the Foreign Exchange Depository during the year 1946 toward the attainment of its objectives:

a. Organization:

At 1 April 1946 the Foreign Exchange Depository was practically a non-operating organization, without necessary personnel or plans of operation. Work in connection with the assets in custody was dormant and a minimum of operation was being performed by the Currency Section.

Subsequent to 1 April 1946 the Foreign Exchange Depository was completely organized and its operation activated. A T/O and TE and A were prepared and approved. Complete staff was obtained to fill the T/O, including twenty U. S. military and civilian personnel, six technical experts and sixty German employees. Job descriptions and classifications were established for all civilian personnel. A plan of operation was adopted, including a detailed SOP for each functional section and a complete accounting system. A central filing system was installed.

Due to the nature of operations the primary need was for personnel possessing specialist qualifications in banking, accounting, vault procedure operations, inventory and appraisal work. During the year the T/O was filled and maintained at full strength with such personnel.

b. Depository Section:

The assets held by the Depository Section include precious stones, watches, jewelry, dental gold, silver and platinum, alarm clocks, fountain pends, silverware, currency, coin including rare coins, securities, stamps, gold and silver bullion, platinum and other precious metals, having a total estimated value of over $500,000,000. The work of inventorying and accounting for these assets is the first such assignment performed in the history of the U. S. Army.

RG260-OMGUS
RECORDS OF THE FOREIGN EXCHANGE DEPOSITORY
Box 394
File 900.10

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At 1 April 1946 there had been no detailed inventory made; in a majority of cases the contents of containers were unknown. A plan for inventory was established and SOP for operations approved and on 25 June 1946 the first formal inventory was prepared. Initially items of currency were inventoried. On 28 August 1946, upon the arrival of the first jewelry experts, inventory operations on items of this nature were started. Priority was given to items of loot from the Merkers Mine and Buchenwald which were scheduled for delivery to the International Governmental Committee for Refugees. Other shipments were inventoried in compliance with special requests.

Some of the more interesting results of the inventory operation follows:

(1) Currency - Inventoried over 3,300,000 U. S. dollars, 200,000 English Pounds, 9,000,000 Norwegian Kroners, 2,300,000 Dutch Guilders, 2,700,000,000 French Francs, 2,000,000,000 Greek Drachma and other currencies from all countries.

(2) Coin - Inventoried over 3,000 rare coins in addition to a large amount of gold, silver and metal coins from all countries.

(3) Jewelry - Inventoried the Emmy Goering and Eva Braun collections. Inventoried many other containers of assorted jewels, one of which contained 3,000 cut diamonds and 1,400 carats of rose diamonds. Inventoried thousands of watches, rings, brooches and jeweled ornaments and some tons of scrap silver in the form of damaged tableware. One box contained two pearl necklaces valued at 24,000 Dollars.

(4) Securities - Inventoried over 100,000 shares of Concordia stock.

During the year 1946 the following assets were released from the Foreign Exchange Depository:

813 kegs of Russian Rubles	- Released to USSR
33 Million Dollars gold bullion and coin belonging to the Hungarian National Bank	- Released to the Hungarian Government
22 tons of silver bullion	- Released to Land Greater Hesse as a loan to German economy
Tabernacle of Russian Orthodox Church	- Released to the M & FA Wiesbaden

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e. Currency Section:

During the year 1946 the Currency Section utilized the services of five American and twenty-two German personnel and accomplished the following:

Received, verified and stored 1,458 boxes, containing a total of 2,408,201,635 marks.

Received deposits for account Central Disbursing Officer, totaling 1,666,268,545.75 marks.

Received captured and confiscated funds, totaling 1,321,963.81 marks.

Received and refunded MG Court fines, resulting in a net increase on deposit of 17,403,829.55 marks.

Received Prisoner of War funds, totaling 1,881,144.75 marks.

Received unclaimed funds totaling 225,151.94 marks.

Reimbursed Finance Officers for Civilian Payrolls in the amount of 19,748,303.61 marks.

Advanced to Allied Government Missions 351,154.00 marks.

Redeemed mutilated AMM, totaling 3,491,527.00 marks.

Increased deposits in its accounts with Reichsbanks by the sum of 104,994,029.50 marks.

Redeemed counterfeit AMM in accounts of Finance Officers.

Prepared Monthly Finance Division Report for submission to the War Department.

f. Improvement of Facilities:

At 1 April 1946 the working offices of the Foreign Exchange Depository were unsuitable for the proper performance of operations. There was no orderly arrangement of valuables within the vaults.

Subsequent to 1 April 1946 the vault interiors were rearranged and the contents stored in an orderly manner. Special lighting and ventilation was installed. Special containers were procured for valuables. The functional sections of the Branch were relocated to promote the best efficiency. Three inventory rooms were prepared for use by technical experts in the performance of their work. A currency counting room was installed. A warehouse plan for over 3,500 boxes of Allied Military Marks was installed and made operative. All interior walls were repainted, lights installed and working conditions improved.

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e. Visitors:

The Foreign Exchange Depository has been maintained in a state of readiness for inspection by visitors to this Theater. It has provided an interesting point in the itinerary of such visitors. Among the visitors during 1946 were the following:

Name	Title
Mr. G. W. Lawson	Executive Office of the President
Mr. N. Nyaradi	Undersecretary of Finance, Hungarian Government
Major General Huebner	Chief of Staff, USFET
Mr. George Allen	Former Director, Reconstruction Finance Corporation
Mr. Goodloe	Director, Reconstruction Finance Corporation
Rear Admiral R. E. Ghairman	Commander U.S. Naval Forces in Germany
Honorable Senator Wherry	Senator from Nebraska
Colonel Surny	Head, Belgian delegation
Colonel Roest van Limburg	Head, Netherlands delegation
Major General Bull	Former Chief of Staff, USFET

f. Services to USFET and OMGUS:

In addition to its regular functions, the Foreign Exchange Depository has provided additional services such as the following, under special authorization:

(1) Acting as custodian for the Fromberg jewels involved in current Court-martial case.

(2) Acted as custodian for Military Payment Certificates prior to their issuance by Disbursing Officers.

(3) Acting as custodian for silverware and art objects said to belong to the house of Saxony-Weimar-Eisenach.

(4) Acted as custodian for objects seized by G-2 Censorship Division.

WILLIAM G. BREY
Colonel GSC
Chief, Foreign Exchange Depository

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File: Disposition of Valuables

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
FINANCE DIVISION
APO 742

AG 123 (FD) 29 January 1947

SUBJECT: Disposition of Valuables

TO : The Chief of Staff

I. DISCUSSION.

1. The Office of Military Government for Germany (U.S.) is responsible for the disposal of millions of dollars worth of valuables and foreign exchange assets. To discharge this duty properly, a clarification of directives issued or proposed by the Joint Chiefs of Staff is necessary.

2. These assets, consisting of large quantities of securities, paper currencies, coins, gold bullion, silver, platinum and gold in various forms, jewelry and precious stones, were either uncovered in Germany by the Allied Forces or received as foreign exchange under Military Government Law 53, and are now in the custody of the Foreign Exchange Depository, Frankfurt, and the German Land Central Banks, U. S. Zone.

3. a. A directive has been received covering the disposition of so-called "non-monetary" gold (TAB A), and proposals have been received concerning the disposition of looted securities (TAB B) and currencies (TAB C).

b. In the application of the directives or proposals received, difficulty will be encountered, since related directives cannot be reconciled due to the possibility of more than one interpretation.

c. Delivery of valuables to the Inter-Governmental Committee on Refugees is expected to commence in March 1947 and a clarification of the application of the directive at TAB A is urgent.

d. Inasmuch as these and future disposal directives are all inter-related, and since the disposition of all assets cannot be simultaneous, action taken under directive at TAB A must be clear-cut so as not to be in conflict with subsequent directives.

4. Answers to the questions raised in Para. 2 of proposed cable (TAB D) will clarify the application of the directive at TAB A.

II. ACTION RECOMMENDED.

5. That the cable at TAB D be approved.

III. CONCURRENCES.

Economics Division, Restitutions Branch ( ) ( )

Legal Division ( ) ( )

Office of Political Affairs ( ) ( )

T. H. BALL

JACK BENNETT
Director

MR. BALL

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CLEAR COPY

TO : AGWAR for JCS

FROM: OMGUS signed Clay

Reurads WX-85682, WX-88566, WX-85965, W-90078, and ourads CC-7486, CC-7239, CC-7792.

1. The only financial assets released to date in bulk from custody of Foreign Exchange Depository or other U.S. custodial agencies in Germany acting under specific authorizations have been 813 bags rubles to USSR, 33 tons monetary gold to Hungary, 40 tons silver as loan to German economy. There are still held bulk quantities of currencies as defined WX-85965 and W-90078, securities as defined WX-88566, monetary gold as defined Final Act Paris Conference on Reparations, non-monetary gold as defined WX-85682, silver and other precious metals, and other foreign exchange assets. Marshalling and inventory of such assets will eventually reach stage of completion where action can be taken in compliance with disposal directives. Turnover of non-monetary gold to IGCR is imminent as the next bulk release of assets from custody. Since action to be taken under WX-85682 will be the first under existing or future disposal directives, important to have clear understanding WX-85682 so that non-monetary gold fund will be properly constituted and conflicts this and other directives during or after consummation of turnover will be avoided.

2. Therefore request clarification WX-85682 in particular, especially respecting its relation to other urad references, on the following:

a. What disposition is to be made of monetary gold falling under WX-85682?

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b. Whether the term "currencies" in W-90078 includes, in addition to paper money, coins of silver, gold or other metals.

c. Whether W-90078 directs that currencies of United Nations never under German occupation will not be restituted to another United Nation formerly under German occupation even if a claim by the latter UN is established. Application of WX-85965 and W-90078 appears subject two interpretations (1) restitution of any identified owned currencies looted from occupied United Nations under WX-85965 prior to delivery of residue currencies to issuing countries under W-90078, or (2) delivery of currencies to issuing countries under W-90078 without receipt of claims from occupied United Nations, which claims would be matter for later settlement between governments.

d. A determination of the order of precedence of WX-85682 compared with any other disposal directive, especially as to whether WX-85682 is to be treated as a standing exception to all present and future restitution or disposal directives, as is indicated in W-90078 and WX-88566.

e. Whether U.S. unilateral action is to be taken under existing disposal directives, such as WX-85682, W-90078 and WX-88566, prior to agreement or despite absence of agreement within Control Council, as pointed out ourads CC-7239 and CC-7792.

f. Whether securities falling within WX-85682 may be exempted or suspended from delivery to IGCR due to

(1) their insignificant value compared to bulk of loot,

(2) the obstacles which would be encountered in their liquidation, and

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(3) the U.S. position taken in Control Council which has been contrary to the disposal principle now embodied in WX-85682.

3. It is pointed out that no directive or proposals have been received on disposition of (a) monetary gold, and (b) other precious metals including silver, platinium, and gold which is neither monetary nor non-monetary under WX-85682 such as gold nuggets and large quantity gold deposited under Law 53 without suggestion or presumption of loot. Also to be considered is uncertainty arising from disposition of property as defined WX-85682, since such property includes all categories subject to disposition under other existing or future directives concerning which full clarity and agreement has not yet been attained.

4. The urgency of the turnover to IGCR is understood and initial deliveries can be made upon return of IGCR representation in March 1947, of all assets falling under WX-85682 about which there are no unsettled questions. Such items consist unidentified jewelry and precious stones, dental gold, scrap metal, all obviously looted from concentration camp inmates. There exists considerable quantity and value of such property. However, complete non-monetary gold fund cannot be determined until some time hence.

5. Bennett, Director Finance Division, expects to be in Washington early part February and would be available to discuss these questions.

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Finance Division
Foreign Exchange Depository

20 January 1947

SUBJECT: Disposition of Valuables

TO : Director, Finance Division
Office of Military Government for Germany (U.S.)
APO 742, U.S. Army

1. The attached Report reflects the current status, possible future action, and major existing questions in connection with the disposition of valuables for which the Finance Division has responsibility.

2. This Report consists of:

a. A Staff Study, recommending a cable to the JCS, embodying major questions, and,

b. Analyses covering:

I Monetary gold
II Non-monetary gold
III Currencies
IV Securities
V Precious metals.

FOR THE CHIEF OF BRANCH:

Frank C. Gabell
FRANK C. GABELL
Deputy Chief

Incls:
1 - Staff Study
2 - Analyses - in 5 parts.

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Part I

I. Monetary Gold

1. At part III Section A of "Final Report on the Paris Conference on Reparation" submitted by James W. Angell, U.S. Representative, it states that "Monetary gold refers to gold bullion and to gold coins found in Germany. The destinction is between gold which is in such form as to be a medium of exchange and gold which is in such form as to indicate its use for dental, artistic and adornment purposes." By a special reservation coins of "numismatic or historical value" are also excluded from Monetary gold.

2. Substantial amounts of Monetary gold as defined above are held in at least twenty or more shipments (not SS loot) and have been counted, weighed and set aside in compartments under seal. It is known, that additional amounts of gold bars and coin will be encountered in smaller quantities in shipments originating from concentration and prisoner of war camps, Nazi agencies and officials, Reichsbanks under Law 53 and other sources.

3. As outlined in the Paris Conference on Reparations the Monetary gold is restitutable in accordance with the so-called "gold pot" principle to those countries, whose gold was wrongfully taken by Germany, with the exception of the U.S.S.R. which makes no claim to gold captured by the Allied troops in Germany. Each U.N. country is required to establish its total losses of gold to Germany and will participate in the gold pot in the ratio which its own loss bears to the total losses of all countries overrun by Germany. The United Nations Gold Declaration of February 22, 1944 warned the Neutral countries that Allied studies showed that Germany had exhausted the gold reserve with which she entered the war, with the result that gold offered to the Neutrals on or after the date of the Declaration would have of necessity, been looted. Recent studies indicate that certain Neutral countries are in possession of gold which was looted by Germany from U.N. countries. Negotiations are under way to recover such gold and add it to the gold pot. In the absence, however, of records, many of which have been destroyed, the tracing of all international gold movements is difficult.

4. In view of the clear and unequivocal definition of Monetary gold "gold bullion and gold coins found in Germany" it is possible that the term includes gold in such

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form even if found among the effects removed from racial and political victims of the Nazis. For example, in the portion of the Merkers Mine shipment described as S.S. loot removed from concentration camp inmates gold coins, unidentifiable as to ownership, have already been found to the approximate value of $65,000. In another concentration camp shipment the valuables are in separate envelopes bearing names and nationalities of inmates. The definition of Monetary gold apparently leaves no alternative if the inventory reveals the presence of gold bars and coins in these envelopes, even the claims in the names of surviving inmates or their legal heirs are subsequently received through governmental channels. In short the source has no bearing; it is the form that decides the category. If it is in the form if a gold bar acceptable as a medium if exchange or if it is in gold coin form then it is monetary gold for disposal via the gold pot. If it is any other form then it is not monetary gold. If it is gold coins of numismatic or historic value then it is excluded from monetary gold.

5. The following items therefore are not monetary gold and are excluded from the gold pot:

a. Gold in such form as to indicate its use for dental, artistic and adornment purposes.

b. Gold coins of numismatic or historic value.

c. Gold nuggets and unsmelted gold.

d. Gold actually in the form of dental work, ornaments, jewelry.

e. Mutilated gold coins.

f. Gold bars or bullion which are not in such form as to be a medium of exchange.

g. Alloys of gold and other metals.

h. Gold in ingot form which ingot has resulted from melting down any of the foregoing or melting down monetary gold.

6. A distinction must be maintained between:

a. Monetary gold

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b. Not monetary gold (para 5)

c. Non-monetary gold (Part II)
(which for the most part is not gold at all).

7. Applying the foregoing no difficulty is expected in recognizing and segregeting monetary gold from not-monetary gold. It is believed that most of the latter class will further be classified non-monetary gold and delivered to IGCR. It is necessary for any portion not so classified to be disposed of separately under a future directive covering precious metals.

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Part II

II. Non-Monetary Gold

a. Held by Foreign Exchange Depository.

Subject to possible classification as non-monetary gold are items, in various quantities, of securities, currencies including coins, jewelry, tableware both useable and in scrap condition, items such as fountain pens, alarm clocks, silver and other precious metals such as platinum, iridium, a large gold nugget, small bars of gold, gold coins, dental gold, bars of smelted down gold objects. The inventory of such items is far from complete as is also the study of their source, possible ownership, identifiability. Currency and coin of 65 countries have been inventoried. Jewelry is in form of boxes of rings, bags of beads, valuable ornaments, cut diamonds and semi-precious stones.

b. References.

(1) WX-85682 20 Nov. 46
(2) JCS 1570/9 9 Nov. 46
(3) Final Act of Paris Conference on Reparations
(4) Report on Paris Conference on Reparations - Angell
(5) WX-87858 18 Dec. 46
(6) CC-7486 11 Dec. 46
(7) P-6228 21 Nov. 46
(8) WX-84429 1 Nov. 46
(9) CC-4770 3 Oct. 46
(10) WX-9112 23 Aug. 46
(11) USPOLAD 804 2 Apr. 46
(12) WX-86619 1 Dec. 46
(13) USPOLAD 380 21 Nov. 46

c. Discussion.

(1) Since non-monetary gold may include securities, currencies, coin, silver, directives on the disposition of such items must be considered in the application of WX-85682. Questions may arise as to which directive is applicable.

(2) Paris Agreement on Reparations provided a share or reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany shall be allocated for the rehabilitation of victims of German action.

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(3) A liberal interpretation should be given in the definition of non-monetary gold. The intention of the Paris Reparation Agreements was to make available those valuables seized from Nazi victims, which were not capable of being restituted to their owners. WX-85682 is broader than the agreements in applying to areas in addition to Germany and including valuables other than gold. The source is limited to loot seized from Nazi victims, which cannot be restituted. (Refer 2) In the definition of non-monetary gold and its application to specific cases the most liberal interpretation should govern. (Refer 10) All property will be made available to IGCR unless available evidence clearly is to the contrary. (Refer 1) Any property made available to IGCR will lessen a financial burden on the U.S. (Refer 2) Thus in interest of U.S. to make IGCR fund as large as possible.

(4) The non-monetary gold is to be turned over to IGCR as quickly as possible. (Refer 1-2-3-8-10)

(5) Since the term "non-monetary gold" grew out of the Paris Agreements (Refer 3-4) it was necessary to define it before action could be taken. The Final Act (Refer 3) does not define it. Mr. Angell uses the term in his report (Refer 4 page 65-86) but does not define it. During the Reparations Conference the U.K. view seemed very limited (Refer 4 page 241 - "As regards the German assets to be allocated, we see no great difficulty about non-monetary gold, which we understand to consist primarily of gold objects seized from the Jews.") The French reaction to WX-85682 was that it constituted a substantial amendment to the Paris Reparation Agreement. (Refer 13) The first attempt at definition was the U.S. State Dept. view of USPOLAD 804 (Refer 11) that the term "includes jewelry, stones, currency securities, etc." or the entire unidentified contents of boxes of valuables taken from victims. The final definition of non-monetary gold now exists as WX-85682. This entire cable is a "definition". (Refer 2) The U.S. view is to make this fund as large as possible by broadening the definition; this intention is shown in Refer 2 Para 5-6 and 12 Para 4.

(6) Since "monetary" gold includes gold bullion and gold coin and is specifically dealt with in Part..... of the Reparations Act, these two items cannot be included or considered in dealing with "non-monetary" gold dealt with later in Part..... of this Act. The disposition of gold

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coins is governed by the Gold Pot concept and they are not to be included as non-monetary gold. It would not be wise to apply the U.S. expanded definition of non-monetary gold to gold coins and thus encroach on the Gold Pot to the detriment of other nations. Therefore it is believed that gold coins and gold bullion, even though falling squarely within the scope of WX-85682, should be retained for the Gold Pot and not be delivered to IGCR. Furthermore since no country is on a free gold standard no individual lawful owners exist, other than a government. No Nazi victim could have been the lawful holder of monetary gold coins or bullion.

This view is apparently held by USFA in its application of WX-85682 to the "Hungarian loot train" (Refer 7 - "Hungarian loot train will be disposed of as directed except monetary gold other than coins or numismatic value will be turned over to Gold Pot.").

It is estimated that there will be $100,000 worth of such gold as is discussed here.

(7) With the exceptions of:

(a) Gold bullion and gold coin (see above)

(b) Ownerships interests in real property located in Germany

(c) German currency

(d) Instruments of exchange payable in German currency and

(e) Jewish books, manuscripts and literature of cultural or religious importance

(f) Personal property the title to which is vested in the ACC

(g) Ordinary items of furniture, clothing and other personal property of small intrinsic value, every other kind of valuable personal property may constitute non-monetary gold.

As to securities (see WX-88566 Para 3 (e) 1) non-identifiable securities which are within the provisions of WX-85682 will be turned over to IGCR. As to currencies (see W-90078 Para 4), those falling within the provisions of WX-85682

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will be treated in accordance therewith. USFA also states (Refer 7) that non-German paper currency from "loot train" will be handled in same manner as non-monetary gold. It is believed that coins, except gold coins, are to be treated as currencies. (View needs concurrence). Fountain pens, clocks, silver, smelted gold, dental gold, etc. fall within valuable personal property and may constitute non-monetary gold.

(8) In considering any conflict of present or future disposal directives we believe first preference should be given to WX-85682. This is shown by W-90078 Para 4, and W-88566 Para 3 e wherein currencies and securities are to be restituted in certain manners except that currencies and securities falling within WX-85682 are to be disposed of to IGCR. See W-90078 Para 4 in particular. This interpretation needs clarification. If it is correct then all items of assets held by FED will:

(a) First be examined to see if they fall under WX-85682 by applying tests stated Para 9 below.

(b) If asset does not fall under WX-85682 then it will be disposed of under other directives.

We believe this procedure mandatory and the above interpretation therefore correct, inasmuch as FED will begin deliveries to IGCR in March 1947 regardless of the status of other disposition directives. No future directive could affect any asset which had been already delivered to IGCR under WX-85682.

(9) In deciding which of this property (Para 7 above) goes to IGCR the following tests must be applied:

(a) Was it seized or obtained under duress?

(b) Was it obtained by the Nazi Government, its satellite governments or nationals thereof?

(c) Was it obtained from a political, racial or religious victim?

(d) Was it found, seized, or confiscated by USFET or local authorities acting for USFET?

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(e) Is determination of national origin impractical?

(f) Is determination of individual ownership impractical?

When applied to a specific item of valuable personal property, in order to determine whether it is non-monetary gold, the answer to all of the above questions must be "Yes". If this is true, then this property will be delivered to IGCR.

In the determination of "practicality" under Question e and f the following matters will be considered:

(a) The extent of commingling with other property.

(b) The difficulty and expense of determining ownership or national origin in comparison with the value of the property.

In considering all questions (a to f inc.) it will be kept in mind that unless available evidence is clearly to the contrary the property falling under WX-85682 will be made available to IGCR.

By "national origin" is meant the country from which the property came into Germany, or the country to which the property would be restitutable. In the case of currencies or securities it is not limited to mean the country of issue, printing or incorporation.

The word "victims" in WX-85682 is primarily limited to mean individuals, but may be as otherwise defined in restitution laws.

(10) In a discussion with Mr. Haraldson, (OPA) he:

(a) Concurred in C-1, 2, 3 (especially) 4, 5, 7, 8 (in principle) 9 (in principle).

(b) He did not concur in 6 feeling when any evidence existed that property was looted and from concentration camp victims it should go to IGCR even if such property is gold bullion and gold coins.

(11) Securities as non-monetary gold: Para 7-8 indicate that securities may be part of the non-monetary

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gold fund. The release of such securities to IGCR may conflict with U.S. position taken in Control Council. Further, the quantity of securities inventoried so far from concentration camps is of small value. It is also believed that IGCR would be unable to obtain clear title to any registered securities and thus be unable to liquidate them. The government of the registered owner may also claim such securities as against IGCR. Since the title to "bearer" securities passes with delivery, the IGCR may not have these difficulties in liquidating such securities. In view of all questions, permission should be obtained to retain all securities until policies are firm or conflicts resolved.

(12) Assets which are not covered by existing restitution or disposal directives, should not be released to IGCR before such missing directives are published, unless it is definitely established that WX-85682 is a standing exception to both existing and future directives (see C-8, D-1-E). Since non-monetary gold includes property of all categories it is uncertain to dispose of property believed to be non-monetary gold before directives regarding all categories are firm.

d. Conclusions

(1) Foreign E. D. can firmly establish the IGCR fund when the following points are clarified:

(a) Disposition to be made of monetary gold falling under WX-85682.

(b) Clarification as to whether the term "currencies" includes both paper and coins.

(c) Clarification of the term "national origin" in WX-85682 para 1 a especially in connection with currencies and securities.

(d) Clarification of the word "victims" as used in WX-85682 para 1 especially as to whether or not the word is limited to mean individuals or persons.

(e) A resolution of the order of precedence of WX-85682 compared with any other directive, especially as to whether WX-85682 is to be treated as a standing exception to all present and future restitution or disposition directives.

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(f) Agreement that securities and possibly also currencies falling under WX-85682 are to be withheld from IGCR at this time until conflicts within the ACA are settled or unilateral action is decided.

(g) Clarification of points brought out in draft cable.

(2) In establishing the fund, the principles and procedures established in this paper will be applied.

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Part III

III. Currencies

a. Held by Foreign Exchange Depository.

1. Currencies. by which is meant notes and coins, are held in substantial amounts in at least 70 of the 90 shipments. A few shipments have been fully inventoried, as to the currency content, but the experience thus far indicates that the currency of nearly every country will eventually be represented. The single shipment from the Merkers Mine revealed the presence of currencies of sixty countries.

2. The sources of currencies held by the Depository include the following:

1) German bank reserves.

2) S.S. loot from invaded U.N. countries.

3) Concentration and prisoner of war camps.

4) Racial and political victims in Germany and other countries.

5) Confiscated or surrendered under Law 52 and 53.

b. References.

Ref. No.		Date
1	WX-75141	12 Oct. 45
2	S-29224	25 Oct. 45
3	WX-85965	3 Dec. 45
4	CC-4350	3 May 46
5	W-87383	10 May 46
6	CC-4993	14 May 46
7	WX-93567	6 July 46
8	WX-9112	23 Aug. 46
9	WX-85682	16 Nov. 46
10	CC-7048	21 Nov. 46
11	CC-7239	6 Dec. 46
12	W-88054	20 Dec. 46
13	CC-7492	21 Dec. 46
14	W-88390	25 Dec. 46
15	W-90078	21 Jan. 47
16	CC-7792	24 Jan. 47

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c. Discussion.

1. Definition

a) The term "currencies" is not defined in any reference. In the restitution directive (Refer 3) it is in part limited to "paper currency". In the proposed directive disposing of foreign currencies found in Germany (Refer 15) the undefined term "foreign currencies" is used.

b) It is necessary that the term "currencies" be defined as to whether it includes both paper money and coins of gold, silver or other metal, and also whether it includes worthless currency. A considerable quantity of metal coins, and also paper money which has been declared worthless by the issuing nation, is held at FED.

c) It is believed that currency should be defined as paper money and coins which are capable of being circulated as a medium of exchange. Further, for the purpose intended under W-90078, the following should be specifically excluded:

(1) Gold coins
(For later disposition in Gold Pot).

(2) All coins of numismatic or historic value
(For later disposition under para 2 d W-90078).

(3) Worthless currencies
(For return to the country of issue for cancellation).

d) Clarification of definition of "currencies" is requested in staff study cable.

2. Interpretation of WX-85965

a) This cable is the interim restitution directive and, among other property, specifically deals with currencies of United Nations occupied by Germany as follows:

(1) Para 2

".... the following categories of property shall ....be subject to restitution ....

(2) A. All currencies of the United Nations occupied by Germany.

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(3) D. Other .... valuables (excluding ..... foreign currencies other than these mentioned in para 2 a."

(4) Para 4

"After examination of these lists you will indicate .... which of these countries should be invited to such missions .... for the purpose of

(5) A. Substantiating claims for the restitution of property mentioned in para 2 a and d."

(6) Para 5

"You will take steps to deliver all paper currency of United Nation countries invaded or occupied by Germany now in your zone, to the government of the country of issue without the necessity of proof that it was looted or otherwise acquired from that country during the period of German invasion or occupation."

b) Para 2 A of cable uses the phrase "All currencies of the United Nations .....", while para 5 uses the phrase ".....paper currency of the United Nations-".

(1) We interpret the first to mean all currencies owned bu such nations, including both currency issued by them and currency issued by any other nation (UN, neutral, ex-enemy). Currency of any type would therefore be restored to an occupied UN claimant upon proof of claim. A prerequisite to the restitution of currencies formerly owned by overrun countries is the furnishing to the U.S. Government of lists of such looted currencies, and their location and identification.

(2) We interpret the second phrase to mean only that paper currency which was actually issued by the overrun United Nation. After currency claims of all occupied countries have been satisfied to the extent possible, any remaining indigenous currencies of such occupied countries are to be delivered over to the "country of issue" without the necessity of proof that it was looted or otherwise acquired.

c) Under this interpretation all foreign currencies found in Germany constitute a "currency pool" which will be disposed of under the following formula:

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(1) Total of all currencies found in Germany 10

(2) Less: Claims, to any currency, proven by UNs. (WX-85965). To be returned as restitution. 2

(3) Residue of all currencies available for distribution 8

Distribution:

(4) a. Paper currency of invaded UN to be returned to them (WX-85965) as restitution. 2
Footnote B.

(5) b. Currencies of countries which experienced German occupation (as listed para 2 a W-90078) to be returned to them as restitution. 1
Footnotes A, B, C.

(6) c. Currencies of UN-members of LARA, never under German occupation (as listed para 2 b W-90078) to be returned to them, possibly as reparations. 1
Footnotes A, B, C.

(7) d. Currencies of ex-enemy countries (as listed para 2 c W-90078) to be given to USSR, as reparations. 1
Footnotes A, B, C.

(8) e. Currencies looted from victims of the Nazis, to be given to IGCR (WX-85682), (para 4, W-90078) 1
Footnote C.

(9) Total of all currencies delivered as above 6

(10) Balance, all other currencies, (including German) to be retained under para 2 d W-90078. Subject to future disposition. 2

Footnotes:

A. Subject to individual ownership rights.

B. No claims required as pre-requisite to delivery.

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C. It is assumed that pending final clarification, the term "currencies" in W-90078 will include more than merely paper currency.

D. Must establish order of precedence of distribution in order to avoid conflicts between line (8) and lines (4), (5), (6), (7).

d) The question of interpretation of currency disposal directives has been raised in staff study cable, both the view explained here, and one other, has been stated - see cable.

3. Claims

a) Claims of governments of United Nations countries which have experienced German occupation or invasion, for all currencies of any type, claimed to have been looted from them, will be presented through the U.S. Government, and supported by substantiating lists. (Refer WA-85965 paras 2 A, 3 and 4 A).

b) Claims of individuals establishing ownership rights in any residue of currencies delivered to the countries as listed in W-90078, are to be presented to the country receiving such currency. (Refer 15 para 3).

c) There are no provisions for the acceptance of claims to currencies, from any other source; none appear to be necessary.

d) Inasmuch as claims will be received under 3 a above, no currency can be released, or the residue of currency available for distribution cannot be determined, until such claims are received and acted upon.

4. Currency (Residue) of Neutral Countries

a) Policy has not yet been determined.

b) W-90078 provides for their retention pending determination of policy.

5. German Currencies

a) Restitutable to extent of identified claims of occupied U.N. countries.

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b) Policy as to disposition of residue German currency has not been determined.

c) No German currency to be turned over to IGCR - see WX-85682.

d) Pursuant to a directive in WX-50318 dated 16 August 1945 Reichsmarks found in Merkers Mine were placed at restricted disposal of German Reichsbank Frankfurt a/Main in a deposit to the credit of the Finance Division.

e) Proposed plan now calls for their release to a Trustee for use in redeeming mutilated marks. If AGWAR authorization is obtained for this use, it will avoid conflict with future disposal directive regarding German currency. Turning this money over to a German Trustee may be in effect a release of currency without a directive.

6. Gold Coins

a) For discussion, see Part I.

b) For gold coins contained in loot, see Part II.

7. Conclusion

a) Upon:

(1) A clear definition of "currencies",

(2) Establishment of the order of precedence respecting WX-85682 and W-90078,

(3) Adoption of formula, such as the one supported in para 2 above,

no difficulty is expected in releasing currencies in compliance with W-90078 and WX-85965.

b) Future disposal directives will be required for all currencies retained under para 2 d, W-90078.

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Part IV

IV Securities

a. Held in Foreign Exchange Depository.

Securities are held in about twenty shipments, largely originating from Reichsbanks as foreign exchange assets. A few securities have been found among the effects of concentration camp inmates. The total securities held constitute a considerable volume. The inventory of securities has only recently been started and efforts have been devoted solely to counting shares named Concordia Petroleum Corp. Outside of the volume, source in Germany from which received, and cursory inspections revealing securities of many types, little is known about the detailed composition of securities held.

b. References.

*	(1)	WX-90450	7 June 46
	(2)	P-1266	23 July 46
	(3)	CC-1031	1 Aug. 46
	(4)	CC-3165	6 Sept.46
	(5)	WX-80461	17 Sept.46
	(6)	WX-80462	17 Sept.46
	(7)	CC-4204	24 Sept.46
	(8)	P-4749	7 Oct. 46
	(9)	CC-3674	17 Oct. 46
	(10)	WX-84522	1 Nov. 46
	(11)	CC-6915	10 Nov. 46
	(12)	W-85635	16 Nov. 46
*	(13)	CC-7048	21 Nov. 46
*	(14)	WX-86619	5 Dec. 46
*	(15)	CC-7239	6 Dec. 46
	(16)	W-88054	20 Dec. 46
	(17)	CC-7492	21 Dec. 46
*	(18)	W-88566	29 Dec. 46
	(19)	CC-7553	4 Jan. 47
	(20)	CC-7608	9 Jan. 47

* Denotes important cable; others minor.

c. Discussion

1. History

a. Tentative proposals regarding disposition of foreign securities uncovered in Germany were received from AGWAR (Refer 1). Suggested amendments by OMGUS (Refer 3) were largely adopted by AGWAR. (Refer 14). In the meantime paper was introduced in Control

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Council on disposition of German owned securities (Refer 13) but no agreement was reached (Refer 15) and matter was referred to governments. The U.S. position remained unchanged and without intention to compromise (Refer 16) and a JCS directive on the disposition of looted securities was received (Refer 18). It is in process of presentation to Control Council (Refer 20).

2. Interpretation of WX-88566.

a. This directive is limited to a specific category of securities and therefore disposes of only a segment of all securities found in Germany.

b. It applies only to "securities looted from countries occupied or effectively controlled at one time by Germany".

c. It is not a directive to physically dispose of these securities but only an order to:

(1) seek to obtain agreement, in Control Council, to its principles, and

(2) establish certain inventories.

d. No agreement was reached in the Control Council regarding disposition of foreign securities owned by persons falling within Art. 2 and 3, Law 5. (Refer 15). A paper is pending introduction to Control Council regarding category of securities falling under WX-88566 (Refer 20).

e. The Principles embodied in WX-88566 are as follows:

1. Securities removed to Germany from other countries which were occupied or controlled shall be regarded prima facie as loot.

2. Such securities will be restituted to the Government of country from which they came.

3. Present owner may rebut the presumption that such securities were looted.

4. IARA countries must report any German interest established in securities restituted to them.

5. Securities removed to Germany for safekeeping will returned to government of country from which removed.

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6. GEPC will have no interest in securities falling within this directive.

7. Procedure is established requiring:

(a) Lists of looted securities to be prepared by claimant countries.

(b) Lists of all securities uncovered in Germany to be prepared by ACA.

(c) ACA to activate Group of Experts.

8. Securities within WX-85682 to be delivered to Inter-Governmental Committee on Refugees.

9. International agreement to be secured to proposals submitted by Group of Experts.

f. Duties of Group of Experts.

1. Consolidate lists prepared by ACA.

2. Consolidate lists submitted by claimant Govts.

3. Compare 1 and 2, and determine identifiable and unindentifiable securities.

4. Determine which securities fall within WX-85682.

5. Devise plan for disposition of remaining unidentified securities.

6. Devise method for restitution of looted securities originally issued by Germany.

7. Devise means of tracing transactions in looted German-issued securities.

8. Submit restitution proposals to ACA.

g. Establishment of Inventories.

1. Inventory will be prepared of securities, uncovered in the US Zone, as named on claim lists from Govts.

2. This inventory will show:

(a) Type of security (stock, bond, mortgage, etc.)
(b) Date, circumstance and terms of acquisition.
(c) Identifying marks (date, name, serial number, etc.)

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3. Inventory will include German-issued securities if practicable to do so.

4. Completed inventory will be submitted to Group of Experts for action indicated Para. f above.

h. Scope of Inventory under Para. g. above.

1. Cable directs that inventories be established for the US Zone even prior to Control Council agreement. Para 3b of cable states inventory will include "foregoing securities" and this term may apply either to Para. 2 or Para. 3a. If it only applies to Para. 3a then the US list would only include securities named on lists submitted by claimants. Latter lists would not be available until Control Council requests them. Therefore, the specific securities to be included in US inventory lists are not known.

2. In view of this possible stale-mate, it is believed that the scope of present US inventory lists must include all securities uncovered in Germany in order to initiate action under WX-88566. Compilation of the final list to be presented to the Group of Experts, can be made later from this complete inventory.

3. In general view of other terms of the cable, in mentioning non-identifiable securities, it is believed that lists eventually presented to Group of Experts will be complete lists of all securities uncovered in US and other agreeing Zones.

3. Formula for Disposition of Securities.

a. In keeping with the concepts of the:

1. Gold Pot (Paris Reparations Conference)

2. Non-monetary gold Fund (WX-85682)

3. Currency Pool (Discussed Part III 2 c),

a formula should eventually be established for disposal of securities. Under this concept all securities found in Germany constitute a "security pool" which will be disposed of under a formula similar to the following:

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1.	Total of all securities uncovered in Germany. Footnote A	10
	Less:	
2.	a. Identifiable looted securities to be returned to country establishing claim thereto. (WX-88566) Footnote B.	1
3.	b. Safekeeping securities to be returned to country of source. (88566)	1
4.	c. Non-identifiable looted securities to be delivered to IGCR (WX-85682)	1
5.	Total securities subject to release under existing directives	3
6.	Balance of identifiable and non-identifiable securities, available for distribution under future directives.	7

Footnotes:

A. The composition of the distributable fund would include the following:

1. German securities owned by
   - a. United Nation nationals and governments
   - b. Neutral nationals and governments
   - c. Ex-enemy " " "
   - d. Without owners.
2. Foreign securities owned by a. to d. Same as above.

The disposal formula must be based upon directives which cover securities categorized as to ownership (above), method of acquisition by present holder (looted, illegal, purchase, etc.), and use to be made of the security fund (reparations, IGCR, restitution, foreign exchange, etc.)

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B. Subject to reporting of German interests.

b. Possible Distribution of Line 6 of above Formula

1. Further allocation of a share of non-identifiable securities to IGCR Fund. (As suggested in WX-88566 and WX-86619)

2. Allocation of a share of non-identifiable securities to countries whose claims are not fully satisfied from identifiable securities.

3. Securities restored to rightful owners who have succeeded in rebutting the presumption of loot. (WX-88566)

4. Allocation of securities to general reparations

5. Securities retained for use as German foreign exchange to pay for imports.

6. Securities returned under internal restitution procedures.

d. Conclusion

1. The status of JCS directives and Control Council position is not advanced to the point where a complete disposal formula can be made firm.

2. If securities are disposed of on a piecemeal basis (such as to IGCR), other than restitution of looted and safe-keeping securities, before the whole disposition formula is firm, difficulties and contradicting directives are expected.

3. No securities should be released until the US inventory lists of all securities uncovered are prepared, and until restitution claims have been checked against them.

4. With respect to the Foreign Exchange Depository, the security inventory has not progressed far enough to know in detail what is held.

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Part V

V. Precious Metals

a. Held by the Foreign Exchange Depository

1. The Foreign Exchange Depository holds many tons of silver in bullion form, smaller quantities of commercial silver, also silver ornaments, utensils, shot, tubes, sheets. Platinum, palladium, iridium and rhodium are also held in relatively small quantities.

2. The sources of these quantities of metals were the Hungarian National Bank, various Reichsbank branches, DEGUSSA (German smelting company), ROGES (German loot clearing agency), concentration camps, SS caches, MG Law 52 and Law 53.

3. Practically all of the bullion has been previously inventoried, but not yet recorded on the present books, and is now contained in sealed cages within the vaults.

4. Approximately 21 tons of silver bullion has been released on a loan basis to the German economy, through OMG Greater Hesse.

b. References

1	WX-75141	12 Oct. 45	
2	S-29224	25 Oct. 45	
3	WX-85965	3 Dec. 45	
4	WX-99226	8 Mar. 46	(as amended)
5	WX-93567	6 July 46	
6	W-85212	11 Nov. 46	
7	WX-85682	20 Nov. 46	
8	CC-7083	23 Nov. 46	

The cables contain few specific references by name, to precious metals. However, precious metals are believed to fall within the scope of such general headings as

"valuable personal property"	WX-85682
"other goods, valuables...materials... property..."	WX-85965
"valuables"	WX-75141

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c. Discussion

1. Gold bullion, (discussed in Part I), is excluded from this title, since it will be disposed of under the "Gold Pot".

2. Coins, (discussed in Part III Currencies), are excluded from this title, since it is believed they will be disposed of as currencies.

3. Precious metals, falling under WX-85682 (definition of non-monetary gold), in the form of rings, jewelry, tableware, scrap tableware, dental gold, ingots resulting from smelting down the foregoing, as discussed in Part II Non-Monetary Gold, will be delivered to the Inter-Governmental Committee on Refugees, in compliance with WX-85682.

4. Gold which is neither monetary gold nor so-called non-monetary gold, should be included under this title of Precious Metals. (Refer Part I Para 5-6-7.)

5. No final disposition of any precious metals previously taken into custody has been made. A loan of about 41 tons of silver bullion has been made to the German economy (21 tons from F.E.D. and 20 tons under MG Law 53). Starting in the near future, precious metals falling under WX-85682 will be released to IGCR.

6. A basic concept (of AGWAR) is that the use of precious metals for purposes of external restitution and reparations has priority over their use for financing imports. (Refer 4). The State Dept proposed 6 July 46 that other precious metals uncovered or received under Law 53, should be delivered to IARA for distribution as reparations, except that identifiable looted lots should be restituted. (Refer 4). In view of this concept and proposal it is believed that the policy with respect to the disposition of precious metals establishes the following order of priority:

First - For restitution purposes
Second - For reparations purposes
Third - For financing imports

7. Provisions for the restitution of identifiable looted lots of precious metals are contained in the interim restitution directive (WX-85965 Para 2D) which provides

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that, "D. Other goods, valuables...materials...and other property found in storage or otherwise in bulk form and identified as having been looted or acquired in any way by Germans from United Nations during German occupation.", shall be restituted, upon compliance with procedural requirements. It is believed that this catch-all paragraph would include precious metals and that therefore sufficient authority, in directive form, exists for the restitution of precious metals. A separate directive covering restitution of looted precious metals is unnecessary. The status of claims to looted precious metals is unknown.

8. In JCEFET S-29224 we believe the assumption that the proposed interim restitution directive (subsequently received as WX-85965) excluded silver bullion, to have been erroneous, but the advice that no silver bullion should be restituted until investigations outside Germany were completed and overall policy determined, was proper.

9. With respect to the proposal from the State Dept (Refer 4), that unrestituted precious metals be delivered to IARA for reparation purposes and small amounts acquired after cut-off date be used to finance imports, no subsequent comment from OMGUS or AGWAR can be found. It is probable that these proposals will later be received in proposed-directive form.

10. Based on the present information, the establishment of a formula for the disposition of precious metals would be in the following form:

See Page 4 for Formula for Disposition of Precious Metals

11. It is believed that restitution of precious metals to Italy, Hungary, Austria, Rumania, and Finland is provided for in WX-99226. This cable also specifically excludes the restitution of gold, securities and currencies to these countries so that this aspect has arisen for the first time in this report in the discussion of precious metals.)

12. While the Paris Reparations Conference specifically disposed of uncovered gold via the "gold pot" theory, there is no record of any consideration being given to the disposal of all precious metals via a similar theory, i.e.

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Formula for Disposition Precious Metal

1.	Precious metals uncovered in Germany at any time	1
2.	Precious metals received under Law 53 prior to cut-off date	1
3.	Large lots of precious metals received under Law 53 after cut-off date	1
4.	Small lots of precious metals received under Law 53 after cut-off date	1
5.	Total of precious metals available for distribution	4

Distribution:

6.	a. Identified looted precious metals returned to United Nations under WX-85965	1
7.	b. Identified looted precious metals returned to Italy, Hungary, Austria, Rumania, Finland under WX-99226	1
8.	Total Restitution	2
9.	c. Precious metals delivered to IARA for reparations purposes as proposed WX-93567	1
10.	Total Reparations	1
11.	d. Small lots of precious metals received under Law 53 after cut-off date (same as Line 4) to be used by MG to finance imports	1
12.	Total Finance Imports	1
13.	Total Distribution	4

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the establishment of a silver pot, platinum pot, etc. to be divided between claimant countries in a proportion based on their losses. Since exact individual restitution of gold to looted countries was not recognized, by adoption of the "gold pot" concept, it is not clear why other metals such as silver and platinum are to be restituted to individual losers rather than on a group loss basis. It would appear more equitable in all cases that where total claims for a particular precious metal exceed the actual quantity of that metal uncovered in Germany, then the method of satisfying all claimants is by a distribution of that metal in proportion to losses.

13. Under a proposed directive submitted to the Control Council regarding disposition of property of Nazi organizations (DFIN/P (47) 8/2 - CORC/P (46) 281 Revise), precious metals, if included thereunder would be released to German Land Governments. It is possible that the Finance Division would favor the utilization of silver within Germany for commercial purposes, provided it is cleared of prior claims. However, there is sufficient leeway permitted the Zone Commander under Art. VIII to permit withholding of precious metals from the operation of this proposed paper, in the event contrary directives are received from AGWAR.

14. It is understood (Memo - Bennett - 9 July 46 - "Comments on Status of Silver") that the IGCR was seeking to enlarge the non-monetary gold fund to include silver and other precious metals taken from the SS in Germany. However, since the non-monetary gold has been since defined (WX-85682), and we feel that none of the bulk silver in FED falls under it upon application of tests (stated Part II Para 9 this Report), such disposition of this silver is improbable.

d. Conclusions

1. Authorization for the restitution of precious metals exists in directive form.

2. The disposal of precious metals not restituted is only covered by proposals indicating that the major portion will be used for reparations and a small portion will be available to finance imports.

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Not relevant R.C.L.

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Withdrawal No.

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

telegram dispatched 5/6/48 JPF-IR

NO. 35

~~CONFIDENTIAL~~

AMERICAN CONSULATE GENERAL

Amsterdam, Netherlands, April 26, 1948.

SUBJECT: Exploitation of Chemical Processes Discovered by Dr. K. Siebel, German Scientist.

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VISA DIVISION MAY 18 1948

DIVISION OF ECONOMIC AFFAIRS MAY 5 1948

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THE HONORABLE
THE SECRETARY OF STATE,
WASHINGTON.

SIR:

I have the honor to report that Dr. K. Siebel, a German scientist formerly with the Kaiser Wilhelm Institute, Berlin, and described to the Consulate General as the chemist in charge of research for ersatz materials in Germany under the National-Socialist regime, is at present attempting to sell the rights for the exploitation of several chemical processes to the Brazilian Government and other buyers.

The processes in question include methods for producing gasoline from wood, for producing steel from ore without melting the ore, for manufacturing ceramic units for use in electric furnaces, and for manufacturing cellulose. The Brazilian Government is particularly interested in the first two processes. The significance of the first process, Siebel is said to state, lies not in the basic idea but in the fact that the gasoline thus produced is of high enough octane-value to use in airplane engines and in the fact that it is cheaper to produce than gasoline extracted from petroleum. There is transmitted herewith as Enclosure No. 1 a memorandum prepared by the Consulate General's source of information for the statements made in this despatch, explaining in more detail some of the processes which Dr. Siebel claims to have perfected. The memorandum, undated and unsigned, was prepared about April 19, 1948.

This office's source of information is Louis J. Paardenkooper-De Bie, of Amsterdam, general representative for the Transatlantic Trading Company, Wilmington, Delaware. Paardenkooper is a Netherlands national. His brother, C. J. G. De Bie, is an employe of the Du Pont de Nemours Company and a resident of Wilmington.

The original of a memorandum on the activities of Dr. Siebel and his associates, prepared by Paardenkooper at the request of the Consulate General about April 10, 1948, is transmitted herewith as Enclosure No. 2. Another memorandum, the contents of which amplify and to some extent correct the memorandum of April 10, was prepared by Paardenkooper about April 15, 1948; it is transmitted herewith as Enclosure No. 3. Because of the potentially great

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EXEMPT from Declass. Per E.O. 12356 Sec. 3-4 Re-review 1990

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STATE DEPT. DECLASSIFICATION REVIEW ☐ Retain class'n ☐ Change/classify to ☒ Declassify with concurrence of after EO 12958, 25X IPS/CR/IR by J. HOLMES Date: 2/24/99

DECLASSIFIED E.O. 12958, Sec. 3.6 NND 760050 By STHRM Date 7-15-99

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great significance of the processes mentioned in the memoranda, the personal danger in which Paardenkooper might find himself if it becomes known that he has furnished this information to the Consulate General, and his desire to safeguard his own financial interests, Paardenkooper has requested that the information contained in his memoranda and the source of the information be kept confidential and that the Department take no action which would disclose the fact that it has received information on Siebel's plans for the immediate future.

Paardenkooper originally called at the Consulate General on April 9, 1948 to inquire about the status of German patents, in view of his belief that all patents owned by German nationals were liable to seizure by the occupying powers in Germany. The Department is respectfully requested to provide this office with sufficient information on patents for which German Nationals apply to permit a general explanation of the status of such patents to Paardenkooper. None of Siebel's processes have yet been patented but he plans to patent at least some of them as soon as possible.

Paardenkooper states that his motive in supplying the Consulate General with details of the exploitation-arrangements is to assure a flow of information to the United States for security reasons. He was asked whether he believed he might receive financial backing from the United States Government for his participation in the exploitation of the processes; he replied that he would accept such backing if the Government felt that it must control the processes but that he had ample funds to invest in the enterprise. The limited information available in the visa files of this office on Paardenkooper and on his father and mother suggests that he is a responsible person of some wealth.

The company which Otto wants to form (see Enclosure No. 2) will have a total capitalization of Fl. 100,000 (Fl. 1.00 equals approximately $0.38). Paardenkooper will be allowed to participate to the extent of 48%. Otto is willing, according to Paardenkooper, to sell his 3% of the company (if it is formed) to the highest bidder, regardless of nationality. In this connection, Paardenkooper explained that he had been sought out as a participant because of his brother's position with the Du Pont de Nemours Company, which is looked upon as a potential buyer of some of the Siebel processes. Otto and Paardenkooper are consciously erecting a company structure in which Siebel will have only a minority interest. Siebel apparently is willing to enter into such an arrangement because he trusts Otto. Although both Otto and Paardenkooper realize that Siebel can at any time stop supplying such a company with its only asset, the processes, they believe that the processes which will become company property at the outset will have considerable value and can be sold for an amount far in excess of the Fl. 100,000 capitalization. Vastenouw, whose function was merely to bring together the Davids-Otto-Siebel group and Paardenkooper,

...will

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Amsterdam, Netherlands,
April 26, 1948,
Despatch No. 35.

will be frozen out of the combination as soon as possible. The question as to whether Davids will be allowed to profit from the enterprise has not yet been decided by Paardenkooper and Otto.

Note 811.111 Otto, Ernst Jacob

Otto, according to Paardenkooper, exerts a strong influence over Siebel. Otto, who wants to establish himself in some other country than Germany because he fears a resurgence of National-Socialism there, would like to enter the United States for permanent residence. Paardenkooper believes that if Otto could obtain an immigration visa, he would persuade Siebel to accompany him to the United States. The Consulate General would appreciate being informed of the possibilities these two German nationals have of receiving immigration visas. In particular, this office would like to know whether, if their presence in the United States were advisable because of Siebel's scientific knowledge, the provisions of Visa Supplement D to Chapter XXII of the Foreign Service Regulations could be waived even if the applicants were found to be aliens whose entry would be prejudicial to the interests of the United States. The Consulate General desires only general information on this point; an advisory opinion on the specific visa cases of Otto and Siebel is not being requested.

Paardenkooper has told Davids and Otto that he will not invest any money in the project until he has been furnished details of the processes in the form of complete descriptions and chemical formulae. He has been promised that these details will be furnished when Siebel returns from Germany in about one week. He has promised to supply the Consulate General with copies of all documents furnished to him, including a copy of the contract which Siebel is supposed to sign with representatives of the Brazilian Government while he is in Germany. Paardenkooper does not know the exact contents of this contract but presumes that it contains clauses under which it might be nullified if necessary. He believes the contract will be signed in Berlin, although he is not certain of this fact. If it is not signed in Berlin during the next week, he believes that it will be signed at the Brazilian Legation in The Hague. Paardenkooper is of the opinion that the Brazilian Government group interested in the contract has connections with Brazilian Communists; he says he has reason to believe that Otto and Siebel, while they are primarily interested in making money out of the processes, would prefer to have them exploited by Communists or a Communist government. It was pointed out to Paardenkooper that if this were true, it would have been far more reasonable for Otto and Siebel to have approached the Russian Government in the first instance. Paardenkooper was not convinced by this argument.

Paardenkooper stated that he intended to show a reputable chemist the chemical formulae to be furnished to him. He will attempt to delay his answer to Davids, Otto and Siebel about joining them in the project as long as possible to allow the Consulate General to communicate with the Department after the formulae have been received. He is willing to follow any instructions the Department may wish to give him through the Consulate General.

...The

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Amsterdam, Netherlands,
April 26, 1948,
Despatch No. 35.

The Department is respectfully requested to instruct the Consulate General, on the basis of information contained in this despatch, what course to pursue in its relations with Paardenkooper. Although the whole project may be a hoax on the part of Davids and Otto, or even on the part of Paardenkooper, the processes may be of such great importance that it would be preferable for them to be American-owned. Since Paardenkooper may at any time be faced with the necessity of committing himself to an arrangement with Otto, Davids and Siebel, it is of the utmost importance that the Consulate General receive as soon as possible any instructions the Department may desire to transmit for the guidance of this office or of Paardenkooper. If it is decided that such instructions are not appropriate a negative reply is respectfully requested. In either case, it is hoped that the Department will reply telegraphically to this request for instructions.

The status of German patents and the possibility of Otto's and Siebel's receiving immigration visas are subjects on which information is not so urgently required. It is hoped, however, that the Department's telegraphic instructions on immediate action to be taken in this matter will be followed as soon as possible by airmail instructions on the patent and visa questions.

Respectfully yours,

Jesse F. Van Wickel
American Consul General

Enclosures
1. Memorandum, "The Extraction of Chemical Products from Wood", undated (ca. April 19, 1948)
2. Memorandum, no title, undated (ca. April 10, 1948)
3. Memorandum, "Inventions by Dr. K. Siebel", undated (ca. April 15, 1948)

(All memoranda prepared by Louis J. Paardenkooper, of Amsterdam.)

TWMcElhiney:twm
File 854

Original and hectograph to Department
Copy to American Embassy, The Hague
Copy to American Consulate, Rotterdam

300223

Enclosure No. 1 to Despatch No. 35, dated April 26, 1948, from American Consulate General, Amsterdam, Netherlands, on subject of "Exploitation of Chemical Processes Discovered by Dr. K. Siebel, German Scientist", File 854.

RE: THE EXTRACTION OF CHEMICAL PRODUCTS FROM WOOD.

A territory of woods in a tropical or sub-tropical country can be used as a base for raw materials to be used in the following plan. Typical of the project is that not a one-sided use of the vegetable raw material will be made to produce a few special products but an industry,which makes use of all the raw materials present, f.i. also chips will be established to manufacture all kinds of products.Further it is of great importance that the supply of other kinds of raw materials will not be necessary. The plant will therefore be completely independent including the supply of electrical energy. Naturally with the territories of wood disputed, f.i. tropical jungle,this is of great economical significance and in most cases decisive for the economy of such an industry.

The establishment of such an industry with the object to use the raw material of an existing piece of jungle shows about the following picture:

I. Coaking and charkoal.

a) light and heavy oils by a special alkalinous coaking process with imporant increase of the yield;
b) Acetic acid, Acetone, Methylalcohol, etc.;
c) Heating gaz for the production of the necessary electrical energy and heat (steam)
d) Synthetic gasoline through gasification of the charcoal and the cracking of the hevay oil and tarresidu.

It should be noted that for the production mentioned sub I the entire waste wood, bush etc. will be utilized.

II. Extraction of cellulose.

With an eye on the specialities of the different kinds of wood the opening process will be alkalinous one, partly combined with the chlorine caustic soda process.The foundations of this chemical process are known. However it will be possible to produce cellulose in the planned works much cheaper than before. The necessary chemical products such as chlorine and caustic soda will be produced by the proper electrolysisplant. For the production of the cellulose will be used wood, sodium chloride and electrical energy.The finalproducts of this making are cellulose, lye, hydrogen and left over chlorine.

Except the main product cellulose, two or three other products will be obtained which may be used for the manufacturing of the products mentioned sub c) and d).

III. Extraction of ironpowder respectively steel from iron ore and waste products containing iron by a special process.

This additional production (special description if wanted) will of course only be possible if iron ore will be obtainable not too far away. In most cases this will be possible because with the new steelprocess also very inferior ore can be utilized without loss of yield. For the reduction of ore will serve charcoal,coakresidu and to extract special superior steel distillationgaz and hydrogen.

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Enclosure No. 2 to Despatch No. 35, dated April 26, 1948, from American Consulate General, Amsterdam, Netherlands, on subject of "Exploitation of Chemical Processes Discovered by Dr. K. Siebel, German Scientist", File 854.

About one year ago, through an advertisement which I had put in one of our papers, I made the acquaintance of Mr. M. VASTENHOUW of 43, Scheldestraat, AMSTERDAM. At the time Mr. V. acted as a representative for a Dutch manufacturer of gin. He was selling this gin to the American PX in Germany. Knowing that I would go to Italy for a year he wanted me to sell gin to the American troops in Italy. This not being my line no deal was made. I left Holland an returned in December 1947.

Ten days ago I received a telephonecall from Mr. Vastenhouw. He informed me that he was in tocuh with a famous German scientist who was in the possession of several highly important inventions. We made an appointment to meet in town. Mr. Vastenhouw brought along a certain Mr. DAVIDS of AMSTELVEEN. The latter I had known for a long time by name. He was the leader of a fighting group of the resistance. After the Liberation he hunted war criminals and collaborators. This took him to Germany fairly often. Mr. Davids told me how he had met in a camp a German scientist, whose inventions were very interesting. It had taken him two years to keep this professor out of the hands of the Allies and to convince the Dutch Government that it was important to import the prodessor into the Netherlands. Finally he had succeeded. The two most important inventions of the professor were manufacturing gasoline (same quality as the former LEUNA WERKE used to make) out of wood and extracting steel from iron ore without melting the ore. A South-American Government had made very attractive offers to the scientist and a contract might be signed any day. They wanted me to offer the inventions to an American company. I replied that I would have to meet the professor first because I could not make any offers without knowing much more. They agreed and a few days ago I got a telephonecall that they would all come to my house the next night. (April 9th).

Mr. Vastenhouw arrived in advance of the others. In the mean time I had checked on both gentlemen. Mr. Davids is a tough guy. During the last months he has been employed by a commercial company but he is still on active service as a "secret agent" of our Department of Justice. His company is also trying to sell goods to the American PX in Germany. Mr. Vastenhouw has been a member of the Staff of Prince Bernard. As I don't think he is of any further interest in this case I will not enter into a description what this means. Before Mr. Davids and his scientist arrived he asked me for a small loan of F. 150,- which I refused. I told him his request for part of his commission was rather premature. Mr. Davids arrived in due time and presented a Mr. Otto. The latter is a German who has come to Holland in 1942. He immediately took contact with the resistance (i.e. Mr. Davids) and gave useful information on the German plans. Therefore he was allowed to stay here first after the Liberation. Later, in August 1945, he was arrested for deportation to Germany. His friends managed to get him out of the camp MARIENBOSCH but at present he is living here without a permit and without any papers.

It turned out that Mr. Otto was the old friend of the German scientist. Later in the evening they gave me the name. It is Professor Dr. K. SIEBEL. He used to live in the American zone somewhere near Karlsruhe. Professor SIEBEL used to work in the Kaiser Wilhelm Institute, Berlin. Then Mr. Otto started explaining about the inventions and his and the professor's plans. He showed me some descriptions and reports in German. On our next meeting, Tuesday 13th April he will show more documents. The professor himself had left for Germany to sign a contract with the BRASILIAN Government. He will be back in a fortnight. Mr. Otto acts as a kind of "manager" of the Siebel-genius as the professor like most inventors is not commercially very intelligent. He is a difficult man to deal with, only interested in his work and one hundred percent anti American. Mr. Otto wants to found a DUTCH holding company. The professor will receive 49% of the shares and Mr. Otto THREE %. This company will become the proprietor of all the secret processes known by Professor Siebel. Also the rights of Siebel in his contract with the Brazilian Government

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The Brazilian deal according to Mr. Otto, is as follows. Professor Siebel, fanatically anti-American and under no circumstances prepared to give the use of his inventions to an American company has been in touch for a long time with representatives of the Brazilian Government. These people, said also to be very anti-American have agreed to furnish the professor with 40,000 sq. miles of jungle in Brasil to make gasoline out of wood. The terrain has been fixed, it has been surveyd even by geologists to see if there was any iro ore around. This was not the case but they found uranium, which find is being kept a great secret. It has only been told to Professor Siebel so he can start thinking how he could make use of the uranium. Plans for the factory have been designed with German "Gründlichkeit" and everything is ready. The Brasilians have agreed to put three million dollars into any account the professors mentions to be paid when the gasoline starts flowing.

There is one condition. The Brasilians want an experimental plant in Europe first, either in Belgium, Holland or Danmark. For this conditions different reasons are being given. One is that the professor does not want to leave Europe YET. Another is that it is much easier to get the machinery and laboratory inventory HERE then in Brasil. Here the machinery can be ordered in Switzerland and Sweden and the experimental plant could be ready in a relatively short time. The experimental plant will be financed by the Brasilian Government. Another reason given is that the Brasilians want this experimental plant as far away from the U.S.A. as possible.

One of the toughest job in the world today is to get the permission to enter from Germany into the Netherlands if the applicant happesn to be a German citizen. The professor's "managers" regard it as a definite proof of the extraordinarily capacities of Professor Siebel that the Dutch Government has given him the permit to come to Holland and stay here. According to Mr. Davids, who should know because he arranged for this, it took more than 18 months. Professor Siebel has appeared before numerous technical commissions also one special commission of our famous technical university at DELFT before the Government decided he was important enough to bring to Holland. Professor Siebel's inventions were never discussed (not in detail anyhow) but his knowledge of chemical science was tested. Finally the Dutch Government consented because they expect the inventions of the professor to be a very important source of foreign currency.

Mr. Otto is fully prepared to collaborate with any nation as long as there is a chance for him to establish himself as a regular citizen. He is coming to see me again on April 13th.

Enclosure No. 3 (see below for complete reference).

RE: INVENTIONS BY DR. K. S I E B E L.

Dr. K. SIEBEL, at present living in SÖLLINGEN near KARLSRUHE has a distinguished career as a chemical expert. In 1939 he had been invited to England to establish a plant for the extraction of ironpowder respectively steel from ore without melting the ore. He has never been a member of any political party and,during the war, was under Gestapo observation.At the request of the Dutch PROFESSOR MICHELS, a prominent member of the "COMMISSARIAAT GENERAAL VOOR DE NEDERLANDSCHE ECONOMISCHE BELANGEN IN DUITSCHLAND" Dr. Siebel was granted a visa for a visit to the Nethralnds. The visa was valid for one trip only. During his sojourn in the Netherlands Dr. Siebel appeared before several commissions, one of chemical experts, to explain about his inventions. The members of the Commissariaat Generaal, f.i. Prof. Michels and Lieutenant FORSTER (Office;Frankfurt) keep impressing the fact on Dr.Siebel that he can only be saved by the Dutch. When Michels is in the Netherlands Forster takes over.They keep warning him against the Americans who will take everything away from him without any compensation. As a result Dr. Siebel who is not anti-American but only deadly afraid,does not dare to make any move without the advice of his Dutch friends.

Ernst Jacob OTTO, born 22-9-1903 in Düsseldorf acts as "commercial advisor" of Dr. Siebel. Mr. Otto came to Holland in 1942 and immediately established contacts with illegal groups as a result of which he was condemned to death by the Gestapo in 1945. He managed to escape and a few weeks later the Canadians entered Holland. His request to stay in Holland has been refused on two grounds. He has entered after 1940 and has been a member of the N.S.D.A.P. Mr. Otto can prove that his membership was at the request of his jewish friends. The Department of Justice will now reconsider his request.

J.E. VAN LIGTEN,Apollolaan 69,Amsterdam. During the War Mr. Otto met Mr. van Ligten and gave information on the Germans to this man. They became friends and Mr. Otto promised Van Ligten that after the War they would exploit several important German inventions together. Through Van Ligten Mr. Otto drew the attention of Professor Michels to the person of Dr.Siebel. When in Holland Dr. Siebel stayed with van Ligten. The latter refused to pay his share in Mr. Otto's expenses as agreed upon. Further,during the War, Mr. Otto,always afraid of being caught,handed many valuable pictures and carpets to Mr. Van Ligten. Some months after his return he was informed by Van Ligten that,unfortunately, these valuables had been stolen. Mr. Otto now distrusts his former friend but clung to him as the only Dutchman who knows his whole history and can vouch for him.

A few days ago Van Ligten called on Mr. Otto and told him that within the next fortnight he would go again to Germany (so-called attached to the Commissariaat Generaal) to talk with Dr. Siebel. He also explained that the "Koninklijke" (Royal Dutch Petroleum Company) was interested now and plans to start the "Siebel-process" on SUMATRA.

Enclosure No. 3 to Despatch No. 35, dated April 26, 1948, from American Consulate General, Amsterdam, Netherlands, on subject of "Exploitation of Chemical Processes Discovered by Dr. K. Siebel, German Scientist", File 854.

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ANNUAL REPORT

OFFICE OF

ALIEN PROPERTY CUSTODIAN

FOR THE FISCAL YEAR ENDING
JUNE 30, 1946

WASHINGTON, D. C.

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Basic Policies and Problems

The Office of Alien Property Custodian was established by Executive Order No. 9095 on March 11, 1942, to exercise certain powers under the Trading with the Enemy Act of October 6, 1917, as amended.[1] During the period of actual hostilities the primary responsibility of the Office was to vest and control enemy properties that required active management or were needed in the war effort. Other activities of the Office commenced shortly after its establishment included the representation in court and administrative proceedings of persons residing behind enemy lines, and the vesting or control of certain properties, chiefly patents, of nationals of enemy-occupied countries.

The scope of the Office's activities was substantially enlarged during the months following V-E Day. In May 1945, the Secretary of State, the Secretary of the Treasury, and the Alien Property Custodian recommended to the President that the Government vest and retain all German and Japanese enemy property without compensation to the former owners by the United States. To implement this recommendation, the President signed Executive Order No. 9567 on June 8, 1945, authorizing the Office to vest all types of property in the United States owned by nationals of Germany and Japan. This order extended the Office's vesting area to include cash, bank balances, credits, investment securities, insurance policies, and other kinds of property of nationals of these two countries that had previously been subjected only to the freezing controls of the Treasury Department. Meanwhile, in accordance with requests of the Department of State, the Office restricted its programs relating to the vesting or control of property of nationals of Italy, Hungary, Roumania, Bulgaria, and the enemy-occupied countries.

The termination of military operations brought to the forefront the problems of disposing of property held by the Office, particularly property of nationals of liberated countries and other nonhostile persons. During the fiscal year an amendment to Title III of the First War Powers Act of 1941, amending the Trading with the Enemy Act, was enacted as Public Law 322, 79th Congress, approved March 8, 1946. This law clarifies the authority of the Custodian to return property to most classes of foreign nationals who have not been hostile to the United States. Determination of the ultimate disposition of property vested from enemy nationals awaits further Congressional action.

VESTING POLICY

The vesting policy of the Office of Alien Property Custodian is substantially unchanged from that reported in the *Annual Report for the fiscal year*

[1] The original functions of the Office were more fully defined by Executive Order No. 9193 of July 6, 1942. The World War I Alien Property Custodian's functions were transferred to the Office from the Department of Justice by Executive Order No. 9142 of April 21, 1942.

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ending June 30, 1945. In general, it is the policy to vest all property in the United States belonging to citizens of Germany and Japan residing in enemy countries. In addition, the Office vests under special circumstances the property of German and Japanese nationals residing outside enemy territory. The Office also vests nonliquid United States assets of nationals of Hungary, Roumania, and Bulgaria unless they were acquired by such persons subsequent to December 7, 1945.

Under the Office's present vesting policy it is estimated that there is approximately $115,000,000 to $155,000,000 worth of vestible property in the United States and its territories that has not yet been vested, plus $41,000,000 worth of vestible property in the Philippine Islands.[2] During the fiscal year significant changes in vesting and investigatory procedures resulted from the expansion of the vesting program by Executive Order No. 9567 and from the reopening of communications with formerly enemy-held territory; therefore, this subject is treated in a separate chapter of this report. (Chapter II, "Vesting," pp. 15–24).

Changes in Policy During the Fiscal Year

Three important changes in the vesting policy of the Office during the fiscal year related to the treatment of (1) property of Hungary, Roumania, and Bulgaria, and nationals thereof, (2) diplomatic and consular property of Germany and Japan, and (3) property located in the Philippine Islands.

In the fall of 1945 the Department of State requested the Office to refrain from vesting any property acquired in the United States after December 7, 1945, by the governments and nationals of Hungary, Roumania, and Bulgaria (except accretions to property so owned prior to December 7, 1945) unless special circumstances required such action. The establishment of this cut-off date was designed to facilitate resumption of trade between the United States and the three countries affected.

Discussions were also held with the Department of State on the treatment of German and Japanese diplomatic and consular property in the United States, none of which had yet been vested by the Custodian. As a result of these discussions, an agreement has been reached whereby the Office will vest certain properties owned by the German and Japanese Governments and by German and Japanese nationals that are or were located on the premises of or controlled by German and Japanese embassies and consulates. These properties include, among other items, about $3,650,000 in United States currency found on the premises of the German embassy and consulates.[3] The Department of State, under the agreement, will retain control of the German Embassy in Washington and of certain other related properties.[4] Several classes of diplomatic and consular property of lesser value are reserved for future decision.

Prior to this fiscal year, the circumstances of war prevented the Office from operating in the Philippine Islands. A vesting program in this area was begun in January 1946 after the establishment of a branch office in Manila. (See Chapter X, "Philippine Program," pp. 134–141.)

[2] Control over enemy property in the Philippines was transferred to the Philippine Alien Property Administrator by Executive Order No. 9789 of October 14, 1946, amended by Executive Order No. 9818 of January 7, 1947.

[3] Vested by Vesting Order No. 7496 of September 3, 1946.

[4] This decision was implemented by Executive Order No. 9760 of July 23, 1946.

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Summary of Present Vesting Policy

The present vesting policy of the Office of Alien Property Custodian may be summarized according to the treatment of major classes of foreign governments and nationals as follows: [5]

1. *Governments of Germany and Japan.*—All property is vested, except diplomatic and consular property not released for vesting by the Department of State.

2. *Citizens of Germany or Japan residing in enemy countries.*—With rare exceptions, all property is vested.

3. *Citizens of Germany or Japan residing in nonenemy countries.*—Property is vested only if the individual acted for or on behalf of the enemy.

4. *Corporations and other organizations organized under the laws of or having their principal places of business in Germany or Japan.*—In general, all property is vested unless it is owned by religious, educational, or charitable organizations. Policy with respect to property of corporations and other entities organized under the laws of Germany or Japan but substantially owned by nonenemies is now being examined in the light of possible agreements with other countries for the settlement of inter-custodial problems (see pp. 13–14).

5. *Corporations and other organizations organized under the laws of or having their principal place of business in nonenemy countries but substantially owned or controlled by nationals of Germany and Japan.*—During the period of actual hostilities property of such organizations was vested. During the past fiscal year such vestings have not ordinarily been made pending the resolution of inter-custodial problems (see pp. 13–14).

6. *Governments and nationals of Hungary, Roumania, and Bulgaria.*—Property of the Governments and nationals of Hungary, Roumania, and Bulgaria, of those types vestible under Executive Order No. 9193 is vested in accordance with a policy essentially the same as that applicable to property of nationals of Germany and Japan, with the following distinction: property acquired in the United States after December 7, 1945, by such Governments and nationals (except accretions to property so owned prior to December 7, 1945) is not vested unless special circumstances require such action.

7. *Government and nationals of Italy.*—Although property of the Government and nationals of Italy was formerly vested on the same basis as that of the governments and nationals of other enemy countries, this policy was abandoned at the request of the Department of State shortly after Italy became a co-belligerent. At the present time, Italian property is vested only under unusual circumstances—for example, when laws on reciprocity of inheritance are involved (see p. 130).

8. *Governments and nationals of other countries.*—No property of other governments or their nationals is vested on the ground of nonenemy foreign nationality. In rare instances, however, the Office may take action against property of a resident of a nonenemy country, even of the United States, if there is substantial evidence indicating that, with respect to a particular piece of property, he has acted for or on behalf of the enemy.

It is expected that in the future the vesting policy of the Office will be modified, as required, for consistency with the peace settlements with

[5] Prior to publication of this *Report*, it has been decided not to vest any property acquired in the United States after December 31, 1946, by nationals of Germany (except accretions to property so owned prior to December 31, 1946), unless special circumstances require such action. This modification of vesting policy was made at the request of the Department of State.

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enemy countries and the resumption of trade. To assure such consistency the Office consults regularly with the Departments of State and Treasury.

ADMINISTRATION AND LIQUIDATION OF VESTED PROPERTY

Administration

Through the issuance of vesting orders the Custodian acquires ownership of specific properties. The Office's next step is to obtain physical possession of the properties, or if stock and other intangibles are involved, of certificates or other evidences of ownership. Thereafter, the administration of most classes of property is handled directly by the Office's staff. The principal exception is going concerns, which continue to operate, under the supervision of the Office, with their own managements and employees. Special types of property—particularly real estate, which requires immediate superintendence in the area in which it is located—are administered by local agents retained by the Office.

In the administration of most vested property the Office has a three-fold objective: (1) to conserve the value of the property, (2) to use it productively, and (3) to prepare it for early liquidation or for sale to American citizens or corporations. In pursuing its objective the Office follows accepted principles of business management, supplemented by such controls as may be necessary to insure that the property is not used in a manner contrary to the national interest.

In the administration of vested enemy patents the aim of the Office is to make the patents as freely available to American industry as circumstances permit. Accordingly the Office licenses all enemy patents, except those in which nonenemies have or claim interests, to all American applicants on a nonexclusive, royalty-free basis for an administrative fee of $15 a patent. Patents vested from nationals of nonenemy countries are now returnable to the former owners; pending return, licenses providing for reasonable royalties on such patents are issued if terms are agreed upon by the former owner and the applicant. On the theory that the Government should not sell monopoly privileges, no vested patents are sold. Owing to various considerations of the national interest, administrative policy on copyrights and trade-marks also differs in several respects from the policy regarding other classes of vested property.

Liquidation and Sale

It is the policy of the Office to sell or liquidate most types of vested property at the earliest practicable time. As of June 30, 1946, the Office has reduced to cash a total of $87,016,000 of vested property (consisting of $68,817,000, representing proceeds of liquidation and sale, and $18,199,000, representing income). At the end of the fiscal year the Office continued to hold in non-liquid form a total of $191,944,000 worth of property on which dollar valuations are practicable, plus numerous patents, copyrights, trade-marks, and other items on which dollar values cannot be calculated.

Almost all of the $191,944,000 of non-liquid property still held by the Office remains in its present form because certain legal, foreign policy, and business considerations have thus far prevented the Office from effecting its sale or liquidation. The following breakdown of this figure will serve to indicate the serious limitations faced by the Office in effecting rapid sales and liquidations:

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$75,820,000	of property involved in suits brought or expected to be brought pursuant to Section 9 (a) of the Trading with the Enemy Act.
46,889,000	of interests in business enterprises in process of liquidation.
31,163,000	of interests in estates and trusts.
4,322,000	of property which was formerly owned by nationals of Italy, Austria, and countries formerly occupied by the enemy and which can be retained in its present form without impairment of its value.
6,685,000	of property involved in miscellaneous forms of litigation and practical difficulties barring sale.
7,498,000	of property located in the Philippine Islands.
19,567,000	of property on which early liquidation or sale may be practicable.
191,944,000	total.

The $75,820,000 worth of property subject to suits under Section 9 (a) of the Trading with the Enemy Act, as amended, cannot be sold because this section prohibits the Office from disposing of the property until final disposition of the suits. Legislation is now being sought by the Office to remove this restriction with respect to properties subject to suits brought by *foreign nationals* (see p. 10).

The $46,889,000 worth of interests in business enterprises in liquidation cannot be sold by the Office but can be reduced to cash only through the declaration of liquidating distributions by the enterprises. The processes involved in winding up the affairs of business enterprises, particularly those of relatively large size, inevitably require a considerable period of time before final payments to owners can be made. Moreover, many of these companies have substantial assets located outside the United States. The ability of the companies to realize on such assets depends on the postwar settlements with enemy countries and upon international arrangements among allied and neutral countries concerning German and Japanese external assets. Still other liquidating enterprises are in bankruptcy.

The liquidation of the $31,163,000 of interests in estates and trusts depends primarily on the processes of judicial administration. Liquidation of many vested interests in estates and trusts may in fact require a longer period of time than the liquidation of properties of any other types. Often the interest in a trust held by the Custodian is merely a life, remainder, or contingent interest rather than the right to immediate possession of the corpus. A life interest held by the Custodian may be of long duration; conversely, a remainder or contingent interest may yield nothing to the Custodian for several generations.

The $4,322,000 worth of property of nationals of Italy and of former enemy-occupied countries (including Austria) has been withheld from sale at the request of the Department of State. The nonenemy property will be returned to its former owners; no decision has as yet been reached regarding property of nationals of Italy.

Another $6,685,000 worth of property cannot be sold or liquidated at this time for a variety of circumstances, among which are the following examples: escheat proceedings under the California Alien Land Law; necessity of instituting mortgage foreclosure proceedings; real estate partition suits; difficulties of prospective purchasers in acquiring title insurance; pending reinvestigations of business enterprises, designed to reveal addi-

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tional vestible interests; bringing the patent policies of vested enterprises not wholly owned by the Custodian into conformity with the patent program approved by the President.[6]

The $7,498,000 of assets in the Philippines consists of property vested only recently. (See Chapter X, "Philippine Program," for a description o the special problems that this property presents.)

The $19,567,000 worth of property on which early liquidation or sale may be practicable largely represents properties recently acquired by the Office on which arrangements for disposition are now being made. It includes also properties in which difficulties have been encountered in securing adequate sales prices; credit items difficult of collection; and other assets which, though difficult of disposal, present no complications stemming from their nature as vested enemy property.

In succeeding chapters of this report there will be found more detailed statements on the administration and liquidation of particular types of vested properties.

CONTROL THROUGH SUPERVISION AND GENERAL ORDERS

Supervision

The Alien Property Custodian has terminated control over, or vested, most of the unvested properties over which he had assumed supervision during the war principally because they were suspected of enemy ownership or belonged to internees or to nationals of enemy-occupied countries. Termination of actual hostilities and consequent events have made unnecessary the continuance of these supervisory controls in most instances. A total of 39 supervisory orders on unvested property were terminated during the fiscal year, and a vesting order was issued in another supervisory case. These actions raise the cumulative totals to 90 terminations and five vestings out of a total of 124 supervisory orders. Only 29 supervisory orders relating to property that has not been vested remain in effect.

In releasing control over supervised properties, the Office has pursued the following general policies:

1. *Internee property.*—If the property supervised is owned by an interned enemy national, the Office's action depends upon whether the internee is released or is ordered deported. If he is released, supervision is terminated and the property returned to the exclusive control of the owner; if he is deported, the property is considered vestible.

2. *Property of nationals of nonenemy countries.*—The property is released to the owner as soon as he is in a position to reassume control.

3. *Property nominally owned by nonenemies but suspected of enemy ownership.*—If the property is cleared of suspicion of enemy ownership, it is released to its owner. If proof of enemy ownership is established, the property is vested.

In order to end its supervisory program expeditiously, the Office has made a deliberate effort to release supervision over the properties, or to vest them if the facts warrant, as early as possible. In some instances supervision had been continued for a short time to permit the Office to conclude certain matters that were in progress or to give the owners of the property time to make the necessary arrangements for reassuming control. Of the 29 supervisory cases not yet disposed of, six relate to business enterprises, 16 to tangible personal property of small value, four to real estate

[6] See Ch. VI, "Patents," pp. 105–107.

and mortgages, and three to patents and copyrights. In two business enterprise cases supervision is being continued because the properties supervised are closely allied to other properties that have been vested. In two other instances involving business enterprises placed under supervision because they were controlled by internees or nationals of enemy-occupied countries, very small enemy minority interests have been vested and supervision may be continued until these interests are sold. Another business enterprise case still awaits determination of the status of the internee owner, and the sixth involves a Japanese-owned company in which the enemy interest is valueless because of the firm's insolvency. Arrangements are now being made for the release of the tangible personal property and most of the other minor items still under supervisory control.

In releasing supervision the Office informs the Treasury Department of its action. Upon the termination of supervision the property becomes subject to the Foreign Funds Control regulations of that Department governing property similarly owned.

Although supervision is being abandoned as an *independent* form of control, it is being continued as a *supplementary* form of control over all business enterprises in which substantial enemy interests have been vested. Supervision in such cases is released only upon the sale or return of the vested interests.

Regulation by General Order

With respect to certain types of property the Office has exercised control through general orders.[7] These types of property are (a) patents, copyrights, and trade-marks, and (b) property in process of administration by persons acting under judicial supervision.

Before the liberation of friendly countries overrun by the enemy, general orders regulated all transactions relating to patents, copyrights, and trade-marks owned not only by residents of enemy countries but also by residents of countries occupied by the enemy. Similarly, other general orders regulated the payment, transfer, or distribution of property interests involved in court and administrative actions and proceedings that belonged to residents of both enemy and enemy-occupied territory.

With the liberation of occupied countries by the allied forces, the controls of the Office with respect to properties of these types owned by persons in overrun countries were relaxed. During the past fiscal year these controls were also relaxed over certain properties of nationals of Italy, Hungary, Roumania, and Bulgaria. Regulation No. 8 under General Order No. 11 and Regulation No. 1 under General Order No. 12, both of May 16, 1946, permit nationals of these four countries to file applications for patents and trade-mark registrations and to license or assign such property. Regulation No. 1 under General Order No. 5 and Regulation No. 1 under General Order No. 6, both executed April 1, 1946, released the controls over property of nationals of these countries involved in court or administrative actions or proceedings initiated after April 15, 1946. There have been no modifications of general orders with respect to property of nationals of Germany and Japan.

[7] In contrast to vesting orders and supervisory orders, which refer to specific pieces of property, general orders may require certain classes of persons, or persons having interests in certain types of property, to perform or refrain from performing certain acts. General orders are issued by the Custodian not only as a means of controlling property but also for a variety of other purposes. For a complete list of general orders, see Appendix, Exhibit C, pp. 201–204.

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During the fiscal year the Custodian issued General Order No. 34, requiring persons in the United States having German or Japanese property in their custody, control, or possession to file reports with the Office. This reporting requirement is more fully discussed in Chapter II, "Vesting," pp. 15–21.

ULTIMATE DISPOSITION OF VESTED PROPERTY

Plans for the ultimate disposition of vested property or the proceeds thereof require careful consideration of the rights and status of many different classes of persons having interests of various kinds in the vested property. For simplicity of discussion these persons may be classified in three major groups:

1. Creditors of the former owners of vested property.
2. Nonhostile persons whose property has been vested.
3. Enemies whose property has been vested.

Debt Claims Against Former Owners of Vested Property

The Office of Alien Property Custodian has consistently held the view that American creditors of an enemy whose property has been vested have a moral right to payment out of the proceeds of that property. If the Custodian had not vested the American assets of the debtor, the creditor could have collected by attaching the assets.

A bill to provide a legislative basis for the disposition of debt claims was first introduced in the House of Representatives on May 19, 1944, as H. R. 4840, 78th Cong., 2d Sess. (Subsequently reintroduced as H. R. 5031). A new Bill, H. R. 5089 (79th Cong., 1st Sess.), was introduced in the House by Representative Sumners of Texas on December 20, 1945, and referred to the Committee on the Judiciary (reintroduced on June 26, 1946, as H. R. 6890, 79th Cong., 2d Sess.). This Bill would permit the Custodian to pay the debt claims of American citizens and residents against the former owner of vested enemy property, with priority to persons having certain preferred classes of claims.[8]

The Custodian will not, however, undertake to pay debt claims asserted against nonenemies to whom property will be returned pursuant to the provisions of Public Law 322 (see succeeding section on "Return of Property to Nonhostile Nationals"). Instead the debt claimant is expected to proceed against the returnee. In order to protect American creditors of returnees Public Law 322 provides that the Office must give notice in the *Federal Register* of intention to return thirty days in advance. During this thirty-day period the designated property is subject to attachment by American creditors of the intended returnee, and writs of attachment may be served on the Custodian, who is required to accord full effect to such attachments in returning property.

Return of Property to Nonhostile Persons

Primarily as a result of vesting orders issued during the period of actual hostilities, the Office holds a substantial amount of property formerly owned by nationals of liberated countries or by other persons who clearly should not be permanently deprived of their property rights in the United States. The Office also holds property that was vested on the ground, now contested by American and other nonhostile claimants, that it was enemy-owned.

[8] The Bill was enacted as Public Law 671, 79th Congress, approved August 8, 1946.

The Office has always had under Section 9 (a) of the Trading with the Enemy Act clear legal authority for the return of property to persons who are both citizens and residents of the United States and who can satisfactorily establish their pre-vesting ownership. Authority to return property to nonenemy foreign nationals has, however, until recently been enshrouded in legal uncertainties. Inasmuch as the Office desires to effect summarily the return of property clearly owned by nonenemies and to settle as speedily as possible cases in which serious ownership questions are involved, it has sought legislation to clarify its authority.

Discretionary Returns Under Public Law 322.—A Bill to amend the Trading with the Enemy Act, setting forth a pattern for the return of vested property to nonhostile foreign nationals, was introduced in Congress on July 10, 1945, by Representative Sumners of Texas and referred to the Committee on the Judiciary (H. R. 3750, 79th Cong., 1st Sess.; subsequently reintroduced on November 1, 1945, as H. R. 4571). This Bill, which represented the joint views of the Office of Alien Property Custodian and of the Departments of State, Justice, and the Treasury, was passed by both Houses of Congress and, on March 8, 1946, approved by the President as Public Law 322, 79th Cong., 2d Sess.

Briefly, Public Law 322 authorizes the Custodian, under most circumstances, to return property to any person who has resided outside enemy countries since December 7, 1941, regardless of citizenship. Returns may also be made to citizens of allied and neutral countries who were involuntarily resident in enemy countries. The Act also permits the return of property to corporations or associations located outside Germany if the enemy interest amounts to less than 50 percent. (For a more detailed statement of the provisions of Public Law 322, see Chapter XI, "Claims and Suits," pp. 145–149).

Possible Broadening of Authority for Discretionary Returns.—It is possible that further legislation will make provision for discretionary returns by the Custodian to certain classes of persons who are not provided for in Public Law 322. There is now pending before Congress a Bill, H. R. 6890,[9] favorably reported by the House Committee on the Judiciary, which would permit the Custodian to return property to two additional classes of persons:

1. Citizens of nonenemy countries voluntarily resident in enemy countries at any time since December 7, 1941, who, while so resident, were deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such countries discriminating against political, racial, or religious groups.

2. Citizens of enemy countries who were physically present in enemy territory or in territory occupied by the enemy who, as a consequence of any law, decree, or regulation of the nation of which they were then citizens discriminating against political, racial, or religious groups, have "at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the laws of such nation."

[9] This Bill was committed by the Committee on the Judiciary to the Committee of the Whole House on the State of the Union on June 27, 1946. Public hearings were held on a predecessor bill, H. R. 5089, before a sub-committee of the Judiciary Committee in February and May 1946, after which H. R. 6890 was introduced to reflect changes desired by the Committee. (See House Report No. 2398, 79th Cong., 2d Sess.) The Bill, with the exception of certain portions not referred to here, was passed by both Houses of Congress and, on August 8, 1946, approved as Public Law 671.

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The House Judiciary Committee in its report (No. 2398, 79th Congress) comments that it has used the term "abrogated" to refer to "nullification of discriminatory laws, decrees, or regulations by the Allied forces or by the reconstituted governments established as a result of Allied action. It is not intended that relief be afforded to members of groups or factions such as the Iron Guard in Rumania which were at one time proscribed and later returned to favor by Axis influence."

The purpose of these provisions is to permit returns of property to victims of Axis persecution without at the same time permitting return to persons who supported the enemy cause.

Judicial Remedies of Nonenemies.—In addition to being eligible for a discretionary return by the Office of Alien Property Custodian, certain claimants may bring action for the return of property under Section 9 (a) of the Trading with the Enemy Act. It is clear that this remedy remains available to most claimants who are American citizens. It is not clear, however, whether it is available to nonenemy foreign nationals or even to American citizens who are defined as "foreign nationals" under the terms of the First War Powers Act, 1941. H. R. 6890 (see above) would clarify the classes of persons who may bring suit against the Custodian under Section 9 (a). This Bill, if enacted, would bar the prosecution of a 9 (a) suit by a foreign country or national thereof as defined in Section 5 (b) of the Trading with the Enemy Act, as amended. Thus, the remedy of a Section 9 (a) action for the return of a specific vested property would be available only to American citizens who are not foreign nationals as defined under the Act.

Foreign nationals would not be deprived of a judicial remedy. The Bill provides that any foreign national would be entitled to bring a suit against the United States in the Court of Claims for just compensation for any property vested from him, provided that he falls within the group to whom the Office is permitted to make discretionary returns and provided that he meets certain other conditions.

There are two purposes underlying the proposal to give foreign nationals the remedy of just compensation rather than a Section 9 (a) action. The first is to permit more rapid disposal of property by the Custodian. A Section 9 (a) action prevents the sale of property by the Office while the action is before the courts. The disposal of most of the more valuable vested properties is now blocked through the pendency of such suits by foreign nationals. The second objective is to guard against any possibility of a return of property of economic importance to the enemy or to persons who are believed to have collaborated with the enemy. It is extremely difficult, in view of the many transactions by which property in the United States was cloaked before the war, to prove conclusively all facts concerning the ownership of property in the United States in which it is suspected there has been an enemy interest. The provision of just compensation would make it possible to prevent the return of property of economic importance in any case in which the property is claimed by a foreign national and in which suspicion of undesirable enemy affiliations exists.[10]

[10] The provisions of H. R. 6890 relating to Section 9 (a) suits by foreign nationals were deleted prior to enactment of the Bill as Public Law 671, 79th Cong., 2d Sess. For further discussion see Hearings, House Committee on the Judiciary, on H. R. 5089, 79th Cong., 1st Sess.; H. Rep. 2398, 79th Cong., 2d Sess.; S. Rep. 1839, 79th Cong., 2d Sess.

Ultimate Disposition of Vested Enemy Property

After the settlement of all outstanding claims and suits for title and payment of debt claims, after settlement of inter-custodial conflicts (see succeeding section, p. 13), and after payment of administrative expenses, the Office would still hold the bulk of vested property. This remaining property would represent the interests of nationals of Germany, Japan, Italy, Hungary, Roumania, and Bulgaria, who are not entitled to returns under existing legislation.

Determination of the ultimate disposition of this property, which may total $300,000,000 or more, involves first the question whether it should be returned to its former owners. To the extent that this question is answered negatively, it involves the problem of selecting for the property or its proceeds some other final use. These matters can be finally resolved only by peace treaties and legislation.

Question of Returns to Enemy Nationals.—The question whether vested property should be returned to enemies will presumably be determined in connection with the peace settlements with enemy nations. It is considered that these arrangements will not provide that the United States either return or make compensation for the seized property of hostile German and Japanese nationals. The peace settlements with other enemy countries—Italy, Hungary, Roumania, and Bulgaria—may, however, provide for some degree of return.

Reparations Agreements.—The United States has already signed an agreement with other allied nations which provides that no returns of property shall be made to hostile Germans. This agreement was reached at the Paris Conference on Reparations, which met from November 9, 1945, to December 21, 1945. Represented at the conference were the Governments of Albania, United States of America, Australia, Belgium, Canada, Denmark, Egypt, France, Great Britain, Greece, India, Luxemburg, Norway, New Zealand, The Netherlands, Czechoslovakia, the Union of South Africa, and Yugoslavia. The agreement dealt primarily with the share of total German reparations to be awarded to each signatory government and established an Inter-Allied Reparation Agency to supervise the distribution of the shares. Under the agreement the United States is to receive 11.8 percent of the industrial and other capital equipment removed from Germany and of German merchant ships and inland water transport, and 28 percent of all other forms of German reparations. Included in these other forms of German reparations are German assets located outside Germany—i. e., German "external assets". The agreement provided that each Government should seize and charge against its reparations share all those German assets located within its territory. The detailed provisions of the agreement relating to German external assets are set forth below:

A. Each Signatory Government shall, under such procedures as it may choose, hold or dispose of German enemy assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its reparation share such assets (net of accrued taxes, liens, expenses of administration, other in rem charges against specific items and legitimate contract claims against the German former owners of such assets).

B. The Signatory Governments shall give to the Inter-Allied Reparation Agency all information for which it asks as to the value of such assets and the amounts realized from time to time by their liquidation.

C. German assets in those countries which remained neutral in the war against Germany shall be removed from German ownership or control and liquidated or disposed of in accordance with the authority of France, the United Kingdom and the United States of America, pursuant to arrangements to be negotiated with the neutrals by these

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countries. The net proceeds of liquidation or disposition shall be made available to the Inter-Allied Reparation Agency for distribution on reparation account.[11]

D. In applying the provisions of paragraph A above, assets which were the property of a country which is a member of the United Nations or its nationals who were not nationals of Germany at the time of the occupation or annexation of this country by Germany, or of its entry into war, shall not be charged to its reparation account. It is understood that this provision in no way prejudges any questions which may arise as regards assets which were not the property of a national of the country concerned at the time of the latter's occupation or annexation by Germany or of its entry into war.

E. The German enemy assets to be charged against reparation shares shall include assets which are in reality German enemy assets, despite the fact that the nominal owner of such assets is not a German enemy. Each Signatory Government shall enact legislation or take other appropriate steps, if it has not already done so, to render null and void all transfers made, after the occupation of its territory or its entry into war, for the fraudulent purpose of cloaking German enemy interests, and thus saving them harmless from the effect of control measures regarding German enemy interests.

F. The Assembly of the Inter-Allied Reparation Agency shall set up a Committee of Experts in matters of enemy property custodianship in order to overcome practical difficulties of law and interpretation which may arise. The Committee should in particular guard against schemes which might result in effecting fictitious or other transactions designed to favour enemy interests, or to reduce improperly the amount of assets which might be allocated to reparation.

Disposition of Property Not Returned.—If property vested from hostile German and Japanese nationals is not returned to its former owners, there remains the problem of determining the ultimate disposition of the retained property. To date the executive branch of the Government has made no specific recommendations to Congress on this matter.

The problem was, however, brought to the attention of Congress on April 17, 1946, before a sub-committee of the Senate Committee on the Judiciary in a hearing on S. 1322. This Bill provided that "all property vested in or transferred to the Custodian should be sold and used for the payment of all claims of American citizens for compensation for damage to and loss of property, personal injuries, loss of life, loss of earnings, and compensation for damages incurred by reason of imprisonment or restraint, expenses incurred for transportation to the United States, and any other losses incurred subsequent to January 1, 1937, and caused by or as a result of hostile acts directly or indirectly, including acts of force, violence, or duress, or by legislative, administrative, or judicial acts, or by any other means by officials or members of the armed forces directly or indirectly of any nation with which the United States was at war on January 1, 1943 . . . ." The Bill further provided that no trade agreement or peace treaty should be concluded with any enemy country unless it agrees to compensate its nationals for property vested in the United States and releases the United States from any claims arising therefrom.

The Office opposed this Bill on several grounds. First, the Bill would require the sale of patents and other properties which the Office believes, for reasons of public policy, should not be sold to private persons and companies. Secondly, the Office considered that provision should be made for the payment of American creditors against the former owners of vested property before further disposition of the property was made. Thirdly, it considered that the assets held by the Office were inadequate for the settlement of all such war damage claims. The Office suggested that Congress might wish to consider the alternative possibility of applying the ultimate net proceeds of vested German and Japanese property to the overall cost of

[11] Agreements concerning German assets have subsequently been reached with Switzerland and Sweden.

the war and leave the matter of compensating war damage claimants for separate consideration.

In setting forth its objections to the Bill, the Office stated that it was not opposed to peace treaty arrangements that would require enemy governments to assume responsibility for compensating their nationals for property seized by the United States.[12]

INTER-CUSTODIAL PROBLEMS

All of the principal allied countries have instituted programs of seizing German interests in property within their borders. As a consequence certain jurisdictional problems have arisen among the several governments. The principal problems relate to property involved in the following situations:

1. Property owned by German and Japanese individuals or by German and Japanese corporations owned by such individuals:

   a. Securities issued in one allied country but located in another allied country.
   b. Bank accounts located in one allied country which are in the currency of another allied country.
   c. Currency issued by one allied country but located in another allied country.
   d. Checks, drafts, notes, and other evidences of indebtedness which are obligations of persons within one allied country but are located in another allied country.
   e. Property located in one allied country which is part of trusts and estates administered in another allied country.

2. Assets located in one allied country that are the property of enterprises, located in another allied country, owned or controlled, in whole or in part, by Germans and Japanese.

3. Assets located in one allied country that are the property of enterprises, organized under the laws of Germany or Japan, that are owned or controlled by nationals of other allied countries.

The United States is involved, in greater or lesser degree, in conflicts of each of these kinds. Perhaps the most important, from the standpoint of the United States, are 1 (a) and 2.

The Custodian has pursued a consistent policy of vesting securities "on the books" of domestic corporations. The certificates evidencing ownership of these securities by nationals of Germany and Japan were frequently not located in the United States. Most of the certificates outside the United States are probably in Germany and Japan and some may be lost or destroyed, but others may turn up in another allied country. On the other hand, the Office has vested a number of certificates evidencing ownership of securities issued in other allied countries.

The Office also has vested property in the United States that was owned by German-controlled corporations organized under the laws of allied countries. Conversely, other governments have seized assets in their jurisdictions belonging to corporations in the United States in which interests have been vested by the Alien Property Custodian. In other instances the various governments have thus far refrained from seizing assets of companies taken over by other allied custodians. Many of the disputed assets are valuable subsidiary corporations.

These jurisdictional problems are complicated by the fact that they are not merely questions of which government shall benefit from the elimination of enemy ownership of assets in allied countries. They also involve

[12] Neither S. 1322 nor any other bill dealing with the ultimate disposition of property vested from hostile enemy nationals was enacted by the 79th Congress.

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the rights of nationals of allied and neutral countries. For example, by its seizure of an asset in the United States owned by a German-controlled corporation organized in another allied country, the United States may have impaired the interests of nonenemy creditors or minority stockholders of the parent corporation. Similarly, other countries through such action have impaired the interests of United States citizens.

The resolution of problems of these types in cases in which German interests are involved is being considered by the Inter-Allied Reparation Agency, an international organization established under the Paris Agreement on Reparations and located in Brussels, Belgium, of which the United States is a member. Agreements reached through this Agency must, of course, be approved by the various allied governments.

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Vesting

The identification and vesting of enemy interests in property in the United States is the initial phase of the Office's activities. Before the issuance of Executive Order No. 9567, on June 8, 1945, the greater portion of this work under the original vesting program was completed; the principal properties then remaining for examination and vesting action were business enterprises in which the existence of concealed German ownership interests was suspected.

Executive Order No. 9567 increased the scope of the vesting program by authorizing the Office to vest German and Japanese cash, credits, investment securities, and other types of property previously controlled only through the freezing regulations of the Treasury Department. In addition, liberation of the Philippines opened an entire new area for vesting. As a result, the value of property subject to vesting after June 8, 1945, was almost as great as the value of property vested before that date. In undertaking this enlarged vesting program, the Office planned and set in operation a broad reporting program under which all persons in the United States, including the Philippine Islands, were required to report to the Custodian any German and Japanese properties in their possession or control or toward which they had other specified relationships. In conformity with General Order No. 34, which initiated the program, more than sixteen thousand of these reports were filed before the close of the fiscal year.

As a result of this expanded vesting program there was a marked increase in the amount of property vested in the six months from January through June 1946, over the amounts vested in similar periods in the preceding two years. Chart 1 shows graphically the amounts and types of property vested during semi-annual periods since the establishment of the agency in March 1942.

In connection with the vesting of both reported and unreported property it is necessary to conduct examinations of varying extent. The amount of analysis required on reported property depends primarily on the type of property involved. Uncovering of unreported property requires careful checking of all major sources of information on foreign-owned property and the following up of leads obtained in diverse ways.

In addition to examinations prior to vesting, the Office must also conduct post-vesting examinations with respect to title and debt claims filed with the Office, to assist the Department of Justice in preparing for litigation, and in connection with sales and liquidation of vested properties.

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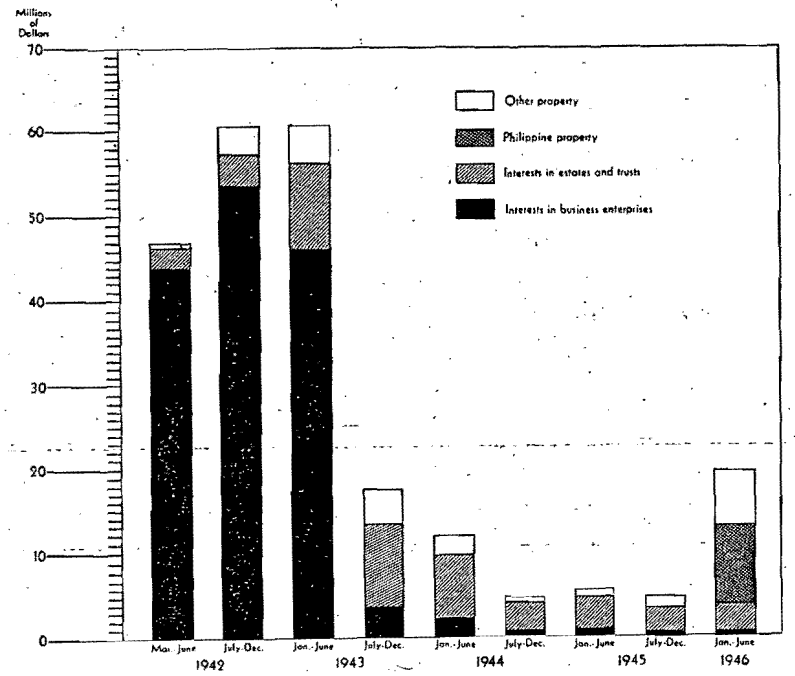

Chart 1.—Net equity vested, by type of property and semiannual periods, March 11, 1942 to June 30, 1946.

PROPERTY SUBJECT TO VESTING

After the issuance of Executive Order No. 9567, the Office had the task of identifying and seizing unvested property with an estimated net value of $180,000,000 to $240,000,000. The size of this vesting program can be appreciated by comparing these figures with the $209,000,000 net value of all property seized prior to June 30, 1945.

During the fiscal year ending June 30, 1946, the Office has vested additional properties with an estimated net value of $24,000,000. Thus there remains subject to vesting at the end of the fiscal year $155,600,000 to $195,600,000 worth of property. Major classes of properties in this total are property in the Philippines ($41,000,000)[1], interests in estates and trusts ($38,300,000), securities ($25,400,000), notes, claims, and credits ($29,000,000), and bank accounts, currency, and coin ($15,400,000). In addition approximately 60 business enterprises are now under scrutiny. Many of these enterprises involve inter-custodial problems; others are suspected of being held for enemy nationals by cloaks.

Table 1 presents detailed estimates on the amounts of vestible property not yet vested, together with comparative data on property already vested.

[1] On October 15, 1946, pursuant to Executive Order No. 9789, the vesting and control of property in the Philippines was transferred to the Philippine Alien Property Administration, a newly established agency of the United States Government.

Table 1.—COMPARISON OF NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, WITH ESTIMATED NET VALUE OF VESTIBLE PROPERTY NOT VESTED AS OF JUNE 30, 1946

Type of property	Net equity vested, March 11, 1942 to June 30, 1946 [1]	Estimated net value of vestible property not vested as of June 30, 1946
A. Property of nationals of Germany or Japan:		
Interests in business enterprises	$143,317,000	$1,000,000 to $41,000,000, depending on the outcome of current investigations.
Royalties on patents, copyrights, and trade-marks (accrued prior to dates of vesting).	3,004,000	Small and indeterminate.
Real property (including mortgages) and tangible personal property.	5,089,000	$3,500,000.
Interests in estates and trusts under judicial supervision.	35,145,000	$13,300,000.
Interests in estates and trusts not under judicial supervision.	5,795,000	$25,000,000.
Securities (stocks, bonds, etc., not representing substantial interests in business enterprises).	1,378,000	$25,400,000.
Bank accounts, currency, and coin	5,065,000	$15,400,000.
Notes, claims, and credits	3,099,000	$29,000,000.
Life insurance and annuity contracts and other property.	32,000	$2,000,000.
Property located in the Philippine Islands	9,058,000	$41,000,000.
B. Property of nationals of other countries	21,470,000	Small and indeterminate.
Total	233,052,000	$155,600,000 to $195,600,000

[1] Exclusive of patents, copyrights, and other properties on which dollar evaluations are not practicable and of income and appreciation of vested property since dates of vesting.

REPORTING PROGRAM

Development of the Program

In order to obtain complete and current information on the location and identity of all property within the scope of the enlarged vesting program, it was necessary to require reports of property interests of German and Japanese nationals by persons having custody or control of such property or having other relationships toward it which placed them in a position to report. Earlier general orders had required reporting of enemy interests in patents, copyrights, trade-marks, and property under judicial supervision.[2] Vesting of other types of property had been supported by information obtained from various Government agencies, supplemented by further investigation by the Office. Sources of information included the Treasury Department's 1941 census of foreign property; reports, files, and data of various divisions of the Department of Justice; the Patent Office; the Office of Strategic Services; the Securities and Exchange Commission; and intelligence units of the War and Navy Departments. These data were inadequate for use as the basis of the enlarged vesting program because they were largely out of date and were not sufficiently comprehensive.

Plans for gathering the information needed for vesting were developed from the viewpoint of obtaining in a short time maximum information with a minimum of inconvenience to the reporter. Conferences were held with representatives of organizations having large numbers of items to report, particularly banks and insurance companies, for the purpose of clarifying and simplifying report forms and instructions for their use.

[2] For a list of general orders see Appendix, Exhibit C, pp. 201–204.

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Owing to the peculiar problems involved, a separate instruction sheet was prepared for the use of insurance companies and other insurers. In addition, advice was sought of Treasury Department officials familiar with the problems encountered in the use of TFR–300 forms.

In cooperation with banks in the New York area, where a substantial proportion of liquid enemy assets was concentrated, a preliminary vesting program was begun before institution of a general vesting program based on the reports. With the assistance of the bank officers, analysts from the Office examined bank records on accounts in which German and Japanese nationals might have interests. In this way the vesting of German and Japanese bank balances was expedited and experience was gained in handling the types of problems that would arise in the operation of the main vesting program.

The Reporting Requirements

The definition of *national of Germany or Japan* was made broader in the reporting requirements than its use in actual vesting in order to reserve for the Office full control of vesting decisions in borderline cases. For example, reports are required on property of citizens of Germany or Japan residing in allied and neutral countries; in general, property of such residents is not vested unless they have acted on behalf of the enemy.

Specifically, reports are required on all property in the United States owned by the Governments of Germany and Japan and by the following persons and organizations: [3]

(1) Any person, regardless of his citizenship, who has been domiciled or resident in Germany or Japan [4] at any time on or since June 14, 1941, *except:*

(a) persons who are domiciled or resident in the United States on December 31, 1945;

(b) members of the armed forces of the United States, China, France, the Union of Soviet Socialist Republics or the United Kingdom, and

(c) civilians (other than citizens or subjects of Germany or Japan) on official duty for the United States, China, France, the Union of Soviet Socialist Republics or the United Kingdom or for any organizations acting officially on behalf of any of such nations.

(2) Any person, wherever domiciled or resident, who has been a citizen or subject of Germany or Japan at any time on or since June 14, 1941, *except:*

(a) persons who are domiciled or resident in the United States on December 31, 1945, and

(b) members of the armed forces of the United States, China, France, the Union of Soviet Socialist Republics or the United Kingdom.

(3) Any partnership, association, corporation, or other organization, organized under the laws of, or which at any time on or since June 14, 1941, has had its principal place of business in, Germany or Japan.

(4) Any other partnership, association, corporation or other organization, wherever organized or located, *except* any organized under the laws of the United States or whose principal place of business is located in the United States, in which at any time on or since January 1, 1939, Germany or Japan or any national thereof has had any direct or indirect interest, or any direct or indirect control other than such control as prevailed *solely* by virtue of the military occupation by Germany or Japan of the territory in which the partnership, association, corporation or other organization is located. . . ."

Persons obliged to file reports include:

Every person in the United States, including individuals, partnerships, corporations, bodies politic and other organizations, must report any property or interest of any nature whatsoever located in the United States which he believes, or has cause to believe, is or may be directly or indirectly owned or controlled by, payable or deliverable to, held for or on behalf of or on account of, owing to, or claimed by, or is evidence of ownership or control of property or interest by, Germany or Japan or any national thereof, with respect to which property or interest, *on or after* December 31, 1945, such person:

(a) has custody, control or possession, directly or indirectly, as manager, agent, attorney, trustee, bailee, lessor, lessee, or in any other capacity; or

(b) has any interest or legal title, as nominee, trustee, assignee, assignor, lessor, lessee, joint tenant, tenant-in-common, etc.; or

(c) is the issuer (if the property consists of financial securities or interests which are represented by financial securities); or

(d) is the obligor, either as debtor, surety insurer or party to any other contractual relationship."

[3] The following quotations are from the "Instructions For Reporting Property and Interests of Germany and Japan and Any National Thereof on Form APC–56, Series A Through H," copies of which are available to all potential reporters.

[4] Germany is defined as that territory which constituted Germany on March 1, 1938, and Japan as the territory which constituted Japan on December 7, 1941.

General Order No. 34, requiring the reports, was issued on December 29, 1945. Reporters were originally given until February 28, 1946, to file reports with the Washington Office of the agency or, if the reporter lived in the Territory of Hawaii or the Philippine Islands, with the Honolulu or Manila offices, respectively. At the request of persons filing reports on large numbers of items the reporting deadline was later extended by one month. Any person who after this deadline acquires the belief or cause to believe that Germany or Japan or their nationals may have interests in property with respect to which he has a reportable relationship must file a report within 60 days after acquiring such belief or entering into such relationship.

Administration of the Program

With publication of General Order No. 34 in the Federal Register, supplies of report forms and instructions for reporting were placed in all Federal Reserve Banks, and in the Washington, New York, San Francisco, and Chicago offices of the agency. In addition, forms and instructions were made available at the offices of the Governors or High Commissioners of territories or possessions of the United States, and at the Honolulu and Manila offices of the agency.

Report form APC–56, prepared for use under General Order No. 34, was issued in eight series, each series relating to certain types of property and classes of reporters.

As of the close of the fiscal year 16,296 reports had been filed with the agency. Of these, 14,799 were filed with the Washington Office, 628 with the Manila Office, and 869 with the Honolulu Office. Table 2 shows the totals of each series for the three offices individually and collectively, and designates the types of property to be reported on each series and the classes of reporters who may use it.

Vesting of Reported Property

The Office is now engaged in vesting property on which information has been received through the reporting program. Vesting orders on reported vestible property are based on information contained in the reports and from analysis of other available data.

Primary attention is now being given to the vesting of bank deposits, securities, and notes, claims, and credits, on which a total of 11,765 completed Forms APC–56, Series A, C, D, and E have been received by June 30, 1946. Reports covering property of persons whose property is not vestible under the Office's vesting policy are screened out and set aside, with present screenings running to about one-third of the total number of reports received. Reports disclosing vestible interests are then compared with other files of the Office to determine whether the property has already been vested or reported by another source, and in some cases to supplement and clarify the information contained in the reports. Additional informa-

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Table 2.—DESCRIPTION OF APC-56 REPORT FORMS, AND NUMBER OF COMPLETED REPORTS RECEIVED BY THE OFFICE OF ALIEN PROPERTY CUSTODIAN TO JUNE 30, 1946

Series	Type of property reported	Type of reporter	Total	Washington, D. C.	Honolulu	Manila
A	*Financial Securities*—such as stocks, bonds, mortgage participation certificates, warrants, script, stock rights, certificates of beneficial interest, etc.; and indebtedness to national.	All persons required to report such property, *except* that issuers of securities, when reporting their own outstanding securities, should use Series D, and except fiduciaries required to report on Series G.	2,702	2,480	151	71
B	*Real Estate*, real estate mortgages, other interests in land such as leaseholds, ground rents, mineral and oil rights; and indebtedness to national.	All persons required to report such property, *except* fiduciaries required to report on Series G.	326	218	70	38
C	*All Other Types of Property or Interests*, including but not limited to goods, merchandise, machinery, equipment, livestock, jewelry, furnishings, personal effects, and objects of art; currency and coin, bank accounts, accounts payable and other debts owing to nationals, not otherwise reported in Series A or B; checks, drafts, acceptances, letters of credit; warehouse receipts, bills of lading; safe deposit boxes, franchises, interests in partnership and profit-sharing agreements, interests in contracts of insurance and all other contracts; and all other types of property except financial securities and interests in real estate.	All persons required to report such property, *except* that (1) banks of deposit when reporting bank accounts in their own banks should use Series E; (2) safe deposit companies when reporting safe deposit boxes of which they are the lessors should use Series F; (3) fiduciaries when reporting property of which they are trustees should use Series G; and (4) insurers when reporting their own obligations as insurers under life and annuity contracts should use Series H.	3,140	2,738	342	60
D	*Financial Securities*—such as stocks, bonds, mortgage participation certificates, warrants, script, stock rights, certificates of beneficial interest, etc.	Only corporations, unincorporated associations, bodies politic, and trustees issuing certificates of beneficial interest, who are the *issuers* of the securities required to be reported. Other reporters should use Series A or G.	911	789	96	26
E	*Bank Deposits*, including but not limited to commercial accounts, checking accounts, savings and time deposit accounts, unpresented foreign draft accounts, cash, custody accounts, etc.	Only banks of deposit when reporting deposits maintained in their own bank. Other reporters of such property should use Series C.	5,012	4,541	90	381
F	*Safe Deposit Boxes*, with respect to which lessee(s) or person(s) with right of access to box may be nationals, or may be acting for or on behalf of a person who is or may be a national.	Only banks, trust companies, or safe deposit companies who are the lessors of the safe deposit boxes required to be reported. Lessees and persons with right of access to box and others required to report should use Series C.	202	195	6	1
G	*Interest in Property Held in a fiduciary capacity* by executors, administrators, trustees, or other fiduciaries not acting under judicial supervision, or, if under judicial supervision, not required to be reported on Form APC-3.	Only executors, administrators, trustees, or other persons who hold the property to be reported as fiduciaries; other persons required to report such property should use Series A, B or C, depending on the type of property.	703	763	20	10
H	*Interests in Life Insurance Policies*, annuities, pensions, and rights arising thereunder.	Only insurers to report policies under which they are obligated to the national. Insurers under property and liability policies should use Series C.	3,210	3,075	94	41
	Grand total		16,296	14,799	869	628

tion is obtained from the files of Foreign Funds Control of the Treasury Department and from other Government agencies. Liens claimed by the reporter require still further investigation.

Most of the reports on personal property processed during the fiscal year have not required investigation outside Washington, but it is believed that by July 1, 1947, all remaining cases will require moderate amounts of investigation either through the mails or in the field.

A total of 326 APC-56, Series B reports were received as of June 30, 1946, describing enemy interests in real property, including mortgages. Besides these, there were 130 other real property cases already in process of investigation by the Office, making a total of 455 cases. Examinations of these real property cases require title searches, property appraisals, and analyses of local laws, as well as those questions of determining ownership common to all investigations. Outside the New York and Washington areas the investigations are carried out principally by correspondence with local agents and attorneys and local government authorities. Title searches and property examinations are made by a private firm at a contracted fee.

Investigation of safe deposit boxes, on which 202 Series F reports have been received, is being deferred until properties of greater dollar value are vested.

The vesting of estates and trusts not under judicial supervision and of life insurance policies, the remaining types of property reported under General Order No. 34, are awaiting completion of studies now being made of special problems involved in the vesting of these two types of property. Almost 800 APC-56, Series G reports have been filed on interests in estates and trusts not under judicial supervision. In many of these cases the Office may have to file petitions with the courts for constructions of the trust instruments. Because of the suspension of accountings during the war, it will be necessary before preparation of vesting orders to obtain and analyze accountings for this period.

The 3,210 APC-56, Series H reports represent an equal number of insurance and annuity contracts of diverse kinds, in which German or Japanese nationals are named as the parties insured or as beneficiaries. The study now under way indicates that considerable investigation in Germany and Japan may be required to determine whether the insured and the beneficiaries are living or dead, and whether vesting orders should be issued to cover the principal of the policy or the cash surrender value.

UNREPORTED PROPERTY

In addition to pre-vesting investigation of property reported pursuant to General Order No. 34 and other general orders, the Office has initiated measures to uncover unreported German and Japanese assets. The persons obliged to report this property have not done so either through ignorance of the law requiring reports to be filed or through bona fide lack of knowledge of enemy interests in the property, or through deliberate efforts to conceal enemy ownership.

Sources of Information

Every means at the disposal of the Government is being used to discover such unreported property. Some of the more commonly used sources of information include reports on foreign property prepared by the Treasury Department and by the Office itself; reports filed with the military governments by persons resident in Germany and Japan, describing their assets

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in the United States; other data obtained through the military governments; reports obtained from abroad by the Department of State and other Government agencies; and information volunteered by the general public.

Cloaking

The more difficult phase of the program to discover unreported property is the effort to uncover property that has been concealed by "cloaking" practices. Properties in the United States held in the names of selected individuals, banks, and companies resident in countries other than Germany or Japan are being examined to determine whether their beneficial ownership rests in whole or in part with Germans or Japanese. Where there is any evidence of enemy interests, preliminary analyses are made to determine whether the possibility of ultimate enemy ownership is sufficiently strong to warrant detailed investigation.

The most complex cloaking cases are those involving business enterprises. To establish proof that the nominal or alleged owner is cloaking for an enemy requires analysis of a series of transactions presumably designed to conceal the true ownership or control of the business. This analysis requires thorough examination of the files and records of the domestic enterprise in order to obtain documentary evidence, interrogation of its officers and other informed persons, and search of appropriate Government records. If the investigation in the United States fails to disclose substantial proof of enemy ownership, further investigation may be made in Europe. Of the remaining 60 cases of business enterprises in the United States concerning which there is sufficient evidence to justify suspicion of substantial stock ownership or control by enemy nationals, 40 are now being investigated or are scheduled for investigation in Germany.

POST-VESTING EXAMINATIONS

As the work of the Office progresses, an increasing number of post-vesting examinations will be required in connection with (1) title and debt claims, (2) prospective and pending litigation against the Office, and (3) sales and liquidations of vested properties.

Title and Debt Claims

Procedures have been worked out in preparation for investigations in connection with the increasing number of title claims that will be received by the Office as a result of Public Law 322, 79th Cong., 2d Sess., approved March 8, 1946.[5] Intensive investigation will be required in connection with those title claims in which either the claimant's pre-vesting ownership of the property or his nonenemy status is open to question. Investigations may be required abroad as well as in the United States to gather adequate evidence to determine the material facts. Included in this group are cases in which the Office believes that transfers of property to United States citizens by enemy nationals during the years 1939 to 1941 were made to avoid seizure by the Government. Re-investigation of all the circumstances surrounding such transfers will be necessary.

It is also anticipated that considerable investigation will be needed in connection with debt claims filed against the Office, of which more than three thousand have been received.[6] Investigation of these claims will involve determination of amount and validity of the debt and kindred questions.[7]

Pending and Prospective Litigation

In cooperation with the Department of Justice, which defends suits brought against the Custodian, further investigations are made by this Office to aid in preparations for defense in suits already initiated. In addition, other post-vesting investigations are conducted in cases, usually concerning large business enterprises, in which litigation is anticipated. These investigations must be made now in order to take advantage of immediate availability of witnesses and documents and of the present absence of free communication between the enemy owners and the suspected cloaks.

Sales and Liquidation

Post-vesting examinations are also made prior to the sale of vested property or the payment by vested enterprises of liquidating dividends. Before an enterprise or interests therein are offered for sale, a final check is made to insure that all enemy interests in the company have been eliminated and that all necessary documentary evidence and testimony have been obtained by the Office from the records of the company and from interrogation of its officers. It must be ascertained that prospective purchasers are eligible to purchase vested property. Additional investigations are made prior to the distribution of assets of vested enterprises in liquidation in order to insure that distributees whose holdings are not vested are the beneficial owners of their interests.

FOREIGN INVESTIGATIONS

Both pre-vesting and post-vesting investigations frequently require the securing of additional information in Europe. Pre-vesting investigations, as explained above, are continued abroad when evidence available in the United States does not permit a definitive determination of the ownership of the property in question. Post-vesting investigations are conducted in Europe, especially with respect to business enterprises, when additional evidence is sought for defense in prospective litigation. Such investigations are required most frequently in "cloaking" cases.

Before 1946 a limited amount of information from Europe was obtained by cooperation with other agencies of the Government engaged in obtaining data in related fields. As a result of a series of discussions with representatives of the United States Military Government in Germany, the Information Management Group was organized in Washington in June 1945 to collaborate with the Civil Affairs Division of the War Department in furnishing liaison service between American Military Government in Europe and those Federal agencies in need of information.

In the spring of 1946 the Office established its own staff in Berlin. As the Alien Property Custodian Section of the External Assets Branch of the Finance Division, this staff is officially attached to the Office of Military Government for Germany (U. S.), and carries on its work under direction of the Washington office of this agency. The task of uncovering and

[5] Public Law 322 permits returns of vested property by administrative action to friendly foreign nationals as well as to American nationals, provided they meet certain qualifications.

[6] Numerous additional debt claims are expected as a result of Public Law 671, 79th Congress, approved August 8, 1946, which permits payment by the Office of debt claims of citizens and residents of the United States and the Philippine Islands against enemy nationals out of the proceeds of vested property.

[7] For further information on claims see Ch. XI, "Claims and Suits," pp. 142–154.

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utilizing evidence of German interests in property in the United States has been greatly aided by the close cooperation that has developed between the Alien Property Custodian Section and other sections of the External Assets Branch.

Investigations in Germany present problems more difficult than those met in the United States because of the destruction and dislocation wrought by the war. Among the problems to be dealt with in these foreign investigations are the location and examination of the files and financial records of the German person or company suspected of being the beneficial owner of the property in the United States, searching of the files of bureaus of the German Government and the vital statistics records of churches and local governments, and location and interrogation of individuals who may be informed on the case. Generally, the evidence obtained must be documentary and in such form that it will be admissible in American courts. Wherever possible, signed statements must be procured from German witnesses.

Exhaustive investigations are required in business enterprise cases, which frequently involve complicated transactions designed to conceal beneficial ownership of the business. In these cases nominal ownership of the stock in the American companies is held by nonenemy "cloaks," generally companies located in neutral countries. The stock was placed in their hands before the war in such a way as to make it appear that the cloaks are the beneficial owners, In some instances the cloak may actually have paid a consideration for the stock. Among the important points to be established in these cases are whether the consideration was adequate; whether the sale was made with the understanding that the Germans could repurchase after the war; whether the neutral acquired legal title to the stock or merely a security interest; and the source of the funds with which payment was made. Frequently, a chain of "cloaks" is involved. For example, the nominal owner may in fact have good title to the stock in the American company, but it may itself be owned, through other cloaks, by nationals of Germany.

Investigations of cases involving estates and trusts are undertaken to determine whether or not the legatee or beneficiary is alive or dead, and to obtain needed information about his heirs, relatives, and family genealogy. Such cases also involve the determination of the German's exact interest in the property. To trace family relationships it is necessary to obtain birth, death, and marriage certificates, statements of witnesses concerning pedigree, genealogical charts, and other documents. One case required the production of 60 documents to prove the heirs of an estate.

Finally, the foreign investigation staff procures all information regarding enemy assets in the United States that becomes available through the work of the various divisions of the military governments of the four occupying powers. This information, which includes censorship intercepts, reports on their United States assets filed by residents of Germany, and analysis of leads found in German Government records, has proved to be fruitful.

At present the Office has no personnel detailed to conduct investigations in foreign countries other than Germany. In the future foreign investigations may be extended to Japan and certain other countries in which it is believed that important evidence may be found.[8]

[8] For a discussion of the investigating program in the Philippine Islands, see Ch. X, "Philippine Program," pp. 136–139.

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General Description of Controlled Property

As in past years, the two most important types of property over which the Office of Alien Property Custodian has control are business enterprises and patents. In terms of dollar value, interests in business enterprises account for two-thirds of the net equity vested by the Custodian. In addition, the nature of these enterprises, many of them engaged in the manufacture of chemicals, machinery and other important products, raises them to an economic significance greater than can be measured by their dollar worth alone. While no monetary evaluation of vested patents and related interests has been attempted, they embody a great mass of technical knowledge of far-reaching utility to American industry.

With the progress of the vesting program, however, other types of property are increasing in importance. The elimination of German and Japanese interests in estates and trusts as they come before the probate courts throughout the United States has increased the total of property interests of this type taken over by the Office to nearly $50,000,000. Although the Office's program for the vesting of German and Japanese securities, liquid assets, and other kinds of properties not seized during the war has only recently reached the stage of extensive vesting, the Custodian vested over $7,000,000 worth of property of these types during the fiscal year.

TOTAL VALUE OF CONTROLLED PROPERTY

The total value of property controlled by the Office of Alien Property Custodian, as of June 30, 1946, amounts to $390,000,000, exclusive of patents and other property for which dollar valuations are not practicable. This figure also excludes $74,600,000 of assets belonging to vested enterprises and located in enemy and formerly enemy-occupied countries; these assets are excluded because the Office has not been able to exercise jurisdiction over most of them either directly or through the vested companies.

The $390,000,000 does not represent the value of property actually owned by the Custodian. One reason is that it includes the total assets of business enterprises, whereas the actual net equity of the Custodian in these assets is considerably less because American creditors and co-owners also hold interests in the companies. Secondly, it includes $2,900,000 worth of property in safekeeping by the Office or controlled through supervisory orders only; safekeeping or control through supervision does not entail transfer of ownership to the Custodian.

Changes in Total Value from Dates of Assumption of Control to June 30, 1946

The $390,000,000 total value of property controlled as of June 30, 1946, is slightly less than the $403,900,000 of property originally placed under

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control (valuing each item as of dates of assumption of control.) This difference is accounted for by a general increase of $18,400,000 in the value of property during the period of control; and by a decrease of $32,300,000, representing the value of property returned to owners through termination of supervision or divesting action.

Property not Subject to Evaluation

The figures stated above do not include properties on which dollar evaluations are impracticable. The most important of these properties as of June 30, 1946, are as follows:

Type of property	*No. of items*
Patents	43,194
Part interests in patents	321
Patent applications	1,900
Abandoned patent applications	507
Unpatented inventions	795
Interests in patent contracts	1,091
Copyrights (roughly estimated)	500,000
Trade-marks	416
Interests in ships	29

Furthermore, the dollar figures include neither foreign assets of questionable value held directly by the Office nor equities in vested business enterprises to the extent that they are based on assets in enemy and formerly enemy-occupied countries. These interests are excluded largely because their value is doubtful owing to devastation resulting from the war or because of postwar uncertainties as to their disposition.

VESTED PROPERTY

Value of Custodian's Net Equity in Vested Property

The Custodian's net equity in vested property as of dates of vesting amounted to $233,052,000. Income and appreciation of vested property have resulted in a $46,793,000 increase in this figure, thus raising the total amount of property that has come under the Custodian's ownership to $279,845,000 as of June 30, 1946.

This amount has been reduced, however, by the return of property to former owners and by the use of vested-property funds to defray the administrative expenses of the Office. Returns of property to former owners amounted to $1,607,000 and vested property funds used to defray administrative expenses totalled $12,113,000. Thus, as of June 30, 1946, the Office's holdings of vested property amount to $266,125,000.

These net equity figures are based on book values with respect to business enterprises; on market values with respect to real estate, investment securities, and tangible personal property; and on estimated amounts collectible with respect to most other types of property. Since the most important properties involved are interests in business enterprises, the accuracy of these data depends primarily on how closely the book values of vested interests in business enterprises correspond with market values. Although market quotations are not available on most stocks in enterprises controlled by the Custodian, it is believed that, considering present market conditions, the $266,125,000 estimate of net equity held by the Custodian on June 30, 1946, is a minimum figure.

Types of Property Vested

Table 3 shows the composition of net equity vested by types of property as of dates of vesting and as of June 30, 1946, both before and after deduc-

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Table 3.—NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY TYPE OF PROPERTY, VALUED AS OF DATES OF VESTING AND AS OF JUNE 30, 1946

[In thousands of dollars]

Type of property	As of dates of vesting	As of June 30, 1946: Before deduction of property returned or used to defray administrative expenses of the Office	As of June 30, 1946: After deduction of property returned or used to defray administrative expenses of the Office
Cash		[1] 86,716	[1] 73,881
Cash in process of collection [2]		300	300
Interests in vested business enterprises:			
Stock	93,345	94,813	94,581
Equity in enterprises whose assets or excess assets have been vested	48,780	38,304	38,304
Partnership interests	166	106	106
Other proprietary interests	51	61	61
Bonds	518	437	437
Notes and accounts receivable	8,546	4,352	3,843
Total	151,406	138,073	137,332
Royalties on patents, copyrights, and trade-marks (accrued prior to dates of vesting):			
Patents, patent applications, and patent contracts	4,933	500	500
Copyrights and copyright contracts	781		
Trade-marks and trade-mark contracts	491		
Total	6,205	500	500
Real property:			
Real estate	4,549	2,518	2,518
Mortgages	849	835	835
Ground rents, leaseholds, and other interests	20	13	13
Total	5,418	3,366	3,366
Personal property:			
Tangible personal property	1,067	267	267
Stocks	993	1,356	1,229
Bonds	337	3,691	3,674
Mortgage participations	248	330	330
Other securities	28	32	32
Bank balances	5,039	2,683	2,683
Notes, claims, and credits	4,424	3,495	3,495
Currency and coin	340	340	340
Life insurance and annuities	35	35	35
Miscellaneous contractual interests	9		
Total	12,520	12,229	12,085
Interests in estates and trusts:			
Decedents' estates	17,908	7,573	7,573
Trusts under wills	22,459	16,798	16,798
Trusts inter vivos	6,395	5,544	5,544
Guardianship estates	1,683	1,248	1,248
Total	48,445	31,163	31,163
Property in the Philippine Islands [3]	0,058	7,498	7,498
Grand total	233,052	279,845	266,125

[1] These figures are net of direct expenses immediately borne by the vested property. Cash assets of vested business enterprises are excluded inasmuch as they are reflected in the valuation of "interests in vested business enterprises".
[2] This item represents amounts known to have been transmitted to the Custodian prior to the close of business on June 30, 1946.
[3] See Table 42 for a classification of this property according to types.

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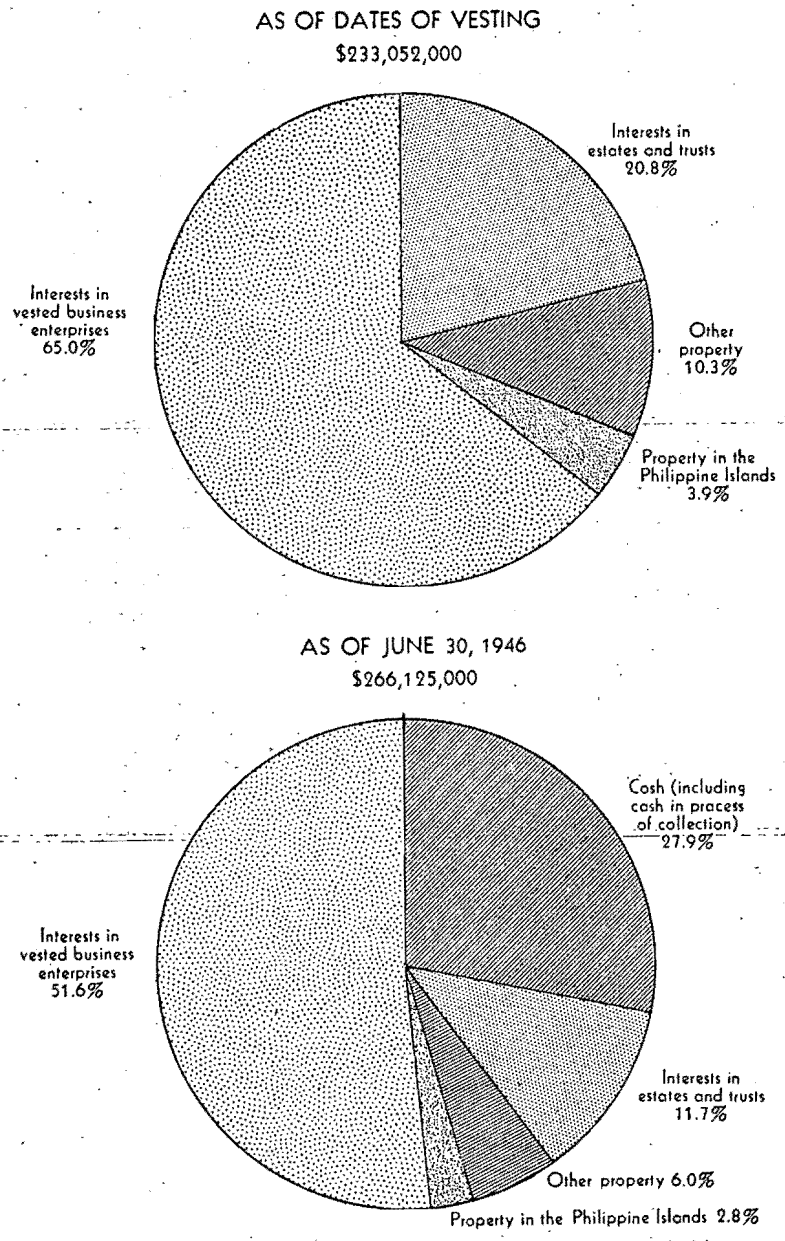

Chart 2.—Net equity vested, March 11, 1942 to June 30, 1946, classified by type of property.

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tions for property returned and transfers to the administrative expense fund. The same information is shown in less detail in graphic form on Chart 1. It will be noted from the chart that the two most important types of property as of dates of vesting were interests in business enterprises and interests in estates and trusts; as of June 30, 1946, cash, representing income and proceeds of liquidation of vested property, formed a third major category.

The relative amounts of the various types of vested property as of June 30, 1946, are different from what they were as of dates of vesting. First of all, a substantial amount of property has been liquidated. Secondly, many properties have undergone changes in form: for example, the Office has received from estates and trusts a wide variety of stocks, bonds, other personal property, and real property; vested business enterprises have declared liquidating dividends in kind, chiefly of marketable securities; and mortgages have been foreclosed. These changes in the form of properties explain, among other things, why the Office holds, as of June 30, 1946, more mortgage participations than were originally vested.

Property Vested During Fiscal Year Ending 1946

Table 4 classifies the $24,457,000 of net equity vested during the fiscal year ending June 30, 1946, according to type of property, with comparative figures on property seized from March 11, 1942 to June 30, 1945, and for the entire period to June 30, 1946. It will be noted from this table that the three most important types of property vested during the fiscal year were property in the Philippine Islands ($9,058,000); personal property ($7,284,000); and interests in estates and trusts ($7,299,000). Other types of property accounted for less than $1,000,000. In the personal property group, the largest item for the fiscal year was bank balances amounting to $4,558,000. These balances were taken over, for the most part, in the first phase of the Office's program to vest property over which jurisdiction was acquired through Executive Order No. 9567.

Increase in Net Equity Vested

The factors causing changes in total net equity vested from dates of vesting to June 30, 1946, are indicated in Table 5. The principal factor that increased net equity was appreciation of interests in business enterprises as reflected on the books of the companies, amounting to $28,594,000. Cash income from business enterprises and other properties increased net equity by another $18,199,000. Against these increases there were reductions of $1,607,000 for property returned to its former owners and of $12,113,000 for vested property funds utilized to meet administrative expenses.

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Table 4.—NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, AS OF DATES OF VESTING, BY TYPE OF PROPERTY AND PERIOD OF VESTING

[In thousands of dollars]

Type of property	Total	Period	
		July 1, 1945 to June 30, 1946	March 11, 1942 to June 30, 1945
Interests in vested business enterprises:			
Stock	93,345	47	93,298
Equity in enterprises whose assets or excess assets have been vested	48,780		48,780
Partnership interests	166		166
Other proprietary interests	51		51
Bonds	518		518
Notes and accounts receivable	8,546	233	8,313
Total	151,406	280	151,126
Royalties on patents, copyrights, and trade-marks (accrued prior to dates of vesting):			
Patents, patent applications, and patent contracts	4,933		4,933
Copyrights and copyright contracts	781		781
Trade-marks and trade-mark contracts	491	3	488
Total	6,205	3	6,202
Real property:			
Real estate	4,549	515	4,034
Mortgages	849	18	831
Ground rents, leaseholds, and other interests	20		20
Total	5,418	533	4,885
Personal property:			
Tangible personal property	1,067	24	1,043
Stocks	993	526	467
Bonds	337	274	63
Other securities	28	28	
Mortgage participations	248	49	199
Bank balances	5,030	4,558	481
Notes, claims, and credits	4,424	1,485	2,939
Currency and coin	340	340	
Life insurance and annuities	35		35
Miscellaneous contractual interests	9		9
Total	12,520	7,284	5,236
Interests in estates and trusts:			
Decedents' estates	17,908	3,239	14,669
Trusts under wills	22,459	2,024	20,435
Trusts inter vivos	6,395	2,003	4,392
Guardianship estates	1,683	33	1,650
Total	48,445	7,299	41,146
Property in the Philippine Islands	9,058	9,058	
Grand total	233,052	24,457	208,595

Table 5.—CHANGES IN NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, FROM DATES OF VESTING TO JUNE 30, 1946

[In thousands of dollars]

Net equity vested as of dates of vesting		233,052
Add:		
Net appreciation of interests in business enterprises [1]	28,594	
Income on interests in business enterprises	8,287	
Income on other vested property	9,912	
		46,793
Net equity vested as of June 30, 1946 (before deduction of property returned to former owners or used to defray administrative expenses)		279,845
Less:		
Property returned to noncnemics	*—1,607*	
Property used to defray administrative expenses	*—12,113*	
		—13,720
Net equity vested as of June 30, 1946 (after deduction of property returned to former owners or used to defray administrative expenses)		266,125

[1] Appreciation and depreciation of properties other than interests in business enterprises cannot be computed. Other properties are, therefore, carried at the same values on June 30, 1946, as at dates of vesting.

Nationality of Former Owners

A tabulation of net equity vested from March 11, 1942 to June 30, 1946, according to nationality of the former owners of the property, is shown in Table 6. Increases or decreases in the amounts vested from nationals of each country from dates of vesting to June 30, 1946, are indicated in Table 7. No distribution of the $12,113,000 of vested property funds used to defray administrative expenses of the Office is possible inasmuch as such funds were transferred without specific charges against particular properties or particular groups of nationals.[1]

[1] For a discussion of the use of vested property funds to defray administrative expenses of the Office, see Ch. XIII, "Finances and Accounting," pp. 166–169.

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Table 6.—NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERSHIP, AS OF DATES OF VESTING AND AS OF JUNE 30, 1946

[In thousands of dollars]

Date of valuation and type of property	Total	Nationality of former ownership						
		German [1]	Japanese	Italian	Hungarian	Roumanian	Bulgarian	Enemy occupied
A. Valued as of dates of vesting:								
Interests in vested business enterprises	151,406	91,214	52,103	7,535	52	5	497	
Royalties on patents, copyrights, and trade-marks (accrued prior to dates of vesting)	6,205	3,601	3	1,147	33	1	1	1,419
Real property	5,418	3,173	1,346	780	57	58	4	
Personal property	12,520	8,335	1,811	1,296	206	423	10	439
Interests in estates and trusts	48,445	40,502	438	4,796	2,213	429	67	
Property in the Philippine Islands	9,058		9,058					
Grand total	233,052	146,825	64,759	15,554	2,561	916	579	1,858
Percent of total	100.0	63.0	27.8	6.7	1.1	.4	.2	.8
B. Valued as of June 30, 1946 (before deduction of property returned or used to defray administrative expenses):								
Cash	86,716	61,031	12,393	7,410	810	613	512	3,947
Cash in process of collection	300		300					
Interests in vested business enterprises	138,073	93,469	41,162	3,434		8		
Royalties on patents, copyrights, and trade marks (accrued prior to dates of vesting)	500	500						
Real property	3,366	2,308	448	555	38	13	4	
Personal property	12,229	7,458	2,417	2,049	42	87	7	169
Interests in estates and trusts	31,163	25,233	180	3,704	1,775	209	62	
Property in the Philippine Islands	7,498		7,498					
Grand total	[2] 279,845	[3] 189,999	[4] 64,398	17,152	2,665	[5] 930	585	4,116
Percent of total	100.0	67.9	23.0	6.1	1.0	.3	.2	1.5

[1] The figures in this column include approximately $2,500,000 of property formerly owned by residents of Austria, Sudetenland, and Danzig who were regarded as nationals of Germany at the time of vesting.
[2] The $12,113,000 used to defray administrative expenses of the Office and the $1,607,000 worth of property returned to nonenemy claimants have not been deducted.
[3] Includes property valued at $1,598,000 vested as the property of German nationals but returned to persons who established their nonenemy status and prevesting ownership.
[4] Includes property valued at $1,000 vested as the property of Japanese nationals but returned to persons who established their nonenemy status and prevesting ownership.
[5] Includes property valued at $8,000 vested as the property of Roumanian nationals but returned to persons who established their nonenemy status and prevesting ownership.

Table 7.—CHANGES IN NET EQUITY VESTED, MARCH 11, 1942 TO JUNE 30, 1946, FROM DATES OF VESTING TO JUNE 30, 1946, BY NATIONALITY OF FORMER OWNERSHIP

[In thousands of dollars]

	Total	Nationality of former ownership						
		German	Japanese	Italian	Hungarian	Roumanian	Bulgarian	Enemy occupied
Net equity vested as of dates of vesting	233,052	146,825	64,759	15,554	2,561	916	579	1,858
Add:								
Net appreciation of interests in business enterprises [1]	28,594	29,128	*−818*	274	6	4		
Income on interests in business enterprises	8,287	7,604	225	458				
Income on other vested property	9,912	6,442	232	866	98	10	6	2,258
Net equity vested as of June 30, 1946 (before deduction of property returned or used to defray administrative expenses)	279,845	189,999	64,398	17,152	2,665	930	585	4,116

[1] Appreciation and depreciation of properties other than interests in business enterprises cannot be computed. Other properties are, therefore, carried at the same values on June 30, 1946, as at dates of vesting.

Cash Income from Vested Property

During the fiscal year ending June 30, 1946, the Office received $5,664,597.07 in cash income from vested property. This represents 31 percent of the total of $18,199,374.70 of cash income earned by vested property for the entire period from March 11, 1942 to June 30, 1946. It is somewhat smaller than the $7,813,671.92 earned during the preceding fiscal year owing principally to smaller receipts on stock interests in vested business enterprises. These receipts were reduced partly because of the sale of several vested enterprises, the diminished profits of other companies during the reconversion period, and the fact that the 1945 figure included a special nonrecurring dividend declared by a single company.

Table 8 indicates the distribution of cash income by type of property. From this table it may be seen that interests in vested business enterprises and patents, copyrights, and trade-marks account for the bulk of income. Other properties yielding substantial income are real estate and trusts.

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Table 8.—CASH INCOME ON PROPERTY VESTED, CLASSIFIED BY TYPE OF PROPERTY, MARCH 11, 1942 TO JUNE 30, 1946

NOTE.—These figures are net of direct expenses paid in connection with the operation of the vested property during the period of the Custodian's ownership. The classification according to type of property is based on the form in which property was held at the time the income was produced. For example, cash income on real estate distributed to the Custodian from a trust is classified as income on real estate rather than as income on trusts.

Type of property	Total	Period	
		July 1, 1945 to June 30, 1946	March 11, 1942 to June 30, 1945
Interests in vested business enterprises:			
Stock	$7, 961, 174. 63	$1, 961, 071. 60	$6, 000, 103. 03
Partnership interests	258, 526. 70	75, 267. 99	183, 258. 71
Bonds	22, 559. 86	9, 865. 56	12, 694. 30
Notes and accounts receivable	44, 485. 63	1, 439. 79	43, 045. 84
Total	8, 286, 746. 82	2, 047, 644. 94	6, 239, 101. 88
Royalties on patents, copyrights, and trade-marks (accrued subsequent to dates of vesting):			
Patents, patent applications, and patent contracts	6, 080, 530. 05	1, 915, 932. 76	4, 164, 597. 29
Copyrights and copyright contracts	849, 318. 27	505, 924. 11	343, 394. 16
Trade-marks and trade-mark contracts	313, 648. 88	133, 827. 51	179, 821. 37
Total	7, 243, 497. 20	2, 555, 684. 38	4, 687, 812. 82
Real property:			
Real estate	626, 178. 79	262, 515. 69	363, 663. 10
Mortgages	61, 869. 31	23, 289. 71	38, 579. 60
Ground rents, leaseholds, and other interests	4, 881. 02	1, 881. 63	2, 996. 39
Total	692, 929. 12	287, 690. 03	405, 239. 09
Personal property:			
Tangible personal property	23, 394. 60	18, 709. 36	4, 685. 24
Stocks	152, 837. 11	48, 412. 71	104, 424. 40
Bonds	229, 438. 35	66, 468. 22	162, 970. 13
Mortgage participations	27, 193. 58	10, 283. 98	16, 909. 60
Bank balances	11, 212. 51	8, 555. 05	2, 657. 46
Notes, claims, and credits	5, 478. 48	4, 106. 89	1, 371. 59
Life insurance and annuities	[1] *−1, 789. 49*	[1] *−793. 16*	[1] *−996. 33*
Miscellaneous contractual interests	15, 412. 23	3, 707. 94	11, 704. 29
Total	463, 177. 37	159, 450. 99	303, 726. 38
Interests in estates and trusts:			
Decedents' estates	48, 852. 89	17, 207. 20	31, 645. 69
Trusts under wills	1, 188, 532. 66	522, 181. 13	666, 351. 53
Trusts inter vivos	275, 182. 02	74, 558. 10	200, 623. 92
Guardianship estates	456. 62	180. 30	276. 32
Total	1, 513, 024. 19	614, 126. 73	898, 897. 46
Grand total	18, 199, 374. 70	5, 664, 597. 07	12, 534, 777. 63

[1] Excess of expenditures over cash income.

Cash Proceeds of Liquidation and Sale

Net cash proceeds of the liquidation and sale of vested property during the fiscal year amounted to $29,631,752.21. Of this amount, slightly more than half represents the sales proceeds of vested stock interests in American Potash & Chemical Corporation. The remainder represents sale and liquidation proceeds on approximately 5,000 property items of smaller value.

The classification by type of property of cash received by the Office through liquidation and sale is shown in Table 9. Aside from interests in business enterprises, sales and liquidations during the fiscal year were well distributed over the various classifications of vested property. Most significant from the standpoint of the work involved was the sale and liquidation of almost a million dollars of real property.

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Table 9.—CASH RECEIVED THROUGH LIQUIDATION AND SALE OF PROPERTY VESTED, CLASSIFIED BY TYPE OF PROPERTY, MARCH 11, 1942 TO JUNE 30, 1946

NOTE.—These figures are net of direct expenses paid in connection with the sale or liquidation of the vested property or to discharge liabilities incurred prior to vesting. The classification according to type of property is based on the form in which property was held at the time of liquidation or sale. For example, cash received from the sale of real estate distributed to the Custodian from a trust is classified as proceeds of real estate rather than as proceeds of trusts.

Type of property	Total	Period	
		July 1, 1945 to June 30, 1946	March 11, 1942 to June 30, 1945
Interests in vested business enterprises:			
Stock	$26, 602, 407. 41	$18, 402, 028. 34	$8, 200, 379. 07
Equity in enterprises whose assets or excess assets have been vested	6, 962, 374. 83	749, 216. 11	6, 213, 158. 72
Partnership interests	58, 963. 34	47, 297. 68	11, 665. 66
Bonds	25, 048. 98	2, 600. 00	22, 448. 98
Notes and accounts receivable	4, 068, 438. 99	688, 942. 34	3, 379, 496. 65
Total	37, 717, 233. 55	19, 890, 084. 47	17, 827, 149. 08
Royalties on patents, copyrights, and trade-marks (accrued prior to dates of vesting):[1]			
Patents, patent applications, and patent contracts	4, 432, 328. 04	290, 623. 33	4, 141, 704. 71
Copyrights and copyright contracts	781, 280. 93	29, 648. 15	751, 632. 78
Trade-marks and trade-mark contracts	490, 922. 54	102, 538. 77	388, 383. 77
Total	5, 704, 531. 51	422, 810. 25	5, 281, 721. 26
Real property:			
Real estate	2, 664, 161. 24	872, 893. 56	1, 791, 267. 68
Mortgages	260, 735. 18	114, 927. 94	145, 807. 24
Ground rents, leaseholds, and other interests	18, 686. 78	8, 446. 55	10, 240. 23
Total	2, 943, 583. 20	996, 268. 05	1, 947, 315. 15
Personal property:			
Tangible personal property	835, 410. 81	383, 288. 35	452, 122. 46
Stocks	1, 556, 042. 18	733, 910. 75	822, 131. 43
Bonds	2, 901, 977. 33	349, 025. 66	2, 552, 951. 67
Other securities	1, 309. 45	1, 309. 45	
Mortgage participations	186, 869. 45	85, 611. 44	101, 258. 01
Bank balances	2, 355, 548. 20	2, 130, 991. 74	224, 556. 46
Notes, claims, and credits	944, 855. 66	173, 609. 91	771, 245. 75
Life insurance and annuities	71. 41	*−1, 394. 21*	1, 465. 62
Miscellaneous contractual interests	9, 372. 08		9, 372. 08
Total	8, 791, 456. 57	3, 856, 353. 09	4, 935, 103. 48
Interests in estates and trusts:			
Decedents' estates	8, 139, 439. 52	2, 070, 149. 84	6, 069, 289. 68
Trusts under wills	3, 107, 094. 19	561, 769. 65	2, 545, 324. 54
Trusts inter vivos	405, 924. 02	248, 264. 93	157, 659. 09
Guardianship estates	147, 532. 57	25, 926. 93	121, 605. 64
Total	11, 799, 990. 30	2, 906, 111. 35	8, 893, 878. 95
Philippine property	1, 560, 125. 00	1, 560, 125. 00	
Grand total	68, 516, 920. 13	29, 631, 752. 21	38, 885, 167. 92

[1] Royalties on interests in patents, copyrights, and trade-marks which accrued prior to the vesting of such interests by the Custodian are treated as principal. Royalties which accrued subsequent to vesting are treated as income.

SUPERVISED PROPERTY

As of June 30, 1946, the Office of Alien Property Custodian holds under supervision only $2,540,000 worth of unvested property. This corresponds with a total of $30,500,000 of property which had once been placed under supervision but not vested. Supervision over the balance of $27,960,000 of property has been terminated. During the fiscal year alone, supervision was terminated over $23,710,000 of these assets. Table 10 presents a classification of supervised property according to type.

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Table 10.—PROPERTY PLACED UNDER SUPERVISION, MARCH 11, 1942 TO JUNE 30, 1946, AND PROPERTY REMAINING UNDER SUPERVISION ON JUNE 30, 1946

NOTE.—Property controlled jointly through vesting and supervisory orders and supervised property subsequently vested are not covered by this table. The $130,000 in assets of supervised enterprises, located in territory controlled or formerly controlled by the enemy, are also excluded.

[In thousands of dollars]

Type of property	Total property placed under supervision	Property over which supervision has been terminated	Property remaining under supervision on June 30, 1946
Total	30,500	27,960	2,540
Business enterprises	30,200	27,730	2,470
Real estate	150	140	10
Mortgages	20	10	10
Personal property	70	20	50
Miscellaneous	60	60	

In addition to the properties for which dollar figures are given above, the Office continues to hold under supervision the following property items on which dollar valuations are not practicable; 16 patents and patent applications, interests in two patent contracts, and a lease to a safety deposit box.

PROPERTY HELD IN SAFEKEEPING

The Office holds in "safekeeping" a small quantity of property over which control has not been assumed by either vesting or supervisory action. This property was acquired mainly through deliveries by persons not connected with the Office; other items were previously in the custody of vested enterprises.

As of June 30, 1946, the various kinds of property held in safekeeping were as follows:

Cash	$283,540
Stocks	25,254
Bonds	9,049
Mortgages	7,008
Bills and accounts receivable	7,012
Miscellaneous	3,080
Total	334,943

The total of $334,943 is $24,644 more than was held on June 30, 1945. This increase is primarily the result of the receipt of additional property items.

ASSETS REMAINING FROM WORLD WAR I

As of June 30, 1946, the Office continues to hold assets remaining from World War I seizures with a total book value of $65,930,675.20. These assets are classified in Table 11. The value of the largest of these assets, namely the $55,208,683.73 in Treasury certificates of deposit, is contingent upon the payment of certain defaulted obligations by the German Government.

The $9,905,301.83 of property in process of administration is $108,440.96 less than the amount in process of administration at the end of the fiscal year ending June 30, 1945. The principal reason for this decline was the payment of $125,892.80 in taxes for the account of a German claimant.

Aside from this payment, the most important transactions during the fiscal year were the sale or redemption of bonds for $106,541.00 and the sale or liquidation of mortgages for $23,920.16.

The administration of World War I property has involved so little work for several years that it has required no full-time staff. The most important remaining problem is the disposition of claims of persons resident in liberated countries on which action was suspended owing to the enemy occupation.[2]

Table 11.—COMPARATIVE STATEMENT OF WORLD WAR I PROPERTY HELD, APRIL 21, 1942, JUNE 30, 1945, AND JUNE 30, 1946

Type of property	April 21, 1942	June 30, 1945	June 30, 1946
Property in process of administration:			
Cash deposit (U. S. Treasury)	$9,014,305.51	$9,803,316.79	$9,813,322.83
Stocks	72.00	577.00	577.00
Bonds	1.00	165,721.00	61,471.00
Real estate	29,915.00	29,915.00	29,915.00
Mortgages	15,761.50	14,189.00	1.00
Miscellaneous assets	36.00	24.00	15.00
Total	9,060,091.01	10,013,742.79	9,905,301.83
German special deposit account funds (representing amounts withheld from German claimants pending fulfillment of obligations of German Government):			
Cash deposit (U. S. Treasury)	970,498.29	816,689.64	816,689.64
Certificates of deposit (U. S. Treasury)	55,203,923.51	55,208,683.73	55,208,683.73
Total	56,174,421.80	56,025,373.37	56,025,373.37
Grand total	65,234,512.81	66,039,116.16	65,930,675.20

[2] For further information on World War I claims, see *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, pp. 171–172.

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Business Enterprises

The Alien Property Custodian has vested substantial or controlling enemy interests [1] in 413 business enterprises in the United States with total assets, as of the dates of his assumption of control, of $368,000,000.

The nature of the interests in each company vested by the Custodian depends upon the type of business organization. If the company is a corporation, the Custodian generally vests the enemy-owned capital stock. If it is a partnership or other organization in which not all of the owners are enemy nationals, the Custodian vests only the enemy proprietary interests. If it is a partnership or other unincorporated enterprise wholly owned by enemy nationals, all of the assets of the company are usually vested. The major exceptions to this rule are certain unincorporated banks and insurance companies, in which the Custodian has vested the "excess assets" that will remain after payment of claims and liabilities in accordance with the laws of the states in which the institutions are located. Table 12 sets forth the percent of assets or controlling ownership interests vested in the 413 enterprises. In 161 enterprises, the Custodian has vested 100 percent of the controlling interests; in another 90 enterprises, 100 percent of the assets have been vested. In addition to vesting ownership interests of enemy nationals, the Custodian also vests the enemy creditor interests.

Table 12.—BUSINESS ENTERPRISES IN WHICH INTERESTS WERE VESTED, MARCH 11, 1942 TO JUNE 30, 1946, BY TYPE OF ENTERPRISE AND PERCENT OF ASSETS OR CONTROLLING OWNERSHIP INTERESTS VESTED

Percent of assets or controlling ownership interests vested [1]	Type of enterprise							
	Corporations	Partnerships	Proprietorships	Non-profit organizations	United States branches of foreign enterprises	Miscellaneous associations	Total	Percent of total
Total	296	27	23	12	52	3	413	100.0
100 percent assets	3	17	23	12	34	1	90	21.8
100 percent excess assets					17		17	4.1
100 percent controlling interests	160				1		161	39.0
75–99.9 percent controlling interests	39						39	9.4
50–74.9 percent controlling interests	46	3					49	11.9
25–49.9 percent controlling interests	37	5					42	10.2
Less than 25 percent controlling interests	11	2				2	15	3.6

[1] The phrase "controlling ownership interests" means the voting stock of corporations, partnership shares, etc.; it specifically excludes preferred stock and other non-voting interests. Indirect interests of the Custodian, such as shares held by estates and trusts in which all interests have been vested or by other enterprises in which assets or majority interests have been vested, are included in the calculation of percent vested wherever such interests exist.

[1] Stocks, bonds, and other property constituting interests in business enterprises too small to warrant supervision over the enterprises by the Custodian are discussed in Ch. VIII, "Real and Personal Property."

Following the seizure of enemy interests in a business enterprise and the removal of enemy influence, a decision is made whether to operate or to liquidate the company. This decision generally rests on whether the Office considers it could secure larger cash proceeds by selling the enterprise as a going concern or through liquidation. Other factors, however, are also considered. For example, companies with going concern values based primarily upon patent rights or relationships with enemy affiliates are scheduled for liquidation. Moreover, if the interest vested by the Custodian is less than a majority voting stock interest, the decision whether to operate or liquidate rests primarily with majority owners. On occasions a company has been continued temporarily as a going concern to continue work in the war effort, because immediate liquidation of its assets was impossible, or for other short-run considerations.

The vested proprietary interests in companies continued as going concerns are generally sold by public sales. The major exceptions are interests vested from nationals of Italy, which are withheld from sale at the request of the Department of State.

This chapter presents a general description of the 413 vested enterprises and discusses in general terms the problems of the Office in their operation, sale, and liquidation. Chapter V presents more detailed discussions of several enterprises selected because of their importance or because they present problems typical of the classes of companies to which they belong.

GENERAL DESCRIPTION OF VESTED ENTERPRISES

Business Enterprises Vested During Fiscal Year

Interests in five business enterprises have been vested by the Custodian during the fiscal year; of these, two were formerly Japanese-owned importing companies and three were German-owned trading concerns. All these companies are small, with total assets aggregating $69,000 and net worth $29,000. Claims amounting to $11,000 against one of the Japanese companies, representing accounts payable to residents of Japan, were also vested. Except for Hyalsol Export Corporation, a former German-owned enterprise engaged in the exporting of sulphonated higher fatty alcohols to South America, none of the companies is actively engaged in business.

Size and Activity of Vested Enterprises

New vestings have brought the total number of business enterprises vested from March 11, 1942 to June 30, 1946, to 413. As a result of the sale of 27 companies, the return of three to their former owners, and the complete liquidation of 49, there are 334 enterprises remaining under control as of June 30, 1946. As of dates of assumption of control the 413 companies had assets of $367,689,000. On June 30, 1946, or on dates of sale or return with respect to companies sold or returned before June 30, 1946, total assets amounted to $363,032,000. The total assets of the 334 companies remaining under the control of the Office on June 30, 1946, were $327,819,000.

Eight of the vested enterprises had assets of over $10,000,000 at the time the Custodian assumed control and also on June 30, 1946, or on the date of sale. Another 37 companies had assets of over $1,000,000 but less than $10,000,000 on the dates of assumption of control; 38 companies were in this category on June 30, 1946, or on the dates of sale or return.

In Table 13 the 413 vested enterprises are grouped according to the kinds of business activity in which they are or were engaged. There also

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are shown the consolidated assets of the companies in each group. Of all the enterprises vested by the Custodian, the greatest number is in the wholesale and retail trading group, with the holding companies second and those engaged in manufacturing third. Arranged by value of assets as of June 30, 1946, however, the manufacturing group is the largest, followed by holding, finance, and trade.

Table 13.—BUSINESS ENTERPRISES VESTED, MARCH 11, 1942 TO JUNE 30, 1946, DISTRIBUTED ACCORDING TO KIND OF BUSINESS ACTIVITY

[Total assets in thousands of dollars]

Kind of business activity	All vested enterprises (including companies disposed of prior to June 30, 1946)[1]			Enterprises held on June 30, 1946[2]	
	Number of companies	Total assets: As of dates of assumption of control	Total assets: As of June 30, 1946, or date of sale or return	Number of companies	Total assets as of June 30, 1946
Total	413	367,689	363,032	334	327,810
Manufacturing:					
Chemical	21	129,673	150,661	17	130,944
Miscellaneous	38	26,696	35,109	22	26,748
Agriculture	8	4,193	811	7	717
Mining and petroleum	5	1,218	966	2	62
Trade:					
Wholesale	154	42,789	42,889	126	42,463
Retail	33	5,598	4,138	26	3,100
Transportation and related services	21	2,933	2,427	20	2,427
Holding:					
Investment	16	59,093	56,493	12	54,747
Real estate	28	8,577	7,506	22	5,050
Patent and copyright	21	2,209	2,126	19	1,663
Finance:					
Banking	22	64,928	56,340	22	56,340
Insurance	8	15,318	1,642	8	1,642
Miscellaneous	9	327	235	6	227
Services:					
Engineering	3	3,303	951	3	951
Other services rendered for profit	13	411	416	11	416
Nonprofit	13	423	322	11	322

[1] Including 27 companies sold, three companies returned to their former nonenemy owners, and 49 companies completely liquidated.
[2] Excluding companies mentioned in footnote 1. The asset column is affected only by the exclusion of the 30 companies sold or returned; the exclusion of the 49 liquidated companies does not affect the asset column inasmuch as the assets of these companies as of June 30, 1946, are zero.

According to the nationality of the former owners of the principal vested interests, the 413 companies and their total assets at dates of assumption of control may be distributed as follows:

Nationality of former ownership	*Number of companies*	*Total assets*
German	203	$251,199,000
Japanese	171	100,457,000
Italian	33	13,495,000
Other	6	2,538,000
Total	413	367,689,000

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CONSOLIDATED BALANCE SHEETS

Table 14 sets forth consolidated balance sheets of all vested enterprises as of the dates of assumption of control by the Custodian and as of June 30, 1946. Separate columns indicate (1) the changes brought about by additional vestings, (2) changes reflected on the books of the enterprises (which include changes resulting from complete liquidation of 49 companies and partial liquidation of 248), and (3) changes due to the sale or return of 30 enterprises prior to June 30, 1946.

Assets

TOTAL ASSETS.—As of the dates of assumption of control by the Office, the 413 enterprises had total assets of $367,689,000. As of June 30, 1946, the 334 enterprises remaining under control of the Office had assets totalling $327,819,000. The decline of $39,870,000 is due to a decrease of $4,657,000 on the books of the companies and deduction of the $35,213,000 of assets of enterprises sold or returned.

LOCATION OF ASSETS.—Arranged according to their location in the United States, in the allied and neutral countries, and in enemy and formerly enemy-occupied countries, the assets of all vested enterprises are as follows:

	As of dates of assumption of control	*As of June 30, 1946*
United States	$271,429,000	$242,136,000
Allied and neutral countries	14,684,000	11,037,000
Enemy and formerly enemy-occupied countries	81,576,000	74,646,000

The sale or return of enterprises with United States assets of $34,964,000 caused a substantial decline in the total domestic assets of vested business enterprises. On the books of the companies, however, there was actually an increase in such assets of $5,671,000; this reflects the expansion in size of going concerns, whose domestic assets increased by $35,849,000, an increase largely offset by the $30,178,000 reduction in assets of companies in liquidation.

Of the assets located in allied and neutral countries, those of Central American Plantations Corporation in Guatemala were the largest single block. The sale of that company's assets in 1943 for $3,500,000 is reflected in the decrease in assets in allied and neutral countries from $14,684,000 as of dates of vesting to $11,037,000 as of June 30, 1946. Approximately three-fourths of the three million dollars in assets in China consists largely of accounts receivable owing to the New York branch of the Yokohama Specie Bank by the branch in Peking. Other allied and neutral countries in which more than one million dollars of assets are located are Canada, Brazil, and Peru.

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Table 14.—CONSOLIDATED COMPARATIVE BALANCE SHEETS OF ALL VESTED ENTERPRISES, AS OF DATES OF ASSUMPTION OF CONTROL AND AS OF JUNE 30, 1946

[In thousands of dollars]

Balance sheet items	As of dates of assumption of control	Changes from dates of assumption of control to June 30, 1946			As of June 30, 1946
		Additional interests vested	Changes reflected on books of enterprises	Less: enterprises sold or returned	
ASSETS [1]					
Located in United States	271,429		5,671	−34,964	242,136
Located in allied and neutral countries	14,684		−3,403	−244	11,037
Located in enemy and formerly enemy-occupied countries	81,576		−6,925	−5	74,646
Total assets	367,689		−4,657	−35,213	327,819
LIABILITIES AND NET WORTH					
Liabilities:					
Owing to residents of the United States	103,337		−3,632	−9,435	90,270
Owing to residents of allied, neutral and formerly enemy-occupied countries	7,194		−3,672		3,522
Owing to residents of enemy countries	9,877	−3,684	686		6,879
Owing to Custodian (vested) [2]	9,077	3,684	−3,797	−546	8,418
Total liabilities	129,485		−10,415	−9,981	109,089
Net worth:					
Net worth of solvent enterprises	246,668		7,900	−25,278	229,290
Deficits of insolvent enterprises	−8,464		−2,142	46	−10,560
Total net worth	238,204		[3] 5,758	−25,232	218,730
Total liabilities and net worth	367,689		−4,657	−35,213	327,819
Net worth of solvent enterprises distributed according to ownership shares:					
Vested in Custodian [2]	185,963	3,301	2,305	−18,833	172,736
Owned by estates and trusts in which Custodian is sole beneficiary	2,773		149	−47	2,875
Owned by others	57,032	−3,301	5,446	−6,398	53,679

[1] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[2] For further data on the value of the Custodian's interests, see Table 16.
[3] For explanation of factors producing this change, see Table 15.

The reduction of assets located in enemy and formerly enemy-occupied countries from $81,576,000 on dates of vesting to $74,646,000 on June 30, 1946, is due chiefly to the distribution by General Aniline & Film Corporation of dividends in the form of its stock in I. G. Chemie, a German-controlled Swiss corporation. Because the Custodian vested the stock of General Aniline & Film Corporation held by I. G. Chemie, which was found to be a cloak for I. G. Farben of Germany, the investment in the Swiss company has been listed among assets in enemy and formerly enemy-occupied countries. The bulk of the remaining assets in enemy or formerly enemy-occupied countries is in Germany, Japan, and Poland. Assets of approximately $20,000,000 in Germany consist principally of investments of Hugo Stinnes Corporation and Atlantic Assets Corporation. The $20,000,000 of assets in Japan consist for the most part of receivables due United States branches of the Yokohama Specie Bank by its Japanese head office and branches. Book value of the interests of Silesian-American Corporation in its Polish subsidiaries amounts to $31,000,000.

Liabilities

The total liabilities of the vested companies amounted to $129,485,000 as of the dates of assumption of control. A decrease of $10,415,000 on the books of the companies together with the deduction of $9,981,000 of liabilities of companies sold or returned brings the total liabilities as of the end of the fiscal year to $109,089,000, a total decrease of $20,396,000. The decrease in liabilities on the books of the companies results largely from reductions in liabilities of enterprises in liquidation.

Claims representing liabilities of the vested companies amounting to $9,077,000 were vested by the Custodian at the time he took over control of the companies, and $3,684,000 of additional creditor claims of enemy nationals have subsequently been vested. As a result of payments of substantial amounts to the Office by the companies and the return of a claim to the former owner, there remains owing to the Custodian $8,418,000 as of June 30, 1946. Vesting of certain items of the $6,879,000 remaining due residents of enemy countries is pending investigation; a large proportion, however, represents obligations to persons who do not fall within any of the classes of persons whose property is vested.

Net Worth

Total net worth of the vested enterprises has decreased from $238,204,000 as of the dates of assumption of control to $218,730,000 on June 30, 1946. This decrease of $19,474,000 is accounted for by:

A. Deduction of $25,232,000, representing the net worth of companies sold or returned; less:

B. Increase of $5,758,000 in net worth on the books of the enterprises.

Table 15 shows the various factors responsible for the changes in net worth on the books of the vested companies. The principal factors tending to increase net worth were net operating profits of $44,685,000 and a net capital gain of $1,217,000. Factors tending to reduce net worth were liquidating losses of banks and insurance companies of $1,066,000 and profit and liquidating payments to owners of the companies (including the Custodian) of $39,078,000.

During the fiscal year ending June 30, 1946, alone, the net operating profits of vested enterprises were $11,298,000 and their distributions of profits and liquidating dividends totalled $10,837,000.

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Table 15.—FACTORS RESPONSIBLE FOR CHANGES IN NET WORTH OF ALL VESTED ENTERPRISES FROM DATES OF ASSUMPTION OF CONTROL TO JUNE 30, 1946

[In thousands of dollars]

Factors responsible for changes		Amount	
1. Operating profits and losses (after taxes): [1]			
Profits of 163 companies		48,751	
Less: losses of 186 companies [2]		*−4,066*	
Net change			44,685
2. Capital adjustments: [3]			
Revaluation of assets (including losses and gains on sale of assets and liquidation of receivables):			
Gains	10,157		
Losses	*−7,911*	2,246	
Changes in expenses and taxes applicable to periods prior to vesting:			
Expense and tax reductions	1,556		
Less: expense and tax increases	*−2,585*	*−1,029*	
Net change			1,217
3. Liquidating gains and losses of banks and insurance companies:			
Gains of 11 companies	699		
Less: losses of 19 companies	*−1,765*		
Net change			*−1,066*
4. Distributions to stockholders, partners, and other owners (including Custodian):			
Distributed profits in cash and in kind		*−18,565*	
Liquidating payments in cash and in kind	*−20,491*		
Less: funds returned to companies	75	*−20,416*	
Stock bought in by companies		*−97*	*−39,078*
Total changes in net worth reflected on the books of the enterprises (per Table 14)			5,758

[1] Do not include profits or losses of banks and insurance companies, which are reflected in factor 3. Thirty-four vested enterprises, not engaged in business, made neither profits nor losses.
[2] Almost without exception the companies showing operating losses are in liquidation; the bulk of the losses was sustained by insolvent companies having large obligations on which interest is accruing.
[3] Do not include capital adjustments of banks and insurance companies, which are reflected in factor 3.

CUSTODIAN'S INTERESTS IN VESTED ENTERPRISES

While the figures set forth in the consolidated comparative balance sheets of all vested enterprises (Table 14) show the book values of the Custodian's interests in both liabilities and net worth of vested enterprises, these figures do not constitute a satisfactory indication of the value of the Custodian's net equity in the enterprises for the following reasons:

(1) Assets in enemy and formerly enemy-occupied countries may be considered as of only contingent value because of the damage they have suffered during the war and because of complicated postwar problems concerning their disposition. Consequently, in determining the Custodian's net equity, these assets are eliminated from the balance sheets of the various enterprises; as a result the companies' net worths, and the Custodian's interests therein, are materially reduced.

(2) Since a number of companies are insolvent, it is necessary in computing net equity to adjust the amounts due to the Custodian by insolvent companies in order to reflect only the amounts that the companies may finally be able to pay.

(3) Book values of interests in business enterprises do not necessarily indicate the approximate market value of such interests, particularly in the case of enterprises operating as going concerns. Since the securities of vested enterprises are generally not subject to regular market trading, however, book values constitute the best data available.

After taking into account the adjustments indicated in (1) and (2) above, the Custodian's net equity in vested enterprises is $151,406,000 as of dates of vesting and $137,332,000 on June 30, 1946. In Table 16 these amounts are classified according to the character of the interests.

Table 16.—CUSTODIAN'S NET EQUITY IN VESTED ENTERPRISES, CLASSIFIED BY CHARACTER OF INTEREST, AS OF DATES OF VESTING AND AS OF JUNE 30, 1946

[In thousands of dollars]

Character of interest	As of dates of vesting	As of June 30, 1946
Total	[1] 151,406	137,332
Interest in net worth	142,342	133,052
Stock	93,345	94,581
Equity in enterprises whose assets or excess assets have been vested	48,780	38,304
Partnership interests	166	106
Other proprietary interests	51	61
Interests as creditor	9,064	4,280
Bonds	518	437
Notes and accounts receivable	8,546	3,843

[1] Of which $147,319,000 was vested at dates of assumption of control over the enterprises by the Custodian and $4,087,000 subsequent thereto.

The reasons for the decline of $14,074,000 in the value of the Custodian's net equity during the period from dates of vesting to June 30, 1946, are explained in Table 17. The principal factor accounting for this decline, as

Table 17.—CHANGES IN CUSTODIAN'S NET EQUITY IN BUSINESS ENTERPRISES, DATES OF VESTING TO JUNE 30, 1946

[In thousands of dollars]

Net equity as of dates of vesting			151,406
Add: Net appreciation of vested interests		28,594	
Less: Proceeds of liquidation or sale of vested interests:			
Liquidating dividends in cash and in kind paid to the Office	*−18,881*		
Interests sold by Office	*−19,223*		
Debts paid to Office	*−4,093*		
Interests returned by Office	*−741*		
	−42,938		
Deduct direct expenses incurred in management or sale of vested interests	270	*−42,668*	*−14,074*
Net equity as of June 30, 1946			137,332

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may be seen from the table, was the sale and liquidation of substantial interests in the companies. The extent of the decline was considerably lessened, however, because of net appreciation of vested interests during the period of the Custodian's ownership; this appreciation resulted primarily from the undistributed profits of operating enterprises.

OPERATION OF VESTED ENTERPRISES AS GOING CONCERNS

Number of Vested Going Concerns

Of the total of 413 vested business enterprises, 116 have been operated as going concerns during the entire period of the Custodian's control. The sale of 27 companies and return of three to former owners leave 86 vested companies operating under the control of the Office at the end of the fiscal year.

Total Assets and Kind of Business Activity

In the period from the dates of assumption of control to June 30, 1946 (or to the dates of sale or return with respect to the 30 companies over which control has been relinquished), the total assets of the 116 vested enterprises operated as going concerns increased from $209,065,000 to $239,177,000. The total assets of the 86 going concerns held by the Office at the end of the fiscal year are $203,963,000. In Table 18 the companies are classified according to kind of business activity, and the total assets of each group are presented. Both in number of companies and in total assets the enterprises engaged in manufacturing are the most important, with the various types of holding companies second.

Table 18.—VESTED ENTERPRISES CONTINUED AS GOING CONCERNS, DISTRIBUTED ACCORDING TO KIND OF BUSINESS ACTIVITY

[Total assets in thousands of dollars]

Kind of business activity	All going concerns (including companies sold or returned)[1]			Going concerns held on June 30, 1946[2]	
	Number of companies	Total assets: As of dates of assumption of control	Total assets: As of June 30, 1946, or date of sale or return	Number of companies	Total assets as of June 30, 1946
Total	116	209,065	239,177	86	203,963
Manufacturing:					
Chemical	17	129,079	150,582	14	130,854
Miscellaneous	24	26,336	34,859	13	26,498
Agriculture	3	388	340	2	246
Mining and petroleum	3	1,154	926	1	22
Trade:					
Wholesale	21	12,697	15,971	18	15,545
Retail	8	3,932	3,428	5	2,390
Transportation and related services	1	110	129	1	129
Holding:					
Investment	6	23,216	23,318	5	21,572
Real estate	13	6,465	6,343	9	3,887
Patent and copyright	13	2,159	2,085	12	1,022
Miscellaneous finance	1	8	8		
Services:					
Engineering	3	3,303	951	3	951
Other services rendered for profit	3	218	237	3	237

[1] Including 27 companies sold and three companies returned to their former nonenemy owners prior to June 30, 1946.
[2] Excluding companies mentioned in footnote 1.

Reconversion

Of the 97 vested enterprises continued as going concerns as of V-J Day, 28 were engaged in manufacturing war products or were performing other essential war work. During the fiscal year adjustment to the requirements of peacetime markets has been made by the great majority of these vested enterprises. In adapting their businesses to peacetime conditions vested enterprises have faced problems similar to those of the rest of the industrial community. Some of the companies have found their businesses severely curtailed by the cancellation of war orders; others have been unable to meet the civilian demand for their products and are embarking on expansion programs.

Among the vested enterprises engaged in war work which, after termination of war contracts, returned to the manufacture of their prewar products is Karl Lieberknecht, Inc. From its war business of manufacturing gun carriages and other ordnance materials this company has been reconverting its facilities to the production of hosiery knitting machines. While it has been able to repair or rebuild some of the machinery required in its manufacturing processes, the company has also found it necessary to purchase new equipment. Procuring this equipment, as well as obtaining materials with which to manufacture its knitting machines, has been attended by difficulties and delays due to the shortages and reconversion problems of the country as a whole.

Those companies whose wartime products are adaptable to civilian uses have had little difficulty in altering the form in which their finished products are turned out, but have had to develop new markets. One of these companies, Rohm & Haas Co., formerly manufactured plexiglas for such military uses as airplane noses and windows and is now making products of the same material for peacetime use.

For some vested companies reconversion has meant the termination of active business operations. Schloemann Engineering Corporation, for example, was kept in existence because of the value to the war effort of its patents, designs, and engineering skill in the production of hydraulic extrusion presses needed by the aircraft manufacturing industry. With the end of the war production program, the company is scheduled for liquidation.

SALE OF VESTED ENTERPRISES AS GOING CONCERNS

During the current fiscal year the vested interests in eight operating business enterprises have been sold to qualified purchasers. These eight bring the total number of business enterprises sold by the Office to 27. Table 19 lists the companies sold, the buyers, the prices paid, and other pertinent data.

The total of the sales prices received by the Custodian for the 27 companies sold to June 30, 1946, is $19,223,000, compared with the total book value of the sold interests of $18,623,000. The eight companies sold during the fiscal year brought a total of $17,249,000. That approximately 90 percent of the total sales proceeds was received on the eight companies sold during the fiscal year is accounted for by the $15,531,000 selling price obtained for the vested shares of American Potash & Chemical Corporation, the first of the larger vested enterprises to be sold. Since American Potash & Chemical Corporation is one of the vested enterprises selected for more detailed presentation, the account of its sale is included in Chapter V, "Selected Vested Enterprises," pp. 64-65.

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Table 19.—BUSINESS ENTERPRISES IN WHICH THE VESTED INTERESTS HAVE BEEN SOLD BY THE OFFICE OF ALIEN PROPERTY CUSTODIAN, JULY 1, 1945 TO JUNE 30, 1946

Name of company	Location of company	Business of company	Description of vested interests sold	Book value of vested interest [1]	Sales price [1] of vested interest	Type of sale	Number of bidders	Name of purchaser
American Potash & Chemical Corp.	Los Angeles, Calif.	Production of chemicals and potash.	90.5% of outstanding capital stock.	$15,713,665	$15,530,884	Public	1	Glore, Forgan & Co.; Kuhn Loeb & Co.; Lehman Brothers; and other underwriters.
Graef & Schmidt, Inc.	New York, N. Y.	Manufacture of cutlery products.	100% of outstanding capital stock.	206,086	301,125	Public	14	Revlon Products Corp.
F. E. Hesthal Co.	San Francisco, Calif.	Ownership and leasing of real property.	18% of outstanding capital stock.	47,413	55,080	Public	4	DeLancey C. Smith.
J. C. Muller, Inc. (renamed Tobacco Machinery Corp.).	Richmond, Va.	Manufacture of machinery and equipment for tobacco industry.	100% of outstanding capital stock.	111,653	156,000	Public	9	Lillian, Isaac, Charles, Louis, and Harry Albert.
K. Nakano, Ltd.	Honolulu, T. H.	Department store.	53.3% of outstanding capital stock.	176,837	239,750	Public	5	Tanrlanori Ikeoka.
The Ore & Chemical Corp.	New York, N. Y.	Beneficiation of non-ferrous metals from ore dumps located in Colorado; also owns 39.4% of capital stock of Pembroke Chemical Corp. (described below).	100% of outstanding capital stock.	279,107	245,000	Public [2]	[3] 6	B. R. Armour.
Pembroke Chemical Corp.	Niagara Falls, N. Y.	Ownership and exploitation of phosphate-bearing lands in Florida.	3.9% of outstanding capital stock.	18,770	15,500	Public [2]	[4] 10	The Ore & Chemical Corp.
Riedel-de Haen, Inc.	New York, N. Y.	Distribution of ethical pharmaceuticals.	100% of outstanding capital stock.	56,814	695,750	Public	52	Ames Co., Inc.

[1] Costs of sales have not been deducted from these figures.
[2] Sold at public auction after all sealed bids were rejected as inadequate.
[3] Including one bidder who bid each of the two times the company was offered for sale and five who bid only once.
[4] Including two bidders who bid each of the two times the company was offered for sale and eight who bid only once.

RIEDEL-DE HAEN, INC.—Riedel-de Haen, Inc. was established in New York in 1929 to exploit in the United States certain trade-marked ethical pharmaceuticals and proprietary medicines formerly produced and sold by J. D. Riedel-E. de Haen, A. G., of Berlin, Germany. Since 1940 a small amount of pharmaceutical chemicals has been exported to South America and Mexico. The company is primarily a sales organization and, therefore, maintains no manufacturing facilities. Processing and packaging are performed by domestic concerns. Prior to the sale the Custodian assigned to the company for a nominal consideration the vested residual rights of J. D. Riedel-E. de Haen, A. G., the German parent company, in and to any of the company's trade-marks; two trade-marks vested from J. D. Riedel-E. de Haen, A. G., which were almost identical with marks used by the American company, were similarly assigned. Certain patents relating to processes used in making products marketed by the company have been vested from J. D. Riedel-E. de Haen, A. G. and licensed to the company on an unrestricted, nonexclusive, royalty-free basis by the Custodian, the company relinquishing, as a condition to such licensing, all rights in these patents which it held under a prior restricted, exclusive, royalty-free license from the German parent company.

The record total of 52 bids received is indicative of the importance attached to the products of this company in the pharmaceutical field. The Ames Company of Elkhart, Indiana, submitted the accepted high bid of $695,750, which compared with a book value for the stock as of July 31, 1945, of only $56,814. The considerable excess of sales price over book value represents the value placed by the purchaser on the trade-marks, which were carried on the books at a nominal amount of $1.

GRAEF & SCHMIDT, INC.—When the advent of war halted its import trade in cutlery from Germany and interrupted its manufacture of scissors, knives, and manicure instruments, Graef & Schmidt, Inc. began manufacturing surgical instruments. The company is resuming the production and sale of a complete line of scissors and shears.

On October 30, 1944, a suit under Section 9 (a) of the Trading with the Enemy Act had been initiated by the registered owners of the stock, the trustees of the Estate of Hermann Kind, asserting that the 100 shares (100 percent) of the capital stock of Graef & Schmidt, Inc. had been erroneously vested by the Custodian. Under the provisions of Section 9 (a), vested property cannot be sold pending disposition of a suit. A stipulation was filed by the plaintiff consenting to offer no objection to the sale, provided the proceeds would be made available for settlement of the claim in the event that the litigation was successful. The manufacturing facilities of the company, which were located in a factory leased from the Fifth Avenue Cutlery Shop, Inc., also vested by the Custodian, were offered for sale concurrently with the offering of the stock of Graef & Schmidt, Inc. In order to increase the value of the company by making available a plant particularly adapted to specialized manufacturing processes, a condition was attached to the sale of the factory whereby the successful bidder for the capital stock of Graef & Schmidt, Inc. could purchase the plant for a price no lower than the highest acceptable bid received in the concurrent offering of the plant. The $301,125 bid of Revlon Products Corporation, New York, N. Y., the highest of fourteen received, was considered satisfactory. Revlon also exercised the option to purchase the factory buildings and site for $30,250, subject to an existing mortgage.

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F. E. Hesthal Company.—The F. E. Hesthal Company owns and operates commercial real estate in Bakersfield, California. The buildings are rented to retail establishments on relatively long-term leases, which provide for a minimum annual rental, with provisions for additional payments if the sales of the tenants exceed stated amounts. The company is, therefore, for a number of years practically assured of determinate minimum earnings, with a possibility that they may be increased. At the public sale four bids were received for the Custodian's 1,800 vested shares (18 percent of the issued and outstanding stock). The high bid of $55,080 offered by Mr. DeLancey C. Smith, President and Treasurer of the company, was in excess of the book value of the vested stock and was accepted.

Tobacco Machinery Corporation.—Known as J. C. Muller, Inc. until August 1945, the Tobacco Machinery Corporation began late in 1941 to convert its plant from the manufacture of tobacco processing machinery to making products for the war effort. At the time of sale in October 1945, reconversion to peacetime production was under way, and the construction of a group of tobacco separators had been started. Although the management had made no attempt to solicit new business before V-J Day, it had a substantial volume of unfilled orders on hand. At a public offering of the 440 vested shares, or 100 percent of the Corporation's issued and outstanding shares of common stock, the Office received nine sealed bids. The award was made to the highest bidder, whose offer of $166,000 was $54,367 more than the book value of the stock.

Ore & Chemical Corporation.—The Ore & Chemical Corporation was engaged before the war in the importing and exporting of chemicals, pharmaceuticals, and drugs. When hostilities interrupted its foreign trade, it turned to the recovering of non-ferrous metals from ore dumps. By use of modern metallurgical methods the company has been able to recover zinc, lead, and copper from the dumps of rock and other waste material which accumulated in the Leadville, Colorado, area as a result of mining operations early in this century. Among the Corporation's assets were 355 shares or 39.4 percent of the issued and outstanding shares of the capital stock of Pembroke Chemical Corporation, discussed in the subsequent section. The vested stock of Ore & Chemical Corporation, consisting of 2,000 shares of preferred and 2,000 of common, or 100 percent of the issued and outstanding shares, was offered for public sale through the medium of sealed bids on August 10, 1945. The highest bid received, $126,160, was approximately 45 percent of book value and was rejected as insufficient. As an alternative to immediate liquidation of the Corporation, an attempt was made to negotiate a more satisfactory selling price. Two groups indicated they would pay $175,000. It was determined, however, to reoffer the vested shares at a public auction on September 27, 1945. The Custodian awarded the property to the high bidder for $245,000, or approximately 87 percent of book value.

Pembroke Chemical Corporation.—The Pembroke Chemical Corporation has been principally engaged in the exploitation of phosphate-bearing lands in Florida. On September 22, 1944, the Alien Property Custodian vested 35 shares, or 3.89 percent of the issued and outstanding shares of capital stock of the company. Another 355 shares, or 39.44 percent were owned by Ore & Chemical Corporation (see preceding section). At public sale held on August 10, 1945, the vested shares of the company's stock were offered simultaneously with the Custodian's holdings in Ore & Chemical Corporation. Of the six bids received for the 35 vested shares of

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Pembroke Chemical Corporation, the highest was $13,125 made by Pembroke Chemical Corporation itself. The next highest bid was $13,100 made by a British-controlled domestic corporation which, together with its British parent, already owned a majority of the Pembroke stock. Owing to the provisions of the Trading with the Enemy Act requiring that vested property be sold to American citizens in the absence of a finding by the Custodian that it would be in the public interest to sell to an alien, it was determined to reject the bids for the reason that the high bidders were controlled directly or indirectly by a British corporation. The four other bids received were rejected as insufficient. In the effort to obtain a more adequate sales price than had been offered by qualified bidders, the Custodian ordered a public auction on January 29, 1946. At the auction the Ore & Chemical Corporation, then owned by Mr. B. R. Armour, the successful bidder at the Custodian's auction sale of that company in September 1945, made the high bid of $15,500 for the 35 vested shares of Pembroke Chemical Corporation.

K. Nakano, Limited.—K. Nakano, Limited, was the first of the enterprises located outside the continental United States to be offered for sale. The company operates the BON TON Department Store in Honolulu, Territory of Hawaii, specializing in medium-priced apparel and dry goods. Its business is in competition with nine other stores of a similar character located in the same area. At public sale the Custodian received five sealed bids ranging from $93.90 to $255.32 per share for the 939 vested shares (53.3 percent of the outstanding capital stock). The high bid of $255.32 per share, appreciably more than the $188.50 per share book value of the stock as of December 31, 1945, was accepted.

LIQUIDATION OF VESTED ENTERPRISES

Of the total of 413 vested business enterprises 297 either were in liquidation at the time of assumption of control by the Custodian or have been subsequently placed in liquidation by the Office. Of these enterprises, 30 are closed banks and insurance companies, which are treated separately in the next section of this chapter. The remaining 267, as may be noted from Table 20, have been engaged in a wide variety of business activities. As of dates of assumption of control, 10 investment holding companies owning assets of $35,877,000 and 133 wholesale trading companies with assets of $30,092,000 comprised the greater part of the total assets of $78,378,000 of these 267 enterprises.

Procedure in Liquidation of Corporations

The first step in the liquidation of corporations is the cancellation of the existing certificates for vested stock and the issuance of new certificates in the Custodian's name. The corporation is then restaffed with personnel of the Office. When necessary the corporate structure is amended to facilitate liquidation and corporate procedures. Inventory and appraisal of all physical property follow, together with a review of all other assets and a determination of the corporation's fiscal and tax status. Liquidation of the physical property may be carried out through usual trade channels, by public sale, or through negotiated offers, depending on the method most advantageous to the Custodian and the corporation. Other assets, such as receivables and claims, must also be reduced to cash.

Claims against the corporation are reviewed, their validity determined, and necessary steps taken to dispose of them. Following the issuance of

a dissolution order by the Custodian, the proceeds of the liquidation are distributed in accordance with applicable state and Federal laws.

Table 20.—VESTED ENTERPRISES IN LIQUIDATION (OTHER THAN BANKS AND INSURANCE COMPANIES), DISTRIBUTED ACCORDING TO KIND OF BUSINESS ACTIVITY

[Total assets in thousands of dollars]

Kind of business activity	Number of enterprises	Total assets	
		As of dates of assumption of control	As of June 30, 1946
Total	[1] 267	78,378	65,873
Manufacturing:			
Chemical	4	594	79
Miscellaneous	14	360	250
Agriculture	5	3,805	471
Mining and petroleum	2	64	40
Trade:			
Wholesale	133	30,092	26,918
Retail	25	1,666	710
Transportation and related services	20	2,823	2,298
Holding:			
Investment	10	35,877	[2] 33,175
Real estate	15	2,112	1,163
Patent	8	50	41
Miscellaneous finance	8	319	227
Services:			
Rendered for profit	10	193	179
Nonprofit	13	423	322

[1] Including 49 completely liquidated companies, which have no assets remaining on June 30, 1946.
[2] Almost all of these assets are located in enemy and formerly enemy-occupied countries.

Accounts Receivable.—In collecting accounts receivable, it is first necessary to develop information to show that the debt is due and owing by the person, firm, or corporation indicated to be the obligor by the books of the company. In some instances, making and enforcing the demand results in counter-claims by the obligor based on agreements alleged to have been made prior to vesting between the company and the obligor. When the files of the company are not sufficiently clear to refute such claims, a compromise offer of settlement may be sought. When the initiation of a suit to enforce collection is necessary, the matter is referred to counsel for the company.

Payment of Claims.—Among the primary responsibilities of the Office in its liquidation program is the prompt payment of valid claims against corporations. Such payment can be made as the liquidation of assets progresses if the solvency of the company is unquestioned. Otherwise, final settlements with creditors cannot be made until matters affecting foreign assets and liabilities are resolved, lawsuits settled, and the liquidation process substantially concluded. During the fiscal year a plan was adopted with respect to an insolvent corporation having substantial assets whereby pro rata payments were made, to the extent possible from available funds, to all creditors whose claims had been allowed. Funds were reserved for the payment of contingent claims. Approval of this plan by the Custodian has led to the adoption of similar plans to be applied to four other corporate cases. This procedure greatly shortens the time creditors must wait for substantial payments on their claims.

While nonenemy foreign creditors of vested corporations receive the same treatment as domestic creditors, it has often been difficult to ascertain

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whether their claims are valid obligations. Too often information in the files of the companies is insufficient, and until proof of the obligation can be procured payment cannot be made. Efforts are being made to obtain additional information on which to determine whether such claims should be paid.

Liquidating Dividend.—In 100 percent stock vestings, the declaration and payment of a liquidating dividend is preceded by:

1. Liquidation of assets, either completely or to the point where there are sufficient funds to pay all creditors' claims in full.
2. Payment of creditors' claims.
3. Dissolution of the corporation.

Because means of expeditious closing of corporate cases are not always provided in applicable state statutes, the Custodian has accelerated the final distribution of dividends to himself in cases in which he is sole stockholder by issuing "Dissolution Orders"; these orders are directives to the corporate officers and directors and provide for the manner of winding up corporate affairs and making final distribution of assets. Dissolution orders are based on a review of all actions taken since the capital stock of the corporations was vested and a determination of the extent to which the liquidation and dissolution of the companies in accordance with state law have progressed. The orders provide for the payment of a final liquidating dividend either wholly in cash or partly in cash and partly in unliquidated assets. Liquidating dividends are paid partially in kind if the nature of some of the assets would delay the complete liquidation of a corporation. Dividends paid in kind generally consist of securities and accounts receivable involving difficult collection problems. The dissolution order speeds up the payment of a liquidating dividend by directing the turning over to the Custodian, as the sole shareholder, of all remaining assets after creditors' claims have been paid, without waiting for the expiration of the statutory period which may be required under applicable laws of the state in which the company is incorporated. The order also provides for exculpation of the officers and directors in making such payments before expiration of the waiting period.

Where the Custodian's vested interest is a majority interest but not 100 percent, the same procedure is followed in making liquidating distributions, except that before the dissolution order is issued it is necessary for the other shareholders, exclusive of the Custodian, to furnish bond to protect the officers and directors of the company as well as the Custodian in the event that creditors' claims not shown on the books are asserted and allowed prior to expiration of the waiting period.

If only a minority interest in a company has been vested, the management is generally not designated by the Custodian. No dissolution orders are issued, but the plans for distribution adopted by the officers are passed on by the Custodian under his supervisory powers.

Bankruptcy.—The principal reasons for determining that an insolvent corporation should be placed in bankruptcy are (1) a small amount of liquid assets compared with outstanding liabilities and (2) doubt as to the possibility of material realization on other assets. If the cause of a company's insolvency is present inability to collect foreign assets in substantial amounts, however, bankruptcy is not elected. When a corporation a majority or 100 percent of whose stock is vested possesses substantial liquid assets, it is rarely placed in voluntary bankruptcy regardless of the degree of insolvency. If the Custodian has a minority interest, the question of

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instituting bankruptcy proceedings rests with the majority shareholders. During the fiscal year two vested corporations, Haruta and Company, Inc. and Sakuma Shokai, Ltd., both Japanese trading companies, were voluntarily placed in bankruptcy; another 12 companies were placed in bankruptcy in previous years.

Procedure in Liquidating Unincorporated Enterprises

In liquidating the vested assets of unincorporated enterprises, the procedure followed is first to take possession or control of the vested property. The property is then inventoried and appraised. In preparing for and carrying out the sale of the property, the Custodian's General Order No. 26 is followed; this order requires, except as provided therein, that property be offered for sale through sealed bids publicly opened and recorded. When public offerings do not produce adequate bids, negotiations are undertaken with prospective purchasers in order to obtain satisfactory offers. Receivables, claims, and other assets are reduced to cash, generally through negotiation with the other parties involved.

CLAIMS.—Claims asserted against unincorporated vested enterprises must necessarily be handled in a different fashion from those made against corporations in which interests have been vested. A corporation, as a legal person, can proceed to pay claims against it or can be sued by claimants the validity of whose claims is questioned. When the Custodian assumes control of an unincorporated enterprise through the issuance of a vesting order taking title to the assets of the company, there frequently are outstanding claims against the property that arose from ordinary business transactions prior to vesting. Such claims can be paid only by the Office. Because the Custodian's legal authority to pay most kinds of debt claims is not clear, the policy has been adopted of not paying debt claims until this authority is more adequately defined.[2] Post-vesting expenses incurred in managing or liquidating such enterprises are, of course, paid currently by the Custodian. For a fuller discussion of claims, see Chapter XI, "Claims and Suits," pp. 142-154.

Progress of Liquidation: General

Of the 267 companies, exclusive of banks and insurance companies, that have been placed in liquidation since vesting, a total of 49 have been entirely liquidated by June 30, 1946. Cash is the only remaining asset of another 34 companies, with complete liquidation delayed only by complications over discharge of liabilities. Progress of liquidation has been hindered by the wide variety of special problems arising in individual cases and by the particular difficulties resulting from location of more than half the total remaining assets of companies in enemy and formerly enemy-occupied countries, where appraisal and liquidation of assets, normally complicated by laws and regulations of foreign governments, are further aggravated by the destruction of war and the uncertainties of the postwar situation.

The progress of all vested enterprises in liquidation except banks and insurance companies is indicated generally in Table 21 and is discussed in the following sections.

[2] Public Law 671, 79th Cong., 2d Sess., approved August 8, 1946, has since clarified the authority of the Custodian to entertain debt claims and to pay them.

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Progress of Liquidation: Assets in the United States

CASH.—The increase in the cash holdings of the companies from $12,884,000 as of dates of assumption of control by the Custodian to $16,271,000 at the end of the fiscal year is due to the collection of receivables, claims, and deposits and the sale of other domestic assets. The $3,387,000 increase, however, is after the deductions of expenses paid in the course of liquidation and after payment of liquidating dividends to owners, including the Custodian.

Table 21.—CONSOLIDATED COMPARATIVE BALANCE SHEETS OF VESTED ENTERPRISES IN LIQUIDATION (EXCEPT BANKS AND INSURANCE COMPANIES), AS OF DATES OF ASSUMPTION OF CONTROL AND AS OF JUNE 30, 1946

[In thousands of dollars]

Balance sheet item	As of dates of assumption of control	Net change	As of June 30, 1946
ASSETS [1]			
Located in the United States:			
Cash	12,884	3,387	16,271
Receivables	2,793	−1,653	1,140
Inventory	4,239	−3,178	1,061
Investments	5,298	−1,717	3,581
Fixed assets	2,613	−2,353	260
Intangibles	153	−50	103
Deferred charges	110	−100	10
Claims and deposits	4,454	−2,448	2,006
Total assets located in United States	32,544	−8,112	24,432
Located in allied and neutral countries	7,032	−4,004	3,028
Located in enemy and formerly enemy-occupied countries	38,802	−389	38,413
Total assets	78,378	−12,505	65,873
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	23,775	−64	23,711
Owing to residents of allied, neutral, and formerly enemy-occupied countries	3,701	−1,731	1,970
Owing to residents of enemy countries	4,953	−1,947	3,006
Owing to Custodian (vested)	6,786	[3] −1,185	5,601
Total liabilities	39,215	−4,927	34,288
Net worth:			
Net worth of solvent enterprises	47,436	−5,346	42,090
Net worth of insolvent enterprises	−8,273	−2,232	−10,505
Total net worth	39,163	−7,578	31,585
Total liabilities and net worth	78,378	−12,505	65,873
Net worth of solvent enterprises distributed according to ownership shares:			
Vested in Custodian	29,080	[3] −2,918	26,162
Owned by others	18,356	−2,428	15,928

[1] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[2] Including $2,001,000 of additional rights in debts vested and $79,000 net decrease in value of rights, less $3,107,000 in securities and cash paid to Custodian.
[3] Including $1,166,000 of additional interest in net worth vested and $150,000 increase in book value, less $4,234,000 in cash and securities paid to Custodian.

RECEIVABLES.—More than half of the receivables as of dates of assumption of control have been collected, $414,000 during the fiscal year. A large part of the $1,140,000 yet to be collected is complicated by counterclaims,

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by legal processes where suits have been found necessary, and by the inability of some creditors to pay. During the fiscal year a recovery of approximately $137,000 was effected by Pioneer Potash Corporation. The complicating factors here were the defendant's contention that a Dutch Government decree prevented payment and a technical defense based on the original agreement under which the debt was incurred.

INVENTORY.—The process of liquidation has resulted in the reduction of inventory by $3,178,000, leaving $1,061,000 yet to be disposed of. The largest single item remaining is a billet mill with a book value of more than $700,000, for which a satisfactory market has not yet been found.

Outstanding among the sales during the fiscal year was the public offering of precious, semi-precious, and synthetic stones that had been vested from Bridge Import Company and Pioneer Import Corporation. These sales are discussed in Chapter V, "Selected Vested Enterprises," pp. 92-93.

INVESTMENTS.—Reductions of investments by approximately one-third has brought their book value to $3,581,000. Since over two-thirds of this amount represents holdings in United States Government securities, no serious liquidation problem is present.

FIXED ASSETS.—The decline in fixed assets by $2,353,000 is the result of the sales of buildings, real estate, and equipment and also the charging off of book values that were in excess of real values of such property. The greater portion of the remaining $260,000 in fixed assets is land and buildings valued at $230,000 held by Bruhan Realty Co.

INTANGIBLES.—While intangibles include patent rights which may be of some value, they consist for the most part of good will, interests in trademarks, and other items which may be valueless.

DEFERRED CHARGES.—The decline in deferred charges to $10,000 indicates the expiration of such prepaid items as business license fees and insurance and the depletion of office and other supplies used in the businesses.

CLAIMS AND DEPOSITS.—Claims and deposits totaling $4,454,000 as of dates of vesting have been reduced by more than half, to $2,006,000 on June 30, 1946. Approximately 90 percent of this reduction occurred during the fiscal year and resulted from the award of over $2,200,000 in settlement of claims against the United States Government for quantities of raw silk which had been requisitioned from certain vested enterprises by the War Production Board during the war period. The remittances made by the Reconstruction Finance Corporation involved the following companies and sums:

Japan Cotton & Silk Trading Co., Inc.	$214,991
Mitsui & Company, Ltd	1,778,066
Hara & Company	235,435

Progress of Liquidation: Assets Abroad

ASSETS LOCATED IN ALLIED AND NEUTRAL COUNTRIES.—As of June 30, 1946, assets in allied and neutral countries are carried at $3,028,000. Over half of this amount consists of accounts receivable owing to vested enterprises in liquidation by persons and companies in Canada and China.

ASSETS LOCATED IN ENEMY AND FORMERLY ENEMY-OCCUPIED COUNTRIES.—By far the most important enemy assets of all vested enterprises in liquidation are the mining subsidiaries in Silesia owned by the Silesian-American Corp. and carried at a book value of $31,000,000. Another asset carried at substantial book value is the claim of the Japan Cotton Company against the Yokohama Specie Bank of Japan for $1,200,000.

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Progress of Liquidation: Liabilities

As of June 30, 1946, the total liabilities of vested enterprises in liquidation were $34,288,000, a decline of $4,927,000 since dates of assumption of control. The reduction of liabilities owing to residents of the United States to $23,711,000 does not reflect the substantial payments made to domestic creditors because of increases in liabilities resulting primarily from the accumulation of interest on the unpaid debts of insolvent companies. Payment and, to some extent, the writing off of liabilities found to be invalid obligations have resulted in a decrease in liabilities owing to residents of nonenemy countries to $1,970,000, a decline of $1,731,000. The $1,947,000 decline in liabilities due residents of enemy countries results for the most part from the Custodian's vesting of an additional $2,001,000 of creditor interests subsequent to his assumption of control over the enterprises. Despite these additional vestings, liabilities owing to the Custodian have been substantially reduced, principally because of the payment of $3,107,000 by the companies.

Progress of Liquidation: Net Worth

The net worth of the companies at dates of assumption of control and net worth as of June 30, 1946, are reconciled as follows:

Net worth as of dates of assumption of control		$39,163,000
Operating profits and losses:		
Profit of 80 companies	$1,888,000	
Less: Loss of 159 companies	—2,679,000	
	—791,000	
Capital gains and losses:		
Capital gains	1,800,000	
Less: Capital losses	—3,291,000	
	—1,491,000	
Distributions to stockholders and other owners (including the Custodian):		
Regular dividends	—342,000	
Liquidating payments	—4,938,000	
	—5,280,000	
Interests bought in by companies	—16,000	
Total changes		—7,578,000
Net worth as of June 30, 1946		31,585,000

PROFITS AND LOSSES.—The profits of 80 companies in liquidation have been more than offset by the losses of 159 companies, resulting in a net operating loss of $791,000. The other 28 companies in liquidation had neither profits nor losses. The net operating loss is caused principally by necessary expenses of liquidation and by the substantial accumulation of interest on debts which certain companies have found impossible to pay, principally because they have been unable to obtain any income from their European assets or liquidate them.

CAPITAL GAINS AND LOSSES.—The capital gains of the enterprises in liquidation result chiefly from downward adjustments of taxes and other liabilities incurred prior to vesting and from gains on the sale of assets. Losses on the sale of assets, the writing down of assets carried at excessive book values, and the entering on the books of the companies of additional

liabilities found to have been incurred previous to vesting are the main factors accounting for capital losses.

DISTRIBUTIONS TO OWNERS.—The progress of liquidation has thus far permitted the payment of $342,000 in regular dividends and $4,938,000 in liquidating dividends, or a total of $5,280,000, to the owners of the enterprises. During the past fiscal year $1,354,000 of liquidating dividends were paid.

LIQUIDATION OF BANKS AND INSURANCE COMPANIES

The liquidation of 22 banks and eight insurance companies is being continued. Of these enterprises, 21 are former Japanese companies, eight Italian, and one German. The liquidation of 21 of the companies is being carried on under the supervision of the Custodian by the superintendents of banks and insurance of state governments, while the liquidation of the remaining nine companies is being conducted directly by the Office.

The balance sheets of these enterprises have been consolidated, and the resulting statement is presented in Table 22.

Disposal of Nonliquid Assets

Since the dates of assumption of control to June 30, 1946, domestic assets other than cash have declined from $24,181,000 to $12,180,000. The decline of $12,001,000 includes the sale or liquidation of $8,306,000 of assets and the distribution of $3,695,000 of assets in kind to the Custodian. The reduction in nonliquid domestic assets during the fiscal year alone amounted to $1,420,000.

Remaining nonliquid domestic assets consist largely of accounts receivable, but due to legal questions and the insolvency of some debtors only a part of the $11,756,000 of outstanding receivables may be collectible.

Progress in the liquidation of assets in allied and neutral countries continues to be impeded by enemy property regulations of foreign governments and by disputes as to whether certain debts are payable to home offices in Japan and elsewhere or to vested branch banks in the United States.

Payment of Creditors

During the fiscal year ending June 30, 1946, payments to depositors and other creditors recognized by the liquidating authorities amounted to approximately $2,500,000, or more than double the amount paid in the previous fiscal period. About $1,500,000 of the total consisted of payments, almost all of which were to nonenemy foreign creditors, by the New York agency of the Banca Commerciale Italiana. Since the time of assumption of control the companies have paid over $8,000,000 to creditors. Owing largely to the entry on the books of previously unrecorded liabilities, the actual decline in liabilities on the books of the companies (see Table 22) amounts to only $6,529,000.

The issue whether depositors are entitled to collect interest on their funds from the time the banks closed to the time the deposits are paid is being resolved through litigation pending in several states. No general ruling applicable to all companies can be expected because of the varying circumstances in each case.

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Table 22.—CONSOLIDATED COMPARATIVE BALANCE SHEETS OF VESTED BANKS AND INSURANCE COMPANIES IN LIQUIDATION, AS OF DATES OF ASSUMPTION OF CONTROL AND AS OF JUNE 30, 1946

[In thousands of dollars]

Balance sheet item	As of dates of assumption of control	Net change	As of June 30, 1946
ASSETS [1]			
Located in the United States:			
Cash	35,921	−10,065	25,856
Receivables	12,989	−1,233	11,756
Investments	9,245	−8,940	305
Fixed assets	142	−140	2
Deferred charges	96	−26	70
Claims and deposits	1,709	−1,662	47
Total assets located in the United States	60,102	−22,066	38,036
Located in allied and neutral countries	5,200	−375	4,825
Located in enemy and formerly enemy-occupied countries	14,944	178	15,122
Total assets	80,246	−22,263	57,983
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	9,692	−4,821	4,871
Owing to residents of allied, neutral, and formerly enemy-occupied countries	2,330	−2,181	149
Owing to residents of enemy countries	1,302	473	1,775
Total liabilities	13,324	−6,529	6,795
Net worth:			
Net worth of solvent enterprises	66,922	−15,731	51,191
Deficits of insolvent enterprises	(2)	−3	−3
Total net worth	66,922	−15,734	51,188
Total liabilities and net worth	80,246	−22,263	57,983
Net worth of solvent enterprises distributed according to ownership shares:			
Vested in Custodian	66,435	[3] −15,395	51,040
Owned by others	487	−336	151

[1] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[2] Less than $500.
[3] This amount includes a reduction of $14,349,095 in the book value of the Custodian's interests resulting from the transfer of cash and other property to the Office as liquidating distributions.

Changes in Net Worth: Gains and Losses and Distributions to Owners

From the dates of assumption of control over the companies to June 30, 1946, the net worth of the banks and insurance companies has declined from $66,922,000 to $51,188,000. This change in net worth is explained by the following reconciliation:

Net worth as of dates of assumption of control		$66,922,000
Liquidating gains and losses:		
Gains of 11 companies	$699,000	
Loss: losses of 19 companies	−1,765,000	
Net loss	−1,066,000	
Distributions to stockholders and other owners (including Custodian):		
Liquidating payments in cash	−11,343,000	
Liquidating payments in securities (Treasury bonds, marketable stocks)	−3,325,000	
Total distributions	−14,668,000	
Total change in net worth		−15,734,000
Net worth as of June 30, 1946		51,188,000

The net liquidating loss of $1,066,000 results from book losses on the sale of assets, adjustments in the value of assets, liabilities established since the assumption of control, and administrative expenses incident to liquidation.

During the period since vesting, $14,667,645 in liquidating payments has been distributed; the Custodian received $14,349,095 and minority stockholders received $318,550. Total distributions during the fiscal year were $2,282,645, made principally by General Insurance Co. Ltd., Pilot Reinsurance Company of New York, and Tokyo Marine & Fire Insurance Company, Ltd.

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Selected Vested Enterprises

The vested enterprises discussed in this chapter have been selected for more detailed presentation than the general treatment of business enterprises in the preceding chapter in order to illustrate the nature of the Custodian's business enterprise holdings and the problems they present. Among the selected companies are some of the largest that the Custodian has vested and continued in operation. The sections concerning twelve of the selected enterprises carry through the current fiscal year information relating to companies described in previous annual reports.

The first eight enterprises discussed have been continued as going concerns by the Custodian following his vesting of majority stock interests from the former German owners. Six are manufacturing companies: American Bosch Corporation, American Potash & Chemical Corporation, General Aniline & Film Corporation, Harvard Brewing Company, Schering Corporation, and Carl Zeiss, Inc. General Dyestuff Corporation is a wholesale distributing firm, and Hugo Stinnes Corporation is an investment holding company.

The next four descriptions are illustrative of the Office's actions and problems in liquidating business enterprises. Three branches of Mitsubishi Shoji Kaisha, Ltd. were formerly engaged in wholesale export and import, while the three corporate subsidiaries of Yamanaka and Company, Ltd. of Japan dealt in Oriental art goods and antiques. The United States branches of Yokohama Specie Bank Ltd. constitute a formerly Japanese-owned banking business and Pilot Reinsurance Company of New York a former German- and Italian-owned insurance company.

The last section of the chapter is concerned with Pioneer Import Corporation and Bridge Import Company, which are treated together because of their close relationship. These companies, not discussed in previous annual reports, are in liquidation and are included here by reason of the special interest attached to the Custodian's sale of the companies' precious stones.

As in the descriptions in previous years, the information presented accounts for the Custodian's interest in each company, explains the nature of the business, deals with any special problems of operation or management, and summarizes the financial history of the selected enterprises.

AMERICAN BOSCH CORPORATION

Interest of the Custodian

The Alien Property Custodian continues to hold title to 535,000 shares, or 77 percent, of the 692,644 outstanding shares of capital stock of American Bosch Corporation.

On June 14, 1946, Aktiebolaget Vargos (hereinafter referred to as "Vargos"), Stockholms Enskilda Bank, Aktiebolag (hereinafter referred to as the "Bank"), and Svenska Aktiebolaget Caritas (hereinafter referred to as

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"Caritas"), all Swedish corporations, instituted under Section 9 (a) of the Trading with the Enemy Act an action against the Custodian in the United States District Court for the District of Columbia.[1] The complaint seeks the return of the 535,000 shares of stock vested by the Custodian or, in the event of the sale of the stock, the proceeds resulting from the sale, and also dividends amounting to more than $1,000,000. It is alleged that voting trust certificates representing the beneficial interest in the stock were issued prior to May 19, 1942, the date of vesting, to Brown Brothers, Harriman & Co., New York, who held the certificates on behalf of the Bank, and that Vargos was the owner of all of the voting trust certificates, subject only to certain pledges to the Bank and Caritas. The voting trust agreement has expired, and Vargos now claims legal ownership of the vested shares of stock, alleging that neither it nor the Bank nor Caritas, who claim as pledgees, has been in any sense an enemy of the United States or has held the shares for or on behalf of any enemy.

Management

The American Bosch Corporation continues to be managed by a board of seven directors, of which Mr. Frank J. Garvey, who was formerly on the staff of the Alien Property Custodian, is Chairman. Mr. Donald P. Hess, another member of the Board, continues as President of the Corporation. Mr. John P. McGuire resigned as a Director of the Corporation in February 1946, and was replaced by Mr. Walter S. Quinlan.

The directors manage the normal business operations of the company under a general authorization issued by the Custodian, but all transactions outside the normal conduct of business require specific authorization.

Business Operations

Following V-J day, a reconversion program was started to prepare for peacetime operations. Manufacturing facilities that had been leased were relinquished and all activities were combined at the main plant at Springfield, Massachusetts. Departments were rearranged, the manufacture of wartime products was abandoned, and arrangements are being made with the Reconstruction Finance Corporation to purchase such leased equipment as is needed for peacetime operations.

The American Bosch Corporation's principal peacetime products are Diesel engine fuel injection equipment and automotive electric equipment, including magnetos, generators, timer-distributors, ignition coils, voltage regulators, and windshield wipers. While aviation magnetos accounted for well over half of net dollar sales during the period of war production, their manufacture and sale were substantially reduced in the latter part of 1945, and accounted for less than five percent of sales in 1946.

The company's products are sold principally to domestic manufacturers of engines and automotive vehicles; a smaller amount is sold to distributors and jobbers for replacement purposes. Export sales accounted for approximately six percent of the total net dollar sales in the first six months of 1946. Sales are developed principally through the rendering of engineering services and advice to manufacturers in the design and layout of their products rather than through merchandising or advertising reaching the ultimate consumer.

Operations during the first six months of 1946 resulted in a substantial loss. The dependence on iron castings, steel bars, strips and sheets, and

[1] Prior to bringing suit, the plaintiffs had filed Claims Nos. 5208, 5234, and 5235 with the Custodian.

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copper wire as the basic materials for the manufacture of its products worked serious hardships on the company's operations since these materials were not obtainable in adequate supply.

Financial Information

The Corporation's total assets declined by $4,986,139, or 26.2 percent, during the year ending June 30, 1946. The amount of cash was increased by $1,294,650 while all other classes of domestic assets except investments and intangibles showed substantial declines. Total liabilities dropped by $3,231,682, or 37.5 percent, during the year. While assets and liabilities are thus substantially less than they were a year ago, they are still approximately one-third higher than at the time of vesting in May 1942.

AMERICAN BOSCH CORPORATION, COMPARATIVE BALANCE SHEETS,[1] MAY 19, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	May 19, 1942 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States:			
Cash	$2,514,339	$3,104,944	$4,399,594
Receivables	1,907,193	4,063,762	2,815,350
Inventory	2,860,996	4,753,682	2,121,053
Investments		1,951,000	2,155,000
Fixed assets	2,511,316	2,762,837	[5] 1,389,940
Intangibles	1	1	1
Deferred charges	531,965	899,324	409,776
Claims and deposits	203,178	1,471,309	730,000
Total assets in the United States	10,528,988	19,006,859	14,020,720
Located in allied and neutral countries	(4)	(4)	(4)
Located in enemy and formerly enemy-occupied countries		176	176
Total assets	10,528,988	19,007,035	14,020,896
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	4,265,979	8,610,587	5,378,905
Owing to residents of allied, neutral, and formerly enemy-occupied countries	(4)	(4)	(4)
Owing to residents of enemy countries			
Owing to Custodian (vested)			
Total liabilities	4,265,979	8,610,587	5,378,905
Net Worth	6,263,009	10,396,448	8,641,991
Total liabilities and net worth	10,528,988	19,007,035	14,020,896
Book value of shares vested in Custodian	4,837,548	8,030,216	6,675,074
Book value of shares not vested	1,425,461	2,366,232	1,966,917

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company.
[2] Date of vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[4] There were assets "Located in allied and neutral countries" and liabilities "Owing to residents of allied, neutral, and formerly enemy-occupied countries" (principally Canada) but the amounts were not readily available and were, in any event, not significant.
[5] Unamortized emergency facilities were entirely written off during the fiscal year 1946 in accordance with provisions of section 124 of the Internal Revenue Code. The net value of such facilities included in fixed assets on June 30, 1945, was $1,272,907.

Net sales for the period July 1, 1945 to June 30, 1946, fell to $26,482,493, approximately 43 percent of sales for the calendar year 1944, due to the termination of war production and to curtailment of production in the automotive industry because of strikes and shortages. The first six months of 1946 showed a loss before Federal taxes, although the loss is expected to be minimized by way of tax refund under the carry-back provision of the

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tax law, which should reduce taxes for the calendar year 1946. After provision of $2,579,000 for Federal income taxes, profits for the twelve-month period ending June 30, 1946, amounted to $666,586, which included $150,000 transferred from the reserve for postwar readjustment.

Other changes, all of which reduced the net worth of the company, were: (1) additional provision for 1944 renegotiation refund, $88,907; (2) decreases in reserves (included in the accompanying balance sheet as part of net worth) of $1,200,000 for contingencies, $98,135 for service replacement, and $514,519 for post-war readjustment; and (3) dividend payments of $519,483. After giving effect to all these factors, net worth declined during the fiscal year by $1,754,457 to $8,641,991.

The Office of Alien Property Custodian received $401,250 as its 77 percent share of the dividends paid.

AMERICAN POTASH & CHEMICAL CORPORATION

Sale

American Potash & Chemical Corporation was the first of the Custodian's larger vested enterprises to be sold. Following vesting in 1942 of 479,726 shares or 90.8 percent of its outstanding common stock, the company was administered through the existing management by the Board of Directors, to which the Custodian had named representatives. Preparation for the sale begun in 1944 was delayed by litigation discussed later in this section. At a public meeting held by the Custodian in November 1945 to discuss the proposed sale, interested parties, including underwriters, securities dealers, and investment companies, were invited to make suggestions to aid the Office in determining the mechanics of sale. The Custodian wanted first of all to make sure that the vested shares were sold with the widest possible distribution in order to make more difficult the renewal of German interests in the Corporation and to provide as full an opportunity as possible for interested American investors. At this meeting the Custodian indicated a strong preference for a plan of public distribution of the shares by underwriters.

In accordance with the consent judgment entered on February 12, 1946, described below in greater detail, the Corporation reclassified its outstanding stock into Class A and Class B shares. The Class A shares represented the unvested stock, which had been traded on the New York Curb Exchange throughout the war period. The Class B shares were registered with the Securities and Exchange Commission to comply with the standards of disclosure set up by the Commission. For the preparation of a prospectus the law firm of Hughes, Hubbard & Ewing, the engineering firm of Day & Zimmermann, Inc., and the accounting firm of Deloitte, Plender, Griffiths & Co. were retained. As provided in the terms of the sale, their services were paid for by the successful bidder. The result of this arrangement was that interested parties were enabled to bid without the considerable expense of a survey of the offering.

In order that investigation of a bidder's qualifications might not delay the making of an award, the Custodian required prospective bidders to file, ten days before March 27, 1946, the date set for the sale, completed questionnaires setting forth their qualifications. Under the Trading with the Enemy Act sales of vested property by the Custodian are to be made to American citizens; furthermore, by provision of the Consent Judgment of February 12, 1946, certain categories of people were ineligible to acquire

ownership of the Class B stock of the American Potash & Chemical Corporation (see following section on "Litigation"). The Custodian also required that prospective bidders indicate in their questionnaires their plans for distribution of the stock.

Although three prospective bidders filed advance questionnaires indicating their qualifications for bidding and their plans of distribution, there was only one bid submitted. The single bid for the 478,194 offered shares was made by an underwriting syndicate of 108 investment houses headed by Glore, Forgan & Co., Kuhn, Loeb & Co., and Lehman Brothers. The bid of $32.29 a share, or a total of $15,440,884.26, plus $90,000 expense money, was accepted by the Custodian.

At the initial public offering made by the underwriters on March 29, 1946, at $35 a share, Heyden Chemical Corporation bought 100,000 shares. A few weeks later the Class B stock was being traded on the New York Curb Exchange.

Custodian's Interest Subsequent to the Sale

Of the 479,726 shares of the Corporation's stock that had been vested, the Custodian withheld from the sale 1,532 shares because they had originally been issued by the Corporation as a bonus to its employees, and there was a question as to whether they were validly issued and outstanding.

In addition to the money received from the sale, the Office holds $2,518,562 received as dividends on the vested stock during the period of the Custodian's ownership and $2,718,993.16 representing dividends paid on the vested stock prior to vesting. This latter sum, acquired by Vesting Order No. 6867, executed on July 1, 1946, had been paid by the Corporation to J. P. Morgan & Co. for the account of Hope & Co.

There have been no suits filed under Section 9 (a) of the Trading with the Enemy Act with respect to the vested interests in American Potash & Chemical Corporation, or to the proceeds thereof. Four claims relating to the property were, however, filed with the Office of Alien Property Custodian in 1942 and 1943; the most important asserts a security lien against approximately 465,000 shares of vested stock. No action has been taken on these claims.

Management

In the fall of 1945, Corporation policy was placed in the hands of an executive committee consisting of five directors, of whom three were required to have had no connection with the Corporation prior to the Custodian's vesting.

As of September 30, 1945, Mr. F. C. Baker resigned as President and Director of the Corporation. He was succeeded as President by Mr. Frederic Vieweg, formerly Director and Vice-President in charge of Western Operations. On October 15, 1945, Mr. Thomas E. Wing resigned as Director. As of the date of sale, seven of the Corporation's nine directorships were filled, five by persons initially appointed by the Custodian.

Litigation

An action instituted against the Corporation by the United States on February 12, 1946, sought to cancel the Corporation's potash leases granted in 1939, charging that the Corporation had violated the antitrust laws, that 90.8 percent of the capital stock of the Corporation was owned at the time of the execution of the leases by Germans in violation of the Mineral Leasing Act of 1920, and that the Corporation had misrepresented to the Depart-

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ment of the Interior the citizenship of its stockholders. On the same day the Corporation filed its answer denying violation of law and misrepresentation. The court entered a consent judgment which enjoins the Corporation during the term of the leases from disposing of its property, other than in the normal course of business, and from transferring control to any person or business organization to whom stock ownership is prohibited by the judgment, namely:

1. Any person who was a director or officer of the Corporation or its subsidiaries prior to vesting;
2. Any owners of record or beneficial owners of the vested stock prior to vesting;
3. Any of the defendants other than the Corporation named in the anti-trust proceedings, *United States of America* v. *American Potash & Chemical Corporation, et al.* and *United States of America*, v. *Borax Consolidated, Ltd., et al.*;
4. Any person or business organization to whom ownership of any interest in a lease is proscribed by the Mineral Leasing Act;
5. Any lessee of Government-owned potash deposits or lands other than the Corporation.

The judgment excepts the officers, directors, and employees of the Corporation and its subsidiaries as of February 12, 1946. To comply with the judgment the Corporation reclassified the 479,726 vested shares of its stock into Class B stock, to which the above restrictions on transfer and ownership apply, and the 48,664 unvested shares into Class A stock, which is freely transferable. The Corporation is required to report to the Secretary of the Interior every six months all stock transfers, and names and addresses of its directors, officers, and employees. The consent judgment also provides lease forfeiture for violation of its terms.

The Corporation is one of several defendants named in an action instituted in the United States District Court for the Northern District of California, Southern Division, on July 3, 1945, entitled *Burnham Chemical Company, Plaintiff* v. *Borax Consolidated, Ltd., et al., Defendants* (C. A. No. 24948–5). The complaint alleges, among other things, that the plaintiff was a competitor of American Potash & Chemical Corporation; that the Corporation combined and conspired with the other defendants to restrain and monopolize trade in the production, manufacture, and sale of crude borates, refined borax, and boric acid in violation of Sections 1 and 2 of the Sherman Anti-Trust Act; that such combination and conspiracy was entered into for the purpose and with the intent of destroying plaintiff and eliminating it as a competitor; and that, as a consequence, plaintiff was forced in 1929 to close its plant. The complaint alleges damages of $1,168,564 and prays for treble damages, interest, costs, and reasonable attorneys' fees. The Corporation and other defendants filed separate motions to dismiss for failure to state a claim on which relief can be granted and on the ground that the action is barred by the applicable Statute of Limitations. As of the date of sale these motions were pending.

Business Operations

Following V–J Day the Corporation launched a $2,350,000 plant expansion program. The first postwar project, a $300,000 addition to the Research Department, will be completed in 1947. A $2,000,000 power plant expansion, which will double the present power supply, should be completed in 1948. There was no interruption in production following V-J Day since the Corporation continued to make the same products,

although customers were generally ordering for civilian rather than war purposes. The Board of Directors, promptly considering plans for peace time operations, began a study of new products and new markets. Further plant expansion and improvement projects aim at increased production and development of new products from the brine of Searles Lake, California.

An extensive improvement program for the community of Trona, California, which houses the employees of the Corporation, was begun soon after V-J Day. Requiring three years to complete, it will cost more than $1,000,000 and will include new residential buildings and shops, expanded recreational facilities, added conveniences, and more attractive surroundings.

Executive offices of the Corporation were moved from New York to Los Angeles, where an office building estimated to cost $180,000 is planned.

Financial Information

Net sales in 1945 were $10,341,850, a nine percent increase over 1944. Provision for Federal income taxes totaled $95,000 for 1945, compared with $200,000 for 1944. The $95,000 is related to the earnings of subsidiary companies only, since the Corporation itself has no taxable income for the year 1945, after taking into account amortization deductions and deduc-

AMERICAN POTASH & CHEMICAL CORPORATION AND DOMESTIC SUBSIDIARIES, CONSOLIDATED COMPARATIVE BALANCE SHEETS [1]

	October 31, 1942 [2]	June 30, 1945	March 31, 1946
ASSETS [3]			
Located in the United States:			
Cash	$2,542,200.48	$2,768,890.38	$3,495,994.96
Receivables	520,647.08	934,804.55	981,272.52
Inventory	1,538,130.70	1,251,765.62	1,168,022.93
Investments	250,603.71	1,280,297.45	1,675,730.60
Fixed assets	16,380,187.77	11,657,845.90	11,367,572.96
Intangibles	31,787.62	25,204.16	22,460.20
Deferred charges	196,050.40	335,314.93	368,529.53
Claims and deposits			
Total assets in the United States	21,465,607.76	18,254,131.99	19,079,589.79
Located in allied and neutral countries	815,983.40	579,548.53	243,211.69
Located in enemy and formerly enemy-occupied countries			
Total assets	22,281,591.16	18,833,680.52	19,322,801.48
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	1,705,372.27	1,949,421.56	1,959,671.87
Owing to residents of allied, neutral, and formerly enemy-occupied countries			
Owing to residents of enemy countries			
Owing to Custodian (vested)			
Total liabilities	1,705,372.27	1,949,421.56	1,959,671.87
Net worth	20,576,218.89	16,884,258.96	17,363,129.61
Total liabilities and net worth	22,281,591.16	18,833,680.52	19,322,801.48
Book value of shares vested in Custodian	18,682,237.82	15,330,098.38	[4] 15,764,501.32
Book value of shares not vested	1,893,981.07	1,554,160.58	1,599,170.55

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company.
[2] Eleven days after vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[4] This figure is as of the date of sale. Following the sale of 478,194 shares on March 27, 1946, the Alien Property Custodian held 1,532 shares with a book value of $50,343.77.

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tions pertaining to depletion of its mineral reserves. Net profit after taxes amounted to $875,163.15 for the nine months ending March 31, 1946. During that period, the Corporation paid dividends of $396,292.50, including $359,794.50 to the Custodian. After payment of dividends, net worth increased in the nine months ending March 31, 1946, by $478,871, or 2.8 percent over June 30, 1945.

GENERAL ANILINE & FILM CORPORATION

Interest of the Custodian

The Office of Alien Property Custodian continues to hold 475,655, or 90.1 percent, of the 527,667 outstanding shares of the Common A stock of General Aniline & Film Corporation and 2,050,000, or 100 percent, of the outstanding shares of the Common B stock. The vested shares constitute nearly 98 percent of the outstanding voting stock of General Aniline & Film Corporation and are entitled to 92.9 percent of the dividends.

By Supplemental Vesting Orders Nos. 6767, 6768 and 6769, dated June 26, 1946, and Supplemental Vesting Order No. 6804, dated June 27, 1946, the Custodian vested dividends totaling $763,590.13, which had been declared on certain General Aniline & Film Corporation stock prior to their vesting under Vesting Order No. 5, dated April 24, 1942.[2] The dividends had been deposited in New York banks by the Corporation to the accounts of nationals acting on behalf of I. G. Farbenindustrie A. G. These funds, which had previously been frozen under regulations of the Treasury Department, were seized under the Custodian's vesting authority as enlarged by Executive Order No. 9567.

None of the five claims filed with respect to the vested shares (reported in the *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*), has been settled. No new notices of claims have been received by the Office during the fiscal year.

Management

All of the present members of the Board of Directors of General Aniline & Film Corporation were originally elected subsequent to vesting. During the twelve-month period ending June 30, 1946, the only change in directorships was the resignation of Mr. E. C. Williams, accepted on October 15, 1945.[3] Mr. George W. Burpee continues to serve as President and presides at meetings of the board. Normal business operations are carried on by the directors under an authorization issued to the Corporation.

Distribution of I. G. Chemie Shares

As of the beginning of the fiscal year, General Aniline & Film Corporation held 46,396 shares of common stock of Internationale Industrie- und Handelsbeteiligungen, A. G., Basle, Switzerland, formerly International Gesellschaft fuer Chemische Unternehmungen, A. G. (hereinafter called I. G. Chemie), of which 45,257 shares were fully-paid and 1,139 shares were fifty-percent-paid.[4] This was a reduction of 38,504 shares from the 84,900 shares held by the company at the time of its vesting, of which 56,300 were fully-paid and 28,600 fifty-percent-paid.

Continuing the policy of disposing of its investment in I. G. Chemie,[5] General Aniline & Film Corporation offered shares of I. G. Chemie common stock at the approximate market price as quoted on the Zurich, Switzerland Stock Exchange as an option in lieu of cash dividends. A tabulation of the dividends declared during the fiscal year ending June 30, 1946, follows:

Date voted	Date of record	Date payable	Optional dividend per share			
			Cash		Shares fully-paid I. G. Chemie	
			Com. A	Com. B	Com. A	Com. B
Aug. 20, 1945	Aug. 30, 1945	Sept. 24, 1945	$1.00	$0.10	1/90	1/900
Nov. 19, 1945	Nov. 27, 1945 [1]	Dec. 24, 1945	3.00	.30	1/30	1/300
Mar. 18, 1946	Mar. 25, 1946	Apr. 22, 1946	1.00	.10	1/80	1/800
June 18, 1946	June 25, 1946	July 23, 1946	1.00	.10	1/150	1/1500

[1] In determining the amount of this dividend of $3.00 per share of common A stock and $0.30 per share of common B stock, the Board of Directors considered the non-recurring profit of over $8,000,000 realized earlier in 1945 from the sale of the investment in the Winthrop Chemical Company.

In each instance the Custodian exercised the option to accept I. G. Chemie stock in lieu of cash dividends. As a result of the four dividend distributions 43,287 fully-paid shares of I. G. Chemie common stock were transferred from the Corporation to the Custodian, and in addition the Custodian received $1,060 in cash in lieu of fractional shares of stock.

After making these and earlier dividend distributions to the Custodian and a few small distributions to minority stockholders, General Aniline & Film Corporation holds only 1,594[6] shares of fully-paid and 1,139 shares of fifty-percent-paid I. G. Chemie common stock as of June 30, 1946. After payment of the dividend declared on June 18, 1946, the Alien Property Custodian will hold about 23.3 percent and General Aniline & Film Corporation about 0.8 percent of the outstanding voting stock of I. G. Chemie.

An extraordinary stockholders' meeting of I. G. Chemie was held on December 19, 1945, at Basle, Switzerland. Forty-two stockholders, representing 42 percent of the total voting interests, attended the meeting and unanimously adopted motions of the Administrative Board to (1) amend the statutes to conform to revised Swiss stock laws, (2) change the name of the firm to Internationale Industrie- und Handelsbeteiligungen, A. G., and (3) change the common stock from bearer to registered shares. The last resolution provides that, to effect the transfer of bearer shares into registered shares, shareholders must file an application for registration accompanied by the bearer shares with I. G. Chemie in Switzerland. If an application for registration is made after February 15, 1946, and the applicant obtained title to his shares after December 19, 1945, the issuance of registered shares is subject to the consent of the Board of Directors of I. G. Chemie.

Consequently, the last three dividend distributions by General Aniline & Film Corporation, wherein the Custodian elected to accept 35,726 shares of I. G. Chemie in lieu of cash dividends, may be affected by this decision

[2] Additional prevesting dividends of $108,750 were vested by Vesting Order No. 7874 of October 14, 1946.

[3] On September 24 and October 30, 1946, respectively, the resignations of Mr. Victor Emanuel and Mr. William F. Carey were accepted.

[4] Excluding 7,617 shares distributed in July 1945 pursuant to the dividend declaration of June 18, 1945.

[5] *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, p. 66.

[6] Excluding 4,577 shares distributed in July 1946, pursuant to the dividend declaration of June 18, 1946.

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to convert bearer shares into registered shares. When declaring dividends in 1946, the Board of Directors of General Aniline & Film Corporation authorized the officers to give on behalf of the Corporation to each stockholder electing to receive stock of I. G. Chemie in lieu of cash, and upon the request of the stockholder, a warranty that the recipient would receive good and valid title.

Antitrust Suits

During the fiscal year ended June 30, 1946, one of four antitrust suits against the Corporation was settled. In May 1942, shortly after its vesting, General Aniline & Film Corporation had been indicted, along with other corporate and individual defendants, in the District Court of the United States for the District of New Jersey for violation of the antitrust laws on three counts: for conspiracy in restraint of trade, conspiracy to monopolize, and monopolization, affecting both interstate and foreign commerce in dyestuffs. The indictment charged that the defendants entered into an unlawful combination with one another and with members of the European dyestuffs cartel and other foreign concerns to (1) limit dyestuff imports from and exports to the United States, (2) fix quotas on dyestuff sales in certain foreign markets, (3) establish and maintain uniform and arbitrary prices for dyestuffs sold in the United States and in other markets of the world, (4) prevent other companies from manufacturing and selling dyestuffs in the United States, and (5) refrain from manufacturing certain dyestuffs and restrict the manufacture of certain dyestuffs in the United States. Trial of the case was postponed for the duration of the war on request of the Secretary of War. After V-J Day, the request for postponement was withdrawn and the case was set for trial. It was decided not to contest, and on March 11, 1946, General Aniline & Film Corporation, with the consent of the Department of Justice, entered a plea of *nolo contendere* and was fined $15,000.

The three remaining criminal indictments, also charging violations of the Sherman Antitrust Act, were obtained in December 1941 in the District Court of the United States for the Southern District of New York. In addition to General Aniline & Film Corporation, each of the New York indictments included one or more of the following: General Dyestuff Corporation, I. G. Farbenindustrie, and certain persons who served as officers and directors of these two companies or of General Aniline & Film Corporation. The indictments charged that unlawful contractual arrangements had been entered into by I. G. Farben and its predecessors and General Aniline & Film Corporation and its predecessor firms with respect to the manufacture and sale of dyestuffs, photographic materials, and photoprint products. It was alleged that agreements restricting interstate and foreign trade, effected in part through patent license or patent assignment contracts that went beyond the rights conferred by the patents, were in violation of the antitrust laws.

Unsuccessful efforts have been made by the Corporation to settle the three suits without bringing them to trial. The company has been willing to settle the criminal cases by pleas of *nolo contendere*, as in the New Jersey case. The Department of Justice, however, has not been willing to settle the New York criminal cases in this way without securing the company's participation in a consent decree providing for compulsory licensing of the patents involved in the alleged antitrust law violations. The company is willing to accept all the provisions the Department of Justice desires

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regarding the severance of relations with I. G. Farben, but it believes that the suggested patent provision goes beyond the proper limits of a decree. Negotiations for settlement are continuing.

Business Operations

Products and Expansion Program.—General Aniline & Film Corporation has three major divisions manufacturing three distinct types of products: (1) General Aniline Works Division, which manufactures dyestuffs and auxiliaries used in the dyeing process, and miscellaneous chemical products, including detergents, carbonyl iron powder, and prolectron resins, (2) Ansco Division, which manufactures films, photographic papers and chemicals, and cameras, and (3) Ozalid Division, which manufactures sensitized materials, and machines for printing and developing such materials, used for the reproduction of drawings and printed or typed copy. During the fiscal year ending June 30, 1946, the General Aniline Works Division placed 14 new dyestuffs and five new intermediates in production, introduced two new detergents to the public, improved processes for the manufacture of other dyestuffs and detergents, and placed several new laboratory chemicals on the market. The Ansco Division introduced color film to the civilian trade. The types released were sheet film, roll film, miniature camera film, 16 mm. amateur motion picture film, and printon. Camera production was resumed and a representative line of amateur cameras, including several new models, was placed on the market. The Ozalid Division introduced an improved reproduction machine for office use.

A large program is under consideration for the expansion and improvement of productive facilities of the three divisions, with the bulk of the proposed expenditures going about equally for the General Aniline Works Division and the Ansco Division, and with a relatively small amount for the Ozalid Division. The expansion is considered desirable to increase productive capacity of the three divisions sufficiently to maintain General Aniline's position in the postwar market.

Domestic and Foreign Demand.—It is anticipated that the domestic demand for dyestuffs, film, and sensitized materials will increase at a more rapid rate in the postwar period than was experienced in the years prior to the war. The new products developed, the wider uses to which old products are being put, and the increased national income of the United States all point to greatly increased sales.

While domestic trade will continue to absorb the greater part of the output, the export market is gaining volume. Approximately 12 percent of the sales for the year ending June 30, 1946, were made in foreign markets, as compared with five percent in the calendar year 1944. Additional outlets for the products of the Ansco and Ozalid Divisions were secured in many foreign countries, and trade-marks and trade names were established. In June 1946, a Mexican Corporation, Scona Products, S. A., was formed for the distribution of photographic products in Mexico. General Aniline & Film Corporation has a 51 percent interest in the company. Limited production facilities, however, have restricted exports to a small portion of the demand.

Research and Patents.—During the year ending December 31, 1945, $2,646,763 was expended on basic research while process development expenses amounted to $208,101. Total research expenditures thus aggregated $2,854,864.

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The patent holdings of the Corporation include as of June 30, 1946, a total of 3,749 unexpired United States patents, a decrease of 160 during the twelve-month period. Pending applications for United States patents total 432, or 50 more than were pending a year earlier, reflecting increased research activity.

The patent position of the company is affected by the policy on "Captive Patents," described in Ch. VI, "Patents," pp. 105–107.

Financial Information

The total assets of General Aniline & Film Corporation decreased by $11,892,910, or 13 percent, during the twelve months ending June 30, 1946. The largest factors accounting for the decline in domestic assets were a $2,281,212 decrease in cash and a $9,976,736 decrease in investments, the latter resulting almost wholly from the sale of Government securities and the utilization of United States tax notes to pay taxes. Assets classified as "located in enemy and formerly enemy-occupied countries" declined $5,084,377, largely as a result of the distribution of shares of I. G. Chemie stock in lieu of cash dividends. Offsetting these declines in part were a $4,073,918 increase in inventory and a $2,063,772 increase in fixed assets, the latter a result of the expansion program mentioned earlier.

Total liabilities declined $11,424,832, the bulk of which was reflected in the domestic liabilities account. Domestic liabilities as of June 30, 1946, include the entire remaining long term debt of the company of $9,750,000 in the form of unsecured serial notes bearing interest at the rate of 1⅞ percent, payable in installments up to November 1, 1955. Prior to November 1, 1945, the long term debt had been in the form of 5½ percent debentures due May 1, 1949. On that date, however, the $10,000,000 in debentures were called for redemption and simultaneously the company borrowed a like amount from a group of banks at the lower rate of interest.

Net sales for the fiscal year ending June 30, 1946, were $61,222,613. Provision for Federal income taxes amounted to only $788,102. This tax provision is not proportionate to income because of the allowance of a deduction for accelerated amortization of emergency facilities pursuant to the Presidential Proclamation of September 29, 1945.

Net operating profit for the fiscal year was $4,193,301, approximately 72 percent greater than the net operating profit of $2,431,746 (exclusive of gains of over $9,000,000 on sales of stocks) for the previous period. A credit to surplus of $807,614 resulted from a reduction of the provision for capital gains tax by reason of security losses on I. G. Chemie stock in the last half of 1945, while adjustments relating to repricing and operations of a subsidiary not consolidated caused a further credit to surplus of $49,820.

Dividends paid during the fiscal year amounted to $4,395,991 while a book loss of $978,496 was sustained on the I. G. Chemie shares distributed in lieu of cash dividends. Changes in reserves and other minor factors caused charges to capital and surplus totaling $144,325 during the twelve months.

As a result of profits and of surplus adjustments, net worth remained virtually unchanged, declining $468,077 or less than one percent during the fiscal year.

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GENERAL ANILINE & FILM CORPORATION AND DOMESTIC SUBSIDIARIES, CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] MARCH 31, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	March 31, 1942[2]	June 30, 1945	June 30, 1946
ASSETS[3]			
Located in the United States:			
Cash	$9,292,035.68	$9,745,012.25	$7,463,800.21
Receivables	4,647,030.38	6,813,802.68	6,920,599.40
Inventory	16,393,038.92	20,837,707.64	24,911,626.24
Investments	8,251,488.29	22,639,378.85	12,662,643.00
Fixed assets	20,561,635.19	21,023,745.00	23,087,517.74
Intangibles	1.00	1.00	1.00
Deferred charges	1,031,611.83	1,212,913.67	674,822.78
Claims and deposits	542,638.80	1,370,970.86	633,729.31
Total assets in the United States	60,719,480.09	83,643,531.95	76,354,739.68
Located in allied and neutral countries	433,846.31	264,717.68	744,977.73
Located in enemy and formerly enemy-occupied countries[4]	7,597,288.48	5,830,058.63	745,681.05
Total assets	68,750,614.88	89,738,308.26	77,845,398.46
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	28,040,882.56	30,656,246.47	19,225,336.38
Owing to residents of allied, neutral, and formerly enemy-occupied countries	460,399.75	449,537.50	480,936.60
Owing to residents of enemy countries	57,590.83	160,773.79	8,489.48
Owing to Custodian		897,337.37	[5] 1,024,300.04
Total liabilities	28,558,882.14	32,163,895.13	20,739,062.50
Net worth	40,191,732.74	57,574,413.13	57,106,335.96
Total liabilities and net worth	68,750,614.88	89,738,308.26	77,845,398.46
Book value of shares vested in Custodian[6]	36,369,890.18	53,487,231.21	53,052,451.10
Book value of shares not vested	3,821,842.56	4,087,181.02	4,053,884.86

[1] These balance sheets were prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company.

[2] Twenty-four days before vesting.

[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

[4] An investment in common stock of I. G. Chemie is included in this item and is carried at a value of $7,595,300 as of March 31, 1942. The stated value of this investment was later reduced substantially as a result of distribution of the I. G. Chemie shares in lieu of cash dividends. Investment in this Swiss company is listed among assets located in enemy and formerly enemy-occupied countries because the Alien Property Custodian has vested the I. G. Chemie holdings of General Aniline & Film Corporation shares, having found I. G. Chemie to be a cloak for I. G. Farben of Germany.

[5] This item consists of $680,655 of dividends on vested stock voted June 18, 1946, but not payable until July 23, 1946, and of royalties payable on patents in which the Custodian has vested the interests of I. G. Farbenindustrie.

[6] The participations of the Common A shares and Common B shares in the book value of the equity may be calculated on either of two proportions. The alternative proportions to be used are stipulated in the company's certificate of incorporation, as amended. The part of the book value of the equity that is here ascribed to the vested A and B shares is proportional to their participations in dividend rights. If the part of the book value of the equity ascribed to the vested shares is made proportional to their participations in liquidation rights, the book value of the vested shares is $52,851,104 and the book value of the unvested shares is $4,255,231, as of June 30, 1946.

GENERAL DYESTUFF CORPORATION

Interest of the Custodian

The Alien Property Custodian continues to hold all of the 8,678 outstanding shares of capital stock of General Dyestuff Corporation. Prior to June 30, 1945, claim for title had been made by American citizens to the entire stock of the Corporation.

Claims to 5,953 shares of the stock were settled early in 1945 by payments of $118 per share to the plaintiffs. A similar offer of settlement was made

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to Emily Margaret St. George, Executrix and sole legatee under the will of Armin V. St. George, in her claim to title to 750 shares of General Dyestuff Corporation stock. The claimant has not accepted this offer and the case remains unsettled.

In the suit brought by Walter H. Duisberg for title to 1,975 vested shares, the Supreme Court on October 2, 1945, denied plaintiff writ of certiorari. The suit had earlier been dismissed by a United States District Court and appealed unsuccessfully to the United States Circuit Court of Appeals for the Third Circuit. Thus the Custodian holds undisputed ownership of 7,928 of the 8,678 outstanding shares.

Management

During the twelve-month period ending June 30, 1946, there was no change in the board of seven directors which manages General Dyestuff Corporation under an authorization issued by the Alien Property Custodian. All except one of the present directors were orginally elected after vesting.

Antitrust Suits

Along with General Aniline & Film Corporation and other defendants, General Dyestuff Corporation had been indicted in the District Court of the United States for the District of New Jersey in May 1942, prior to vesting, on charges of violating the antitrust laws in the dye industry.[7] Trial of the case was postponed for the duration of the war on request of the Secretary of War. After V-J Day the request for postponement was withdrawn, and the case was set for trial. It was decided not to contest, and on April 18, 1946, General Dyestuff Corporation, along with thirteen other corporate defendants, entered a plea of *nolo contendere*. General Dyestuff Corporation was fined $15,000, while fines imposed on all defendants totaled $111,000.

A second criminal indictment was returned in 1941 in the District Court of the United States for the Southern District of New York, charging General Dyestuff Corporation, together with General Aniline & Film Corporation, I. G. Farbenindustrie, A. G., and other defendants, with a combination and conspiracy in restraint of interstate and foreign trade in dyestuffs and heavy chemicals in violation of the antitrust laws. It is charged that violations were effected in part through the use of patent license or patent assignment contracts which went beyond the rights conferred by the patents. A settlement of the suit has not been reached, and negotiations are continuing.[8]

Business Operations

General Dyestuff Corporation continues to act as selling agent for General Aniline & Film Corporation in the distribution of dyestuffs and textile auxiliaries. Net sales in the foreign market for the fiscal year ending June 30, 1946, were 17.3 percent of the company's total sales; net sales in the South American market for the same period were 28.2 percent of the total sales in the foreign market.

General Dyestuff Corporation has experienced a rapid growth of vat dye sales and has supplied an increasing percentage of the total domestic output. Substantial increases in demand are anticipated in both the domestic and

[7] The charges contained in the indictment are enumerated on p. 70.
[8] Efforts toward settlement of the suit are discussed on pp. 70–71.

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foreign markets for all types of dyestuffs. To meet this demand fully an expansion of production facilities by General Aniline & Film Corporation, discussed earlier in this chapter, is believed necessary.

Approximately 700 persons were employed during June 1946. At a meeting of the Board of Directors on September 13, 1945, a 10 percent raise was voted for all employees except those earning more than $5,000 per year or persons on commission.

Financial Information

Net sales for the twelve months ending June 30, 1946, were $33,838,110. After provision for income and excess profits taxes of $399,754, net profit for the fiscal year amounted to $237,154, a decrease of approximately 63 percent from the previous period. A correction in the profits for the six months period ending June 30, 1945, resulted in a charge to surplus of $10,574. The net result of profits and surplus adjustments was an increase of $226,580 or 5.4 percent in the net worth.

No dividend was declared during the period and the book value of the Corporation's stock increased $26.11 to $509.41 a share.

GENERAL DYESTUFF CORPORATION AND DOMESTIC SUBSIDIARY, CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] JUNE 30, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	June 30, 1942 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States:			
Cash	$2,191,345.55	$4,720,261.03	$4,125,615.55
Receivables	1,330,106.91	2,172,431.35	1,914,227.20
Inventory	1,248,716.65	601,112.23	503,466.67
Investments	429,258.77	702,948.77	682,947.77
Fixed assets	596,169.07	471,437.10	453,462.69
Intangibles	2,499.59	1,765.73	1,521.11
Deferred charges	217,525.26	187,329.03	176,738.46
Claims and deposits	7,400.65	353,360.18	
Total assets in the United States	6,023,025.45	9,210,645.42	7,857,979.45
Located in allied and neutral countries			
Located in enemy and formerly enemy-occupied countries			
Total assets	6,023,025.45	9,210,645.42	7,857,979.45
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	2,340,885.54	4,936,771.34	3,330,665.83
Owing to residents of allied, neutral, and formerly enemy-occupied countries	506.36	506.36	484.46
Owing to residents of enemy countries	35,906.28	79,223.78	106,205.50
Owing to Custodian (vested)			
Total liabilities	2,377,298.18	5,016,601.48	3,437,355.79
Net worth	3,645,727.27	4,194,043.94	4,420,623.66
Total liabilities and net worth	6,023,025.45	9,210,645.42	7,857,979.45
Book value of shares vested in Custodian	3,645,727.27	4,194,043.94	4,420,623.66
Book value of shares not vested			

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company.
[2] The date of vesting.
[3] Receivables are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

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HARVARD BREWING CO.

Interest of the Custodian

Of the 625,000 outstanding shares of Harvard Brewing Co., the Custodian holds title to 382,700, or 61 percent.

Notices of claims for title to 36,940 vested shares have been filed with the Office under Claim No. 714 and to 345,760 shares of Harvard Brewing Co. and other vested property under Claim No. 715. Title to the 345,760 shares and other vested property formerly owned by nominees of Uebersee has also been claimed in a suit entitled *Uebersee Finanz-Korporation A. G.* v. *Markham*, which has been brought under Section 9 (a) of the Trading with the Enemy Act, as amended. On September 21, 1945, the District Court of the United States for the District of Columbia granted the motion to dismiss made on behalf of the Alien Property Custodian as defendant, on the ground that the plaintiff was a foreign national whose property the Custodian was authorized to vest under Section 5 (b) of the Trading with the Enemy Act. On December 10, 1945, the plaintiff gave notice of appeal to the United States Court of Appeals for the District of Columbia.[9]

Management

The Board of Directors consists of five members, three of whom have been nominated by the Alien Property Custodian since vesting. Mr. Walter E. Guyette, President and General Manager since 1938, has been a director since the incorporation of the company in 1932. The Directors manage the normal business operations under an authorization issued to Harvard Brewing Co. by the Custodian.

Business Operations

Efforts are being made to acquire new trucks and equipment, which were unobtainable during the war. Some of the equipment ordered has arrived and been installed but the greater part is still undelivered. Since March 1, 1946, the production of the company has been somewhat retarded due to the provisions of War Food Order No. 16, which restricts the use of grain for beer and ale to 70 percent of that used in corresponding months of 1945.[10]

Financial Information

Harvard Brewing Co.'s assets decreased by $114,663 during the fiscal year ending June 30, 1946; the largest change was a decrease of $126,205 in fixed assets, resulting from depreciation. Liabilities decreased by $185,003. Net sales for the fiscal year were $3,425,167, an increase of approximately four percent over $3,294,869 net sales for the year ending June 30, 1945. Net profit after taxes was $165,043 for the fiscal year ending June 30, 1946. After dividends of $93,750 and slight adjustments to surplus, net worth increased by $70,340.21 or 3.7 percent during the fiscal year. Dividends paid to the Alien Property Custodian as holder of 61 percent of the outstanding stock aggregated $57,405, bringing the total dividends paid to the Custodian since vesting to $315,727.50.

[9] On October 21, 1946, the Court of Appeals of the District of Columbia reversed the decision of the District Court and denied the motion to dismiss. Certiorari has been granted by the Supreme Court.

[10] In August 1946, the War Foods Order was modified, permitting brewers to produce 21 percent more beer and ale.

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HARVARD BREWING CO. AND SUBSIDIARY, CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] JULY 31, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	July 31, 1942 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States:			
Cash	$290,444.31	$306,100.07	$321,192.42
Receivables	263,468.35	351,818.10	283,134.49
Inventory	200,513.06	464,968.36	415,088.74
Investments	50,001.00	400,463.13	508,500.00
Fixed assets	1,095,708.28	973,489.97	852,284.81
Intangibles	1.00	1.00	1.00
Deferred charges	168,754.82	119,308.97	126,463.48
Claims and deposits		23,530.33	23,441.91
Total assets in the United States	2,158,890.82	2,644,769.93	2,530,106.85
Located in allied and neutral countries			
Located in enemy and formerly enemy-occupied countries			
Total assets	2,158,890.82	2,644,769.93	2,530,106.85
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States [4]	402,664.33	758,857.40	573,854.11
Owing to residents of allied, neutral, and formerly enemy-occupied countries			
Owing to residents of enemy countries			
Owing to Custodian (vested)			
Total liabilities	402,664.33	758,857.40	573,854.11
Net worth	1,756,226.49	1,885,912.53	1,956,252.74
Total liabilities and net worth	2,158,890.82	2,644,769.93	2,530,106.85
Book value of shares vested in Custodian	1,075,372.60	1,154,781.96	1,197,852.68
Book value of shares not vested	680,853.89	731,130.57	758,400.06

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not official balance sheets of the company.

[2] One month and 27 days after vesting.

[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

[4] Mortgage debt maturing after more than one year is included in this item and amounted to $150,000 on July 31, 1942, to $80,000 on June 30, 1945, and to $70,000 on June 30, 1946.

SCHERING CORPORATION

Interest of the Custodian

The Custodian continues to hold title to all of the 44,000 outstanding shares of common stock and 2,225, or 41 percent, of the 5,375 outstanding shares of preferred stock of Schering Corporation of New Jersey. All of the outstanding shares of two inactive affiliates of the company, Schering Corporation (New York) and Sherka Chemical Co., Inc., also remain vested in the Custodian. In May 1946, at a special meeting of stockholders, dissolution of Schering Corporation (New York) was voted.

On August 21, 1945, Swiss Bank Corporation informed the Office of its claim respecting title to the vested shares and on August 29 instituted a suit in the United States District Court for the Southern District of New York against the Custodian under Section 9 (a) of the Trading with the Enemy Act, as amended. By this suit Swiss Bank Corporation contests the Custodian's title to the vested shares and asserts that it has the right to possession and control of the shares as pledgee under an outstanding loan that it made to Chemical & Pharmaceutical Enterprises, Ltd., a Swiss Corporation. The now vested shares were allegedly the collateral security for the loan.

On October 22, 1945, the Custodian filed a motion to dismiss the complaint on the ground that the plaintiff had chosen an improper venue. In dismissing the motion the Court held that the plaintiff, although a foreign corporation having its principal office in Switzerland, had properly instituted suit in the Southern District of New York, where it maintains its principal place of business in the United States.[11]

Management

The Corporation is managed by a Board of five directors nominated and elected by the Alien Property Custodian as the holder of all the outstanding common stock. Mr. Francis C. Brown continues as President and Director, having been elected to these offices in 1942 at the instance of the Custodian.

Business Operations

Steadily increasing sales and earnings have been achieved in recent years as a result of extensive research which has given the company a leading position in the hormone field. A broad advertising program has aided materially in augmenting sales during the past year.

To provide additional funds to finance the increasing volume of business, a loan of $1,600,000 was negotiated early in 1945 on an unsecured note basis, payable at the minimum annual rate of $100,000. Construction at the Union, N. J., plant and installation of new equipment have resulted in an increased productive capacity for the company. Total expenditure for research in 1945 was $314,928, compared with $310,770 for 1944.

During the past fiscal year, the company continued its efforts to extend its foreign markets. In Latin America, sales outlets for Schering products were extended to Uruguay, Paraguay, Chile, and Brazil. In Uruguay and Paraguay, the company operates through distributors and company-trained field men who are engaged exclusively in the promotion of Schering products. In Chile, the company acquired a minority interest in Schering Cie., Ltd., which is engaged exclusively in the manufacture of Schering products. These products are sold to the other participating owner, Farmo-Quimica del Pacifico, which is the exclusive distributing agent for Schering products in Chile. In January 1946 Schering Corporation signed a long-term supply agreement with Industria Quimica e Farmaceutica Schering, S. A., Brazil, the successor to the former German-controlled Schering-Brazil Company. Plans for the further extension of markets in South America are being made.

Sales to foreign markets, principally Latin-American, totalled over $1,000,000 during the fiscal year.

Financial Information

During the year ending June 30, 1946, assets increased by $702,249 or 10.8 percent, the largest change being an increase of $480,188 in fixed assets. Total liabilities decreased by $437,183 or 10.6 percent during the fiscal year, the largest change being a decrease of $473,544 in liabilities owing to residents of the United States, which reflects in part a decrease of $225,000 in the funded debt.

[11] On August 27, 1946, the Heyden Chemical Corporation filed a complaint in the United States District Court for the Southern District of New York which alleges that Heyden entered into an agreement in April 1942 with Swiss Bank Corporation and Chemical & Pharmaceutical Enterprises, Ltd., by which these two Swiss Corporations agreed to sell the then unvested shares of Schering Corporation to Heyden Chemical Corporation and asks that the Court require the Custodian to recognize the validity of the agreement.

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Sales in 1945 were $7,293,358, or 14.9 percent above the $6,346,580 sales made in 1944. Provision for income and excess profits taxes in 1945 amounted to $1,550,000, compared with $1,385,000 for 1944. Net profit after income and excess profits taxes for the year ending June 30, 1946, was $1,168,310. Dividends of $26,875, of which $11,125 went to the Custodian, were paid on preferred stock. The balance of net earnings was reinvested in the business.

SCHERING CORPORATION (NEW JERSEY) AND DOMESTIC SUBSIDIARIES,[1] CONSOLIDATED COMPARATIVE BALANCE SHEETS,[2] MARCH 31, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	March 31, 1942[3]	June 30, 1945	June 30, 1946
ASSETS[4]			
Located in the United States:			
Cash	$43,375.21	$970,439.71	$753,976.09
Receivables	190,041.67	507,950.49	597,771.80
Inventory	1,278,593.12	2,246,316.95	2,639,969.37
Investments	43,548.08	517,393.98	632,340.98
Fixed assets	888,371.65	1,351,855.96	1,832,043.43
Intangibles			
Deferred charges	69,334.16	103,187.29	160,150.31
Claims and deposits		246,075.00	425.00
Total assets in the United States	2,513,263.89	5,949,219.38	6,616,677.07
Located in allied and neutral countries	55,066.05	545,441.11	580,232.65
Located in enemy and formerly enemy-occupied countries			
Total assets	2,568,329.94	6,494,660.49	7,196,909.72
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States[5]	1,313,775.02	3,082,980.67	3,509,436.54
Owing to residents of allied, neutral, and formerly enemy-occupied countries	66,657.19	150,377.85	186,739.22
Owing to residents of enemy countries	2,000.00	2,000.00	2,000.00
Owing to Custodian (vested)			
Total liabilities	1,382,432.21	4,135,358.52	3,698,175.76
Net worth	1,185,897.73	2,359,301.97	3,498,733.96
Total liabilities and net worth	2,568,329.94	6,494,660.49	7,196,909.72
Book value of shares vested in Custodian	855,147.73	2,028,551.97	3,167,983.96
Book value of shares not vested[6]	330,750.00	330,750.00	330,750.00

[1] Except Pbarmex, Inc., a holding company for foreign subsidiaries of Schering Corporation.
[2] These balance sheets are prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company.
[3] Eighteen days before vesting.
[4] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[5] The company's notes maturing after more than one year are included in this item and amounted to $350,800 on March 31, 1942, to $1,500,000 on June 30, 1945, and to $1,275,000 on June 30, 1946.
[6] The shares not vested in the Custodian are no par preferred stock. They are stated here at their call value.

HUGO STINNES CORPORATION

Interest of the Custodian

Of the 988, 890 outstanding shares of common stock, the Alien Property Custodian continues to hold 57,045 shares with full voting rights and 473,100 shares subject to a voting trust agreement.

The voting trust controls a total of 495,007 shares, or a majority of the outstanding stock. One of the three trustees has been designated by the Custodian. By its terms, the trust is to terminate upon the payment of the debentures of Hugo Stinnes Corporation and its wholly owned subsidiary, Hugo Stinnes Industries, Inc., or on October 1, 1946, whichever is earlier.

Upon the dissolution of the trust, the Custodian will hold directly 530,145 shares with full voting rights, a majority of the outstanding shares of stock of the Corporation.

Management

The Corporation is managed by a Board of eleven directors, of whom seven served on the Board before vesting and four have been nominated by the Custodian. Dr. P. H. Saunders continues as Chairman of the Board, a position he has held since he organized the Corporation in 1926. During the fiscal year Mr. Stanley Clarke, a director and voting trustee since 1936, was elected President of the Corporation to succeed Dr. Saunders, who had held that position since 1942.

The directors and officers of Hugo Stinnes Corporation hold identical offices in Hugo Stinnes Industries, Inc., the principal wholly-owned subsidiary of Hugo Stinnes Corporation. Both corporations are under the supervision of the Custodian, and the directors manage their affairs pursuant to authorizations issued by him.

Problems and Future Prospects

A great many of the problems of Hugo Stinnes Corporation and Hugo Stinnes Industries, Inc., arise as a result of the wide dispersal of most of the physical assets of its German and other foreign subsidiaries. The assets of the German subsidiaries are subject to the management and control of the military authorities in the zones in which they are located. The other foreign subsidiaries are subject to the enemy property controls of the countries in which they are located. No definitive international arrangements have yet been made for the ultimate disposition of foreign assets owned by companies in which interests have been vested by the various allied custodians; the value of Hugo Stinnes Corporation necessarily depends almost entirely upon the nature of these arrangements.

The physical properties of the German subsidiaries were extensively damaged during the war. Coal-mine installations and equipment, company-owned miners' homes, a synthetic oil plant, and office buildings and hotels were struck by bombs. The shipping business of the firms suffered heavily. Eighty percent of the inland fleet was sunk or damaged. All but eight of the 27 ocean-going vessels owned by subsidiaries were sunk; five of the remaining eight vessels were taken by the British Government. In accordance with the decree of the Potsdam Declaration that Germany be stripped of its merchant marine, all German vessels are to be allocated to allied countries. Various assets have been removed for reparations or requisitioned by military authorities.

The principal German subsidiaries are mining corporations in the Ruhr district, some of which are now actively mining coal although surface installations suffered considerable war damage. The Corporation states, however, that such operations are not necessarily profitable, since the price of coal has been so low that it has not covered mining costs. Operations of the active subsidiaries are also handicapped by the disruption of the general economy of Germany and by the division of Germany into zones of military occupation, which restricts trade and communications. The future business of these companies depends largely on decisions on control of the industry of the Ruhr.

The principal subsidiaries in Denmark, Holland and Belgium are being operated under the supervision of the enemy property custodians of the governments of these countries. These subsidiaries are typical of the inter-custodial problems described in Ch. I, "Basic Policies and Problems," pp. 13–14.

In Denmark one of the important subsidiaries of Hugo Stinnes Industries, Inc., is the Kobenhavns Kul & Koks Kompagni A. S., a coal-handling company. The subsidiary was capitalized at Kr. 2,000,000, and all of its stock was pledged as security for the debentures of Hugo Stinnes Industries. In November and December 1940, the Kobenhavns Kul & Koks Kompagni held alleged stockholders meetings and its Managing Director, without authority, purported to vote some of the capital stock of the company which was owned by Hugo Stinnes Industries, Inc., in favor of an increase in capitalization from Kr. 2,000,000 to Kr. 5,000,000. An effort is being made by Hugo Stinnes Industries, Inc., to invalidate the attempted capital increase.

Financial Information

The financial statements are limited as to accuracy since adequate information on assets in Germany is not yet available.

HUGO STINNES CORPORATION, A HOLDING COMPANY, AND DOMESTIC SUBSIDIARY HOLDING COMPANIES, CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] JUNE 30, 1943, JUNE 30, 1945, AND JUNE 30, 1946

	June 30, 1943 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States:			
Cash	$85,339.03	$37,079.92	$46,243.84
Receivables	118.59	118.59	45,720.00
Inventory			
Investments	55,186.18	20,711.18	20,711.18
Fixed assets			
Intangibles			
Deferred charges			
Claims and deposits			
Total assets in the United States	140,643.80	57,909.69	112,675.02
Located in allied and neutral countries			
Located in enemy and formerly enemy-occupied countries [4]	18,144,862.76	18,482,152.29	18,310,870.88
Total assets	18,285,506.56	18,540,061.98	18,423,545.90
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States [5]	6,672,028.67	7,241,631.83	7,302,003.14
Owing to residents of allied, neutral, and formerly enemy-occupied countries			
Owing to residents of enemy countries	955,379.09	974,823.06	1,037,204.21
Owing to Custodian (vested)			
Total liabilities	7,627,407.76	8,216,454.89	8,339,207.35
Net worth [6]	10,658,098.80	10,323,607.09	10,084,338.55
Total liabilities and net worth	18,285,506.56	18,540,061.98	18,423,545.90
Book value of shares vested in Custodian [6]	5,713,818.31	5,534,490.94	5,406,214.14
Book value of shares not vested	4,944,280.49	4,789,110.15	4,678,124.41

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not the official balance sheets of the company. The valuations of assets in enemy and enemy-occupied countries do not "and cannot reflect any losses or other changes which may have occurred in the foreign holdings of the American companies due to war . . . " according to an annual report of the company.

[2] Two months and one day before vesting.

[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

[4] Reichsmark balances converted at the rate of RM 4.20 to $1.

[5] Including $3,230,500 of the 1926 issue of twenty-year 7-percent gold debentures due October 1, 1946, and $1,301,000 of the 1926 issue of ten-year 7-percent gold notes as extended to 1940 and to July 1, 1946.

[6] The net worth or book value, as here stated, is to be qualified by Note 1 and by portions of the text under "Financial Information."

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During the fiscal year, there was a consolidated book loss of $239,269, which reflects in part the interest payable on notes and debentures amounting to $317,205 and general and administrative expenses totalling $28,653.05. This is partially offset by the recovery of interest expense of prior years amounting to $111,050, on the retirement of $175,000 of notes and debentures.

The notes of Hugo Stinnes Corporation become due on July 1, 1946 and the debentures of Hugo Stinnes Industries, Inc. mature on October 1, 1946. Both companies are already in default on interest payments on these issues and will inevitably be forced to default on principal payments as well.

CARL ZEISS, INC.

Interest of the Custodian

The 1,000 outstanding shares of capital stock of Carl Zeiss, Inc., remain vested in the Alien Property Custodian.

Management

The company is managed by a Board of three directors elected by the proxy for the Alien Property Custodian. Mr. Karl A. Bauer continues as President and Director, having served in these capacities since the corporation was organized in 1926. The normal business operations of the company are conducted under an authorization issued by the Custodian to Carl Zeiss, Inc.

CARL ZEISS, INC., COMPARATIVE BALANCE SHEETS,[1] AUGUST 31, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	August 31, 1942[2]	June 30, 1945	June 30, 1946
ASSETS[3]			
Located in the United States:			
Cash	$294,873.50	$85,100.30	$58,538.5[illegible]
Receivables	30,416.87	37,743.74	42,256.4[illegible]
Inventory	356,425.86	185,000.00	175,905.4[illegible]
Investments		100,000.00	100,000.0[illegible]
Fixed assets	28,064.91	25,994.51	22,185.0[illegible]
Intangibles			
Deferred charges	16,218.19	17,250.00	21,354.8[illegible]
Claims and deposits			
Total assets in the United States	731,999.33	451,088.55	420,240.2[illegible]
Located in allied and neutral countries			
Located in formerly enemy and enemy-occupied countries	57,959.74	57,959.74	57,959.7[illegible]
Total assets	789,959.07	509,048.29	478,200.0[illegible]
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	17,140.12	11,560.50	3,707.1[illegible]
Owing to residents of allied, neutral, and formerly enemy-occupied countries			
Owing to residents of enemy countries			
Owing to Custodian (vested)	427,487.71	57,959.74	57,959.7[illegible]
Total liabilities	444,627.83	69,520.33	61,666.9[illegible]
Net worth	345,331.24	439,527.96	416,533.1[illegible]
Total liabilities and net worth	789,959.07	509,048.29	478,200.0[illegible]
Book value of shares vested in Custodian	345,331.24	439,527.96	416,533.1[illegible]
Book value of shares not vested			

[1] These balance sheets are prepared on the basis of financial data supplied by the company. They are not official balance sheets of the company.
[2] Three days after vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

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Business Operations

Sales decreased during the past fiscal year, primarily because of the cancellation of various lend-lease orders. The present activities of the company consist principally of servicing scientific instruments for scientific institutions and industrial firms, repairing precision measuring instruments for American industrial concerns, and repairing photographic cameras made by Carl Zeiss, Jena. The manufacturing facilities developed during the war are still being utilized for the production of precision instruments. The number of employees as of June 30, 1946, is 37, compared with 41 on June 30, 1945.

Financial Information

Sales for the nine months ending June 30, 1946, were at the annual rate of $237,989, compared with an annual rate of $434,000 for the nine months ending June 30, 1945. Net loss for the year ending June 30, 1946, was $2,995. After a dividend of $20,000 paid to the Custodian as sole stockholder, net worth decreased by $22,995, or approximately five percent.

MITSUBISHI SHOJI KAISHA, LTD.

Interest of the Custodian

The assets of Mitsubishi Shoji Kaisha, Ltd. (United States branches), remain vested in the Alien Property Custodian.

During the twelve-month period ending June 30, 1946, eight new debt claims relating to the company have been filed; under these claims alleged creditors of Mitsubishi Shoji Kaisha seek payment of $65,000 out of the vested assets. Adding these new claims to those filed during earlier periods, the total number of debt claims now stands at 92 and the total amount claimed at approximately $4,915,000.

During the year ending June 30, 1946, four suits were brought against the Custodian as owner of the vested assets of Mitsubishi Shoji Kaisha, Ltd., under Section 9 (a) of the Trading with the Enemy Act. These suits and the amounts claimed are as follows:

Hunt, Hill & Betts v. *James E. Markham*	$33,785.13
Yokohama Specie Bank, New York v. *James E. Markham*	3,081,334.25
Bank of Chosen, New York v. *James E. Markham*	46,810.56
Mitsubishi Bank, Ltd. v. *James E. Markham*	598.80
	3,162,528.74

All four suits were instituted in the Southern District of New York as debt claim actions, in the suit of *Hunt* et al. v. *Markham* to recover the reasonable value of legal services rendered by the law firm to various Japanese nationals whose property has been vested by the Custodian and in the three other suits to recover monies owed by the defendant to the three banks, all of which are in the process of liquidation.[12]

A total of 191 separate court actions pertaining to customs matters remain unsettled and are being held in abeyance pending liquidation of the company.[13]

[12] On August 8, 1946, subsequent to the filing of these suits, the Trading with the Enemy Act was amended to provide an administrative procedure under which suits for debt claims cannot be instituted until after the Custodian makes an administrative determination. The suits were discontinued in September 1946.
[13] *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, p. 82.

Progress of Liquidation

Liquidation of the firm's assets began in 1942 while it was under Treasury control and has been continued by employees of the Office of Alien Property Custodian. The largest item remaining in the inventory is a partially completed continuous steel billet mill with a book value of approximately $725,000 (cost). It has thus far been difficult to find potential purchasers for this mill because of its enormous size and particular design. During the twelve-month period ending June 30, 1946, no sales were made since the offers received for the unsold inventory items were not satisfactory.

Financial Information

During the twelve-month period ending June 30, 1946, no significant changes have occurred in the balance sheet of Mitsubishi Shoji Kaisha, Ltd. Total assets declined by $23,223, or less than one percent, almost wholly accounted for by the decline in cash, while liabilities declined $3,487. The net deficit was increased by $19,736 to a total of $632,954 as a result of accounting expenses of $26,556 incurred in connection with a re-examination of company records prior to its vesting, less income (chiefly dividends and interest) of $6,820.

MITSUBISHI SHOJI KAISHA, LTD., UNITED STATES BRANCHES, CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] AUGUST 28, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	August 28, 1942[2]	June 30, 1945	June 30, 1946
ASSETS[3]			
Located in the United States:			
Cash	$1,830,176.30	$2,039,610.74	$2,012,458.84
Receivables	159,017.77	2,697.03	2,697.03
Inventory	1,310,186.37	951,097.85	951,097.85
Investments	4,073.21	1,935.21	1,894.21
Fixed assets	1,205.55		
Intangibles		21.00	21.00
Deferred charges	10,455.00		
Claims and deposits	190,408.09	104,208.86	108,178.76
Total assets in the United States	3,505,672.29	3,099,570.69	3,076,347.68
Located in allied and neutral countries	272,302.05	2,112.28	2,112.28
Located in enemy and formerly enemy-occupied countries	2,741.23		
Total assets	3,780,805.57	3,101,682.97	3,078,459.96
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States[4]	3,659,200.21	3,595,300.66	3,591,813.46
Owing to residents of allied, neutral and formerly enemy-occupied countries	42,758.91	41,766.98	41,766.98
Owing to residents of enemy countries	74,310.56	77,833.69	77,833.69
Owing to Custodian (vested)			
Total liabilities	3,776,269.68	3,714,901.33	3,711,414.13
Net worth[5]	4,535.89	*−613,218.36*	*−632,954.17*
Total liabilities and net worth	3,780,805.57	3,101,682.97	3,078,459.96

[1] These balance sheets are prepared on the basis of financial data supplied by the branches. They are not the official balance sheets of the branches.
[2] The date of vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.
[4] Federal income tax claims against the branches for the years 1934 to 1942; court actions, several of which are stayed *pendente bello;* and other circumstances have given rise to contingent liabilities of approximately $2,000,000, which are not reflected in the balance sheets.
[5] The ownership interests in the branches consist of accounts to the credit of the head office of Mitsubishi Shoji Kaisha, Ltd. By reason of vesting all United States property of Mitsubishi Shoji Kaisha, Ltd., all such interests are vested in the Custodian.

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PILOT REINSURANCE COMPANY OF NEW YORK

Interest of the Custodian

Of the 60,000 outstanding shares of Pilot Reinsurance Company stock, the Custodian seized 56,655 shares, or 94 percent, by Vesting Order No. 200, executed on September 30, 1942. Of the vested shares, 11,200 were formerly owned by Assicurazioni Generali di Trieste e Venezia, an Italian insurance company, and 45,455 by Muenchener Rueckversicherungs Gesellschaft, a German insurance company, and associated companies and individuals.

Among the claims asserted against the Alien Property Custodian respecting Pilot Reinsurance Company is that of Carl Schreiner, a former president of the Company now resident in Europe, who filed Claim No. 1152 on September 30, 1943, for 2,027 shares of the company's stock and $95,269, the amount of the first liquidating dividend received by the Custodian as owner of the vested stock that had been registered in Schreiner's name. On July 19, 1945, the three Swedish companies to whom the Muenchener Rueckversicherungs Gesellschaft had transferred shares of Pilot Reinsurance Company stock in its effort to cloak the real German ownership of the New York company also filed claims with the Alien Property Custodian asserting their right to the vested stock which had been registered in their names and to the liquidating dividends paid (Claims Nos. 4036, 4037, and 4038).

Progress of Liquidation and Financial Information

Under supervision by the Office since vesting, Pilot Reinsurance Company has been in the process of liquidation by the Superintendent of Insurance of the State of New York in conformity with the Custodian's policy of liquidating banks and insurance companies as far as practicable in accordance with state laws.

By June 30, 1945, liquidation proceedings had resulted in a reduction of total assets of the Company from $4,381,087 at the time of vesting to $534,539, a decrease of $3,846,548. The principal factor in this decrease was a liquidating dividend paid to stockholders at the rate of $47 a share.

During the fiscal year ending June 30, 1946, liquidation has been substantially completed. A second liquidating dividend was paid at the rate of $5.88 a share, totalling $352,800, of which $333,131 went to the Custodain as owner of 94 percent of the Company's stock. Losses on the sale of securities, expenses of liquidation, and the payment of Federal income taxes and interest thereon, together with the payment of the liquidating dividend, account for the decline in total assets from $534,539 to $13,566, a decrease of $520,973. Securities valued at $28,070 on June 30, 1945, were sold at a loss of $5,390. The remaining securities held by the company are of indeterminable value and are carried at $100 as of June 30, 1946. The reduction of liabilities from $182,657 on June 30, 1945, to $10,366 on June 30, 1946, is accounted for largely by the payment of $136,296 in Federal income taxes and $22,432 interest thereon. Liabilities remaining on the books of the Company consist of prewar dividends payable to stockholders whose shares have been vested and of reserves for Federal and State income taxes and a remaining suspended claim. As of June 30, 1946, net worth is $3,200, a decrease of $348,682 during the fiscal year.

PILOT REINSURANCE COMPANY OF NEW YORK (IN LIQUIDATION), COMPARATIVE BALANCE SHEETS,[1] SEPTEMBER 30, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	September 30, 1942 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States			
Cash	$1,131,974.64	$506,287.36	$13,283.86
Receivables	16,622.82	1.00	1.00
Inventory			
Investments	3,230,252.22	28,070.43	100.00
Fixed assets			
Intangibles			
Deferred charges			
Claims and deposits			1.00
Total assets in the United States	4,378,849.68	534,358.79	13,385.86
Located in allied and neutral countries			
Located in enemy and formerly enemy-occupied countries	2,237.01	180.00	180.00
Total assets	4,381,086.69	534,538.79	13,565.86
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	700,913.39	175,611.21	3,320.40
Owing to residents of allied, neutral, and formerly enemy-occupied countries			
Owing to residents of enemy-countries	7,682.00	7,045.31	7,045.31
Owing to Custodian (vested)			
Total liabilities	708,595.39	182,656.52	10,365.71
Net worth	3,672,491.30	351,882.27	3,200.15
Total liabilities and net worth	4,381,086.69	534,538.79	13,565.86
Book value of shares vested in Custodian	3,467,749.91	332,264.83	3,021.74
Book value of shares not vested	204,741.39	19,617.44	178.41

[1] The Company is being liquidated by the Superintendent of Insurance of the State of New York acting under the supervision of the Custodian. These balance sheets are prepared on the basis of financial data supplied by the Superintendent. They are not official balance sheets of the Superintendent.
[2] The date of vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

YAMANAKA AND CO., INC.

Interest of the Custodian

All capital stock of Yamanaka and Co., Inc. (Illinois), Yamanaka and Company, Inc. (New York), and Yamanaka and Co., Inc. (Massachusetts), all inactive companies, remains vested in the Alien Property Custodian.

Progress of Liquidation

Each of the companies is managed by a Board of three directors who are members of the staff of the Office of Alien Property Custodian. None of the corporations had any employees during the year, and their transactions were conducted for them by employees of the Office.

Statements of intent to dissolve have been filed with state authorities by all three corporations. Final decrees of dissolution for the Massachusetts and New York corporations were issued on October 11, 1944, and January 17, 1946, respectively. The New York corporation has several suits pending in connection with delinquent accounts. Dissolution Order No. 21 was issued by the Custodian on July 16, 1945, for the Illinois corporation, but the final decree of dissolution has not been issued as of June 30, 1946.

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Litigation is pending against this corporation in connection with personal property taxes.

Financial Information

Liquidation of the three companies has continued during the year. Total assets have declined by $34,523, or 27 percent. The greatest change among the individual classes of assets is the $41,957.69 decline in claims and deposits, which represents the collection of refunds of excess profits taxes. The decrease of $23,258 in liabilities owing to residents of the United States is the largest change among the several classes of liabilities and reflects the decrease of $25,518 in reserve for Federal income taxes which occurred with the settlement of income taxes. Payment of the $5,970.40 debt owed to Yamanaka and Co. Ltd. Osaka, Japan, and subsequently vested by the Custodian was made to the Office by Yamanaka and Co., Inc. (Massachusetts).

The net loss after taxes of the three companies during the fiscal year amounted to $5,489 and resulted primarily from administrative and general expenses. Income taxes for the past fiscal year totalled $2,098 for the three companies. The net worth of the three companies decreased $5,294.

YAMANAKA AND CO., INC. (ILLINOIS), YAMANAKA AND CO. INC. (MASSACHUSETTS), AND YAMANAKA AND CO., INC. (NEW YORK), CONSOLIDATED COMPARATIVE BALANCE SHEETS,[1] JULY 8, 1942, JUNE 30, 1945, AND JUNE 30, 1946

	July 8, 1942 [2]	June 30, 1945	June 30, 1946
ASSETS [3]			
Located in the United States:			
Cash	$311,400.16	$76,764.91	$89,446.25
Receivables	97,628.02	5,377.48	130.94
Inventory	297,276.64		
Investments	500.00		
Fixed assets	10,512.45		
Intangibles			
Deferred charges	6,904.20		
Claims and deposits	1,420.34	43,280.89	1,323.20
Total assets in the United States	725,699.81	125,423.28	90,900.39
Located in allied and neutral countries	907.61	381.00	381.00
Located in enemy and formerly enemy-occupied countries	51,740.64	102.83	102.83
Total assets	778,348.06	125,907.11	91,384.22
LIABILITIES AND NET WORTH			
Liabilities:			
Owing to residents of the United States	23,476.72	29,702.77	6,444.41
Owing to residents of allied, neutral and formerly enemy-occupied countries	4,815.79	4,815.79	4,815.79
Owing to residents of enemy countries	85,780.15	2,500.00	2,500.00
Owing to Custodian (vested)		5,970.40	
Total liabilities	114,072.66	42,988.96	13,760.20
Net worth	664,275.40	82,918.15	77,624.02
Total liabilities and net worth	778,348.06	125,907.11	91,384.22
Book value of shares vested in Custodian	664,275.40	82,918.15	77,624.02
Book value of shares not vested			

[1] These balance sheets were consolidated on the basis of financial data supplied by the three companies. They are not the official balance sheets of the companies.
[2] Twenty-two days after vesting.
[3] Receivables and claims are classified according to location of debtors; deposits according to location of depositories; and securities according to location of issuers.

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YOKOHAMA SPECIE BANK, LTD.

Interest of the Custodian

Through vesting orders issued during 1943 the Office holds (1) the assets of the Seattle branch of the Yokohama Specie Bank, Ltd.; (2) the assets of the Honolulu branch; (3) the excess assets of the New York branch; (4) the excess assets of the San Francisco branch and its Los Angeles office. Under Vesting Order No. P 1, dated January 7, 1946, the Custodian vested all property of the Manila branch of the Yokohama Specie Bank, Ltd.

Debt Claims Filed with Custodian

During the fiscal year ending June 30, 1946, forty alleged debt claims, totaling approximately $3,000,000 were filed with the Custodian against the vested assets of the United States branches of the Yokohama Specie Bank, Ltd. Most of the claims are for the recovery of deposits or for the payment of commercial paper. Under the largest claim, which amounts to $920,456, the claimant seeks, among other things, the return of monies deposited in various banks in Shanghai, which were allegedly confiscated by the Yokohama Specie Bank, Ltd., of Japan, acting for the Japanese Government. The claims filed during the fiscal year bring the total amount of debt claims filed from the time of vesting to June 30, 1946, to approximately $11,485,000. Of this amount roughly $2,235,000 represents claims by vested enterprises.

Disposition of the claims must await determination of the amounts of excess assets that will be available for payment of the claims after the satisfaction of the preferred creditors of the California and New York branches.

Progress of Liquidation

New York Branch.—The liquidation of the New York branch of the Yokohama Specie Bank, Ltd. is being continued by the State Superintendent of Banks under the supervision of the Alien Property Custodian. The approved claims in liquidation of the branch, payable to preferred creditors under New York State banking laws, total approximately $800,000 as of June 30, 1946.

A number of suits involving the New York branch, some brought during the fiscal year and others pending since earlier dates, were terminated, thus bringing nearer a determination of the amount of excess assets to be turned over to the Custodian.

On December 6, 1945, six suits were brought in the United States District Court for the Southern District of New York under Section 9 (a) of the Trading with the Enemy Act, as amended, by Elliott Bell as Superintendent of Banking of the State of New York against the Custodian as the owner of six companies allegedly owing monies to the New York branch of the Yokohama Specie Bank, Ltd. Five of the companies, alleged to owe $8,191,147, are vested trading concerns, formerly owned by Japanese nationals, which had commercial relationships with the New York branch of the Yokohama Specie Bank, Ltd. The sixth suit involved an inter-branch balance of $3,727,318 allegedly owed by the Seattle branch of the Bank to the New York branch. The inter-branch balance suit was discontinued when it was found that the New York branch would be solvent without recourse to the monies due it by the other United States branches of the Bank.[14]

A suit brought by the Bank of Japan, New York agency, vested in 1943, against the New York branch of the Yokohama Specie Bank, Ltd. in the amount of $17,000,000 was found to be improvidently commenced and was dismissed. The dismissal of the suit insured the solvency of the New York branch of the Yokohama Specie Bank, Ltd.

Various suits were instituted by American bondholders contending that monies in a "coupon account" maintained by the New York branch of the Yokohama Specie Bank, Ltd., with the Guaranty Trust Co. represented a trust fund for their benefit. The bond obligors were the City of Yokohama, the City of Tokyo, the Taiwan Electric Power Co., and the Imperial Japanese Government. Before the suits could be heard, the Custodian determined that monies in the "coupon account" were not trust funds for the benefit of the bondholders but represented excess proceeds of the New York branch vested by Vesting Order No. 915. The Custodian has also determined that funds which had been transmitted by the bond obligors to the New York branch for the purpose of servicing the bonds constituted obligations of the New York branch to the bond obligors and that such obligations were vested by Vesting Order No. 1095.[15]

San Francisco, Seattle, and Honolulu Branches.—The liquidation of the San Francisco branch and its Los Angeles office is being continued by the State Superintendent of Banks of California under the supervision of the Alien Property Custodian. As in the case of the New York branch, state banking laws favor certain creditors, who must be satisfied before a determination can be made of the amount of excess assets to be turned over to the Custodian.

Aside from the discontinuance of the $3,727,318 inter-branch balance suit brought against the Seattle branch by the New York State Superintendent of Banks, discussed earlier in this section, no important new developments in the liquidation of the Seattle branch have occurred.

Liquidation of the Honolulu branch under the supervision of the Hawaiian Office of the Office of Alien Property Custodian was given impetus toward the end of the fiscal year by the passage of Public Law 322, 79th Congress, approved March 8, 1946. In clarifying the powers of the Alien Property Custodian, this law will permit him to pay deposit liabilities at his discretion to nonenemy foreign nationals.

The bank premises which were vested in 1944 as property of the Yokohama Specie Bank, Ltd. of Japan continued to be occupied by the Hawaiian Office of the Office of Alien Property Custodian and by the United States Army, which leases space from the Custodian. Negotiations are

[14] The other five suits were dismissed in September 1946 as a result of an amendment to the Trading with the Enemy Act (Public Law 671, 79th Congress), which provides that suits for debt claims cannot be instituted until after the Custodian makes an administrative determination of the validity of a claim.

[15] By Turnover Directives dated July 23, 1946, the Superintendent of Banks was required to turn over to the Custodian the following: (1) the sum of $1,039,770.42 maintained by the Yokohama Specie Bank, Ltd., New York branch, with the Guaranty Trust Company of New York in an account known as the "coupon account"; (2) the right, title and interest of the New York branch and/or the Superintendent in and to an account maintained with the Swiss Bank Corp., Basle, Switzerland, in the amount of $22,606.03, known as the "coupon payment account"; (3) the sum of $1,189,183.90 represented on the books of the New York branch as obligations owing to various Japanese issuers of bonds including the Imperial Japanese Government, Japanese municipalities, and a Japanese corporation.

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under way for the United States Army to acquire the bank building for use as the permanent headquarters of Military Police in Honolulu.

MANILA BRANCH.—The principal known asset of the Manila branch is cash deposited with the Manila Clearing House Association prior to December 7, 1941, amounting to 2,886,570.68 Philippine pesos. This money was part of the currency placed by the Manila Clearing House Association in the custody of the United States High Commissioner to the Philippines at the time of the Japanese attack. By special arrangement with the United States Treasury Department the currency held for the Manila Clearing House Association was burned shortly before surrender to prevent it from falling into the hands of the Japanese, and in July 1945 restitution of the funds was made by the Treasury to the Manila Clearing House Association for its various accounts, including that of the Yokohama Specie Bank, Ltd. Upon vesting of the Manila branch, the peso equivalent of $1,443,285.34 was turned over to the Manager of the Philippine Office of the Office of Alien Property Custodian. Of this amount $1,440,000 has been transferred to the Washington Office of the Office of Alien Property Custodian, the balance being retained for use in the administration and control of bank records which may be needed in the event of debt claims against the branch.

Financial Information

Following is a condensed balance sheet reflecting the financial condition as of June 30, 1946, of the continental United States and Hawaiian branches of the Yokohama Specie Bank, Ltd.

Cash	$19,171,000
Other domestic assets	11,301,000
Foreign assets	19,096,000
Total assets	49,568,000
Domestic liabilities	3,756,000
Foreign liabilities	538,000
Custodian's equity [1]	45,274,000
Total liabilities and Custodian's equity	49,568,000

[1] Represents interests formerly held by Yokohama Specie Bank, Ltd. of Japan and branches thereof, including amounts which may technically represent equities of the Japanese Government and other nationals of Japan.

Not included in the above statement is the approximately $1,443,000 vested from the Manila branch of the Yokohama Specie Bank, Ltd.

PIONEER IMPORT CORPORATION AND BRIDGE IMPORT COMPANY

History of the Business

Pioneer Import Corporation is a New York corporation organized in 1938 to conduct a general import business. After the outbreak of the war, the corporation became part of a system by which Germany exported to the Western Hemisphere precious stones looted in Holland and Belgium.

When the war started in 1939, Werner von Clemm, President of Pioneer Import Corporation, made arrangements with Georges Lambercier, a jeweler of Geneva, Switzerland, whereby stones were forwarded to the United States as Swiss products. After Lambercier was blacklisted, other Swiss firms were secured to continue the shipments of stones to von Clemm.

In April 1942, after an investigation of stones imported by Pioneer and seized by Customs officials in New York, von Clemm was convicted of conspiracy to violate Executive Order No. 8389, as amended, which prohibited the importation of merchandise from certain foreign countries without license from the Secretary of the Treasury. Seizure of the stones was made for violations of Customs laws involving false and fraudulent invoices and for attempts to evade the payment of countervailing duties.

Meanwhile, a short time after the investigation of Pioneer Import Corporation and von Clemm was instituted by Customs officials, and as a result of the unfavorable publicity that he anticipated, von Clemm formed the Bridge Import Company, a partnership, to continue the business of Pioneer Import Corporation. The partnership consisted of von Clemm as general partner and two limited partners, Georges Lambercier, of Geneva, Switzerland, and R. W. Alley as Trustee for Frederick G. von Clemm and Alison Clemm, sons of Werner von Clemm, of New York City. Thereafter, the looted stones were sent to Bridge Import Company. It was through duplicate invoices, one issued in Berlin, Germany, and one in Switzerland, that the United States Customs authorities discovered Bridge's violation of Customs laws and seized the merchandise.

Vesting Action by the Custodian

In November 1942, the Alien Property Custodian vested Bridge Import Company by Vesting Order No. 353 and the majority stock of Pioneer Import Corporation by Vesting Order No. 354 on the finding that the beneficial owners were nationals of an enemy country. In March 1945, the remaining shares of outstanding stock of Pioneer were seized by Vesting Order No. 4755. Under Vesting Orders Nos. 1452 and 2391, dated May 11, 1943, and October 11, 1943, respectively, the Custodian vested the entire interests of certain German nationals in obligations owed by Bridge and Pioneer. The Bridge obligations, which totalled $141,032, were owed to Georges Lambercier, Switzerland, and Hardy & Co., G. m. b. H. and Reich Gesellschaft, both of Berlin, Germany; the Pioneer accounts, which totalled $376,610, were owed to Reich Kredit Gesellschaft and Gesellschaft fur Hypothekenankauf, both of Zurich, Switzerland.

The Customs officials released to the companies certain stones which they had refrained from seizing but had merely detained. The Customs authorities were reluctant, however, to release stones they had seized and were considering their sale under forfeiture. Because of the complexity of the situation and after discussions with the Customs authorities, the Custodian specifically vested the seized stones by Vesting Orders Nos. 4754 and 4755 of March 14, 1945. The Pioneer merchandise covered by these Orders comprised two packages consisting of 9,635 unset polished diamonds totalling 449.37 carats with an invoice value of $46,001, four packages consisting of 9,894 unset cut diamonds totalling 711.21 carats with an invoice value of $63,661, and seven packages of semi-precious stones with a valuation of $3,668. The Bridge merchandise consisted of 263 packages of synthetic and semi-precious stones valued on consular invoices at $141,079 and 10 industrial diamonds which von Clemm had attempted to export, appraised by Customs at $57.

On September 29, 1943, a notice of claim was filed with the Office by R. W. Alley for his alleged partnership interest in Bridge Import Company and

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share of the vested assets. This was recorded as Claim No. 1166.[16] Notices of claim for title to the Pioneer stock vested by Vesting Order No. 354 and for a 50 percent interest in Bridge Import Company were filed by Werner von Clemm on October 25, 1943, and recorded as Claims Nos. 1272 and 1273.

Sale of the Stones

The Custodian considered it advisable to hold an early sale of the stones since, with the end of hostilities, importations of goods of this type would be renewed, resulting in a lessening of sales value. Onyx, one of the principal stones listed in the merchandise, was already arriving in considerable quantities from South America by the end of 1945.

Three large public sales of stones were held at the New York Office of the Office of Alien Property Custodian in March 1944, December 1945, and January 1946.[17] All three offerings were advertised in newspapers of general circulation and in trade papers. Notifications of the sale were mailed to prospective purchasers listed by the Custodian's office and to persons, firms, and corporations in business throughout the United States whose names appeared on jewelry trade lists.

In March 1944, a public sale was held of the 45 lots of synthetic, precious, and semi-precious stones of Pioneer Import Corporation that had been detained but not seized by Customs. These lots, comprising approximately 59,000 pieces, consisted of imitation precious and semi-precious rubies, aquamarines, spinels, blue zircons, and blue sapphires, and a relatively small number of genuine amethysts, turquoise, and garnets. Copies of the notification of sale were mailed to some 1,200 prospective purchasers. Approximately 115 copies of the Statement of Terms and Conditions, Inventory, and Bid Forms were mailed or handed to interested parties. Inspections were made by 53 groups of prospective purchases.

Some 40 persons interested in the proceedings attended the bid openings. Bids were received from 35 prospective purchasers, who submitted a total of 419 bids for the 45 lots. The total of the high bids received was $212,762 compared with Customs valuations of $39,018.

The stones that had been seized by Customs and specifically vested by the Custodian in March 1945 were sold at public sale in December 1945 and January 1946.

The December sale offered 272 lots of precious, semi-precious, and synthetic stones. These lots included a wide variety of emeralds, opals, pearls, onyx, rubies, sapphires, and other jewels. Copies of the notification of sale were mailed to 4,020 prospective purchasers. Inspections were made by 156 groups of prospective purchasers and approximately 460 copies of the Statement of Terms and Conditions, Inventory, and Bid Forms were distributed.

The bid opening was attended by some 100 persons interested in the proceedings. Bids were received from 75 prospective purchasers, who submitted a total of 2,611 bids for the 272 lots. The aggregate of the high bids for the stones was $941,867 compared with a total entered cost of $151,567.[18] These entered costs were obtained from the consular invoices, which are generally considerably lower than appraisal values. In only one of the lots was the high bid less than the entered cost value but, due to the interest manifested in this sale, as shown by seven bids received, the high bid of $150, as against an entered cost of $417, was accepted.

The January sale offered 268 lots of diamonds comprising 19,522 stones totalling 1,234 carats. Copies of the notification of sale were mailed to 7,614 prospective purchasers. Inspections were made by 209 groups of prospective purchasers, and approximately 670 copies of the Statement of Terms and Conditions, Inventory, and Bid Forms were distributed. During the period of public inspection, guards were stationed in the exhibition rooms, and a firm was retained to provide electric protective service.

Approximately 75 persons interested in the proceedings attended the bid opening. Bids were received from 123 prospective purchasers, who submitted a total of 7,497 bids on the 268 lots in the offering. In order to determine the adequacy of the highest bids received, an appraisal had been made by a private firm, whose total valuation of the lots was $224,079.50.[19] The total of the high bids received was $363,331.46, or approximately 62 percent over the appraised value. The high bid exceeded the appraisal value for each of the lots. Tie bids were received for two lots, and pursuant to the terms and conditions of the offering, a drawing was held to determine the winner.

Financial Information

Both Pioneer Import Corporation and Bridge Import Corporation are in process of liquidation. The assets of Pioneer Import Corporation as of November 11, 1942, the vesting date, amounted to $328,643 and the liabilities to $454,265, indicating a deficit of $125,622. At the time of vesting the inventory of Pioneer had a book value of $165,706 and consisted primarily of precious and semi-precious stones which had been seized by Customs authorities and which were subsequently vested by the Custodian. Of the liabilities, accounts payable totaling $399,146, later vested by the Custodian, were owed to Gesellschaft fur Hypothekenankauf and Reich Kredit Gesellschaft.

The assets of Pioneer Import Corporation as of June 30, 1946, amount to $157,662, exclusive of the stones *res* vested and sold by the Custodian for $368,496. If Pioneer should gain possession of the proceeds of the vested stones, it would be in a solvent position. The liabilities of $432,388 include the obligations previously vested by the Custodian, which total $428,021, including interest, as of June 30, 1946.

The assets of Bridge Import Company as of November 11, 1942, the vesting date, amounted to $143,898 and the liabilities totaled $147,933, leaving a deficit of $4,035. At the time of vesting the inventory of the partnership had a book value of $143,238 and consisted primarily of synthetic and semi-precious stones that had been seized by Customs and were ultimately vested by the Custodian. As against the assets, the books of

[16] In December 1946, a suit was instituted in the District Court of the United States, Eastern District of New York entitled *Rayford W. Alley, as trustee for Frederick Michael Clemm von Hohenberg and Alison Clemm von Hohenberg, v. Tom C. Clark as Attorney General of the United States*, to establish the interest of Alley in the Bridge Import Company.

[17] In April 1944, one lot of Bridge Import Co. stones was sold in a public sale of various vested merchandise. The high bid for the lot, which consisted of approximately 985 synthetic and semi-precious stones, was $9,353 as compared with an invoice value of $1,100.

[18] The merchandise for sale consisted entirely of Bridge and Pioneer stones with the exception of two lots of pearls which received high bids of $5,410 as compared with the appraised value of $3,125.

[19] The merchandise for sale consisted of Pioneer stones with the exception of five lots of stones which received high bids of $13,152 as compared with the appraisal value of $9,779.

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Bridge reflected liabilities of $137,095 then owed to Georges Lambercie and Reich Gesellschaft but subsequently vested.

As of May 31, 1946, the assets of Bridge, with the exception of $50 of unliquidated inventory, consist of $914,000 of cash, representing almost entirely the proceeds of sale of vested stones. Outstanding liabilities, including the obligations vested by the Custodian, are $156,559, and net worth is approximately $757,441.

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Patents

The Custodian has acquired three general types of patent property. First, he has vested title to approximately 34,000 patents and patent applications of nationals of enemy countries, and to about 13,000 of nationals of formerly enemy-occupied countries. Of these, the patents and patent applications which were not licensed to nonenemies before the war are referred to as "loose" patents and are treated differently from those which were so licensed. Second, the Custodian has vested about 1,000 interests of nationals of enemy and enemy-occupied countries in patent contracts. Third, the Office has acquired indirect control of 6,240 "captive" patents and patent applications through the vesting of enemy interests in patent holding companies and other business enterprises.

VESTED PATENTS AND PATENT APPLICATIONS

Property Vested

From the establishment of the Office on March 11, 1942, to June 30, 1946, the Custodian vested 40,523 patents, 321 part interests in patents, 4,683 patent applications, 509 abandoned patent applications and 833 inventions for which patent applications had not been filed. A complete breakdown of these properties by nationality of former ownership is shown on Table 23. The bulk of this vesting program was completed by June 30, 1944, but some property was vested after that date. The following figures indicate the amount of patent property vested in the fiscal year ending June 30, 1946:

Patents	88
Part interests in patents	29
Patent applications	16

Changes in Character of Property Since Vesting

The amount and type of patent property held by the Custodian is constantly changing for several reasons. The most important reason is the prosecution of patent applications, which results in a decrease in patent applications and an increase in patents held. Table 24 shows in detail the changes that have occurred in the holdings of the Office.

PATENT PROSECUTION.—The Office has prosecuted patent applications in order to further utilization of enemy inventions by American industry and safeguard the rights of nonenemy nationals. Prosecution also prevents other persons from filing applications on the same inventions and protects the interest of nonenemies having contractual rights in vested applications.

As of June 30, 1946, the Office of Alien Property Custodian has been granted 2,849 patents on vested patent applications. In addition, the Office has filed 38 patent applications on inventions and revived two abandoned patent applications. The Patent Office has accepted 74 divisional patent applications for prosecution, 23 during the fiscal year.

Table 23.—PATENTS AND RELATED PROPERTIES VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERSHIP

Residence of former owners	Number of properties vested					
	Total	Patents	Part interests in patents	Patent applications	Permanently abandoned patent applications	Inventions
Grand total	46,869	40,523	321	4,683	509	833
Enemy countries	33,890	29,252	241	3,395	415	587
Germany	[1] 30,088	26,064	206	2,939	359	520
Japan	1,215	1,126	1	72	14	2
Italy	1,920	1,561	16	259	29	55
Hungary	564	424	16	105	11	8
Roumania	73	59	2	8	2	2
Bulgaria	5	3		2		
Two or more countries	25	15		10		
Enemy-occupied countries	12,934	11,231	79	1,285	93	246
Belgium	918	849	6	54	5	4
China (occupied)	3			3		
Czechoslovakia	823	731	9	56	18	9
Denmark	586	516	2	59		9
Dutch East Indies	21			18		3
Estonia	11	11				
France	8,133	7,125	41	731	48	188
Greece	13	10		1	2	
Hong Kong	8	8				
Latvia	11	11				
Lithuania	4	4				
Luxemburg	67	47		20		
Monaco	1			1		
Netherlands	1,455	1,156	3	256	15	25
Norway	674	607	8	50	2	7
Philippine Islands	18			18		
Poland	124	115	1	4	3	1
Straits Settlements	1			1		
Thailand	1	1				
Yugoslavia	30	26	1	3		
Two or more countries	32	14	8	10		
Joint ownership (enemy and enemy-occupied)	45	40	1	3	1	

[1] This figure includes over a thousand items formerly owned by residents of Austria, Danzig, and other areas no longer considered German territory.

reduction in vested patents app

At the end of the fiscal year, 1,900 patent applications remain vested in the Custodian, compared with 2,276 on June 30, 1945. Prosecution is being continued on approximately 445 applications. On the remainder prosecution has been discontinued for various reasons. In some cases, technical information that could be supplied only by the inventor was not available owing to the war; in other instances, the Office was unable to procure sufficient documentary evidence to meet the requirements of the Patent Office.

EXPIRATIONS.—Since the life of a United States patent is only 17 years, a considerable number of patents acquired by the Office of Alien Property Custodian expire each year. Approximately 2,157 patents expired during the fiscal year ending June 30, 1946, alone. From the dates of vesting, 8,157 have expired; the total number of live patents held by the Office was thus reduced to about 35,000.

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Table 24.—CHANGES IN PATENT HOLDINGS FROM DATES OF VESTING TO JUNE 30, 1946

	Type of property				
	Patents	Part interests in patents	Patent applications	Permanently abandoned patent applications	Inventions
Total vested through June 30, 1946	40,523	321	4,683	509	833
Changes resulting from prosecution	+2,849		−2,795	−2	−38
Patent applications filed on inventions			+38		−38
Divisional patent applications accepted [1]			+74		
Abandoned patent applications revived			+2	−2	
Patents granted on patent applications	+2,849		−2,849		
Changes resulting from assignments and return of property	−178		−48		
Patents and patent applications assigned to Custodian	+40		+1		
Patents and patent applications assigned by Custodian	−1		−1		
Patents and patent applications returned to former owners	−217		−48		
Total held as of June 30, 1946	[2] 43,194	321	1,900	507	795

[1] The Patent Office will issue a patent only on a single invention. If a patent application covers more than one invention, one or more divisional applications must be filed.
[2] Of this number, 8,157 patents have expired.

LICENSING OF VESTED PATENTS

Licensing Policy

ENEMY PATENTS.—The Office of Alien Property Custodian continues to grant to American citizens and corporations nonexclusive, royalty-free licenses on patents vested from nationals of enemy countries under which there were no conflicting bona fide nonenemy rights outstanding at the time of vesting.[1] Patents subject to nonexclusive, royalty-bearing licenses at time of vesting are licensed to others on similar terms. Special problems concerning treatment of Italian and Austrian patents have been resolved in discussions with the Department of State. It has been decided to continue the royalty-free licensing of patents vested from nationals of Italy; however, Austria was removed from the "enemy" category and, since January 5, 1946, licenses granted on patents vested from persons presumed to be nationals of Austria have been made royalty-bearing.

NONENEMY PATENTS.—The original policy toward licensing of nonenemy patents was to issue royalty-free licenses for the duration of the war and the six months following, with reasonable royalties to be charged thereafter. Because of the strong objections raised by the various governments in exile, the Office later decided to change this policy and negotiate royalty-bearing, nonexclusive licenses on these patents. It continued this practice until the liberation of the enemy-occupied countries. Since that time, applications

[1] As a result of a 12-nation conference held in London in July 1946 a patent accord was signed by the United States and 27 other nations providing that formerly wholly German-owned patents seized by each signatory government will be made available to nationals of all signatory governments either by royalty-free, nonexclusive licensing or by dedication to the public.

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for such licenses have been referred to the commercial attaché of the government of the national from whom the patent was vested. The applicant may then negotiate with the former owner of the patent for the purpose of agreeing upon a reasonable royalty and other terms. If satisfactory terms are agreed upon before the patent is returned under Public Law 322, the Office will grant a license.

Extent of Licensing

The following table indicates on both a cumulative and fiscal year basis the number of firms receiving licenses, the number of licenses granted, and the number of patents licensed by the Office.

	Cumulative total to June 30, 1946	*Licensed during period July 1, 1945 to June 30, 1946*	*Cumulative total to June 30, 1946*
Number of firms to which licenses were granted	794	[1] 303	1,097
Number of licenses granted	1,535	477	2,012
Number of patents and patent applications licensed (counting each patent only once)	7,343	[2] 560	7,903
Number of patents and patent applications licensed (counting each patent as many times as it was licensed)	10,173	1,035	11,208

[1] Includes only those firms licensed during this fiscal year that were not licensed in earlier periods.
[2] Includes only those patents and patent applications that were not licensed in earlier periods.

Of the 477 licenses granted during the fiscal year, only 10 were issued under patents vested from nationals of formerly enemy-occupied countries. These 10 licenses covered 12 patents formerly owned by nationals of France, Norway, Denmark, Netherlands, Czechoslovakia, and Austria. A total of 22 licenses covering 38 patents formerly belonging to nonenemies has been granted since the licensing program was started.

Size of Business Enterprises Licensed

As of June 30, 1946, there are 1,097 business enterprises and Government agencies licensed by the Office of Alien Property Custodian under vested patents. This is an increase of 303 over the number of licensees at the close of the previous fiscal year.

Table 25.—DISTRIBUTION OF PATENT LICENSEES AND PATENTS LICENSED BY THE OFFICE OF ALIEN PROPERTY CUSTODIAN BY SIZE OF ASSETS OF LICENSEES, AS OF JUNE 30, 1946

NOTE.—This table includes 29 cancelled licenses issued to 19 licensees.

Size of assets of licensees	Licensees		Patents licensed [1]	
	Number	Percentage of total	Number	Percentage of total
Total	1,097	100.0	11,208	100.0
Under $250,000	437	39.8	1,084	9.7
$250,000 to $500,000	90	8.2	443	4.0
$500,000 to $1,000,000	75	6.8	205	1.8
$1,000,000 to $5,000,000	190	17.3	4,038	36.0
$5,000,000 to $10,000,000	74	6.8	1,085	9.7
Over $10,000,000	185	16.9	4,121	36.7
Size unknown	38	3.5	204	1.8
Agencies of the United States Government	8	0.7	28	0.3

[1] Counting each patent as often as it has been licensed.

The licensed firms vary in size as follows: 602 are small (assets up to $1,000,000); 264 are medium (assets between $1,000,000 and $10,000,000); 185 are large (assets over $10,000,000); 38 are enterprises whose sizes are unknown; and eight are Government agencies. The Custodian has licensed 11,208 patents to these firms, counting each patent as often as it has been licensed. Table 25 shows the complete distribution of licenses and patents licensed by size of business of the licensee.

Report on Licensing Program

Under the patent license agreements executed by the Custodian, the licensee is required to report on "the character and extent of the utilization of each licensed patent." Reports on royalty-free licenses, i. e., licenses for patents formerly owned by enemy nationals, are required annually; reports on royalty-bearing licenses, i. e., licenses for patents owned prior to vesting by nationals of formerly enemy-occupied countries, are required quarterly.

For the reporting period closing December 31, 1945, reports were received from 799 licensees to whom the Custodian had licensed 9,393 formerly enemy-owned patents. In addition, five licensees reported on 11 patents formerly owned by nonenemy nationals.

The reports furnish statistics and other information on location and size of business of licensees, types of patents licensed, number of patents licensed to each firm, extent to which patents are being used, and their value to the economy.

DISTRIBUTION BY FIELD.—Ninety-five percent of the patents reported were electrical, chemical, or mechanical. The following table indicates the distribution of the 9,393 patents among various fields:

Field	*Number*	*Percent*
Mechanical	2,486	26.5
Chemical	2,913	31.0
Pharmaceutical	183	2.0
Chemical equipment	60	.6
Electrical	3,525	37.5
Metallurgical	226	2.4
Total	9,393	100.0

Of the 11 reported patents under royalty-bearing licenses, 10 were in the mechanical field, and one in the chemical field.

UTILIZATION OF PATENTS.—Forty-four percent of the licensees reported that they had used the patents in production or research during 1945. Ten percent of the total patents reported were used in actual production, principally of war products. An additional 13 percent were subject to research to determine usefulness for future production. There were also indications of the growing importance of the vested patents for peacetime use; of the patents not in current use in 1945, thirty percent, or more than a thousand patents, were expected to be used for future research, development, and production.

Businesses with assets of less than $1,000,000 are licensed under an average of three patents each compared to an average of 15 to 20 patents for larger firms, but their reports indicate they have made more intensive use of them.

EXAMPLES OF USE.—The following are examples of manufacture reported under vested patents:

1. 22,000,000 pounds of rayon denier and filament, with a sales value of about $9,600,000.
2. 3,800,000 foldable spades and hoes, with a sales value of $3,700,000.

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3. 70,000 condensers, with a selling price of $20,300.
4. 526 propeller blades, with a selling price of $300,000.
5. 42,000,000 gallons of nitration grade toluene for explosives and aviation gasoline, with a sales value of $14,000,000.
6. 160 fuel injection pumps for Diesel engines, with a sales value of $19,500.
7. 834 mechanical devices for recording the path of flight of aircraft, with a sales value of $1,250,000.
8. 7,500 armatures for magnetic loud speakers, with a selling price of $112,000.
9. 333,000 pounds of resin, with a sales value of $42,000.

ENCOURAGEMENT OF THE USE OF VESTED PATENTS

The present goal of the patent development program is to encourage use of the vast body of technical information contained in the 47,000 vested patents in the building of the peace economy. After V-J Day an increased interest in vested patents was evident. A total of 7,392 inquiries were answered during this fiscal year, as compared with 5,872 last year. Special efforts were made to acquaint veterans and small businessmen with patents available for licensing and their uses.

Patent Abstracts

During the year the second supplement of abstracts of chemical patents was issued; it adds 900 patents to the 7,100 on which abstracts had previously been made available. The new supplement is sent free to purchasers of the complete set of chemical abstracts. A supplementary fifth volume of the mechanical-electrical patents was also issued. Demand necessitated reprinting of many sections of the chemical abstracts, as well as the first four volumes of the mechanical-electrical abstracts. The Office filled approximately 10,000 orders from private individuals and businesses for sets and sections of mechanical-electrical abstracts, and 3,400 orders for chemical abstracts during the fiscal year.[2] For these it charged $45,000 to cover costs of printing and binding. On a cumulative basis, distribution has amounted to more than 20,000 orders for both classes of abstracts, with receipts totaling over $120,000. The "Index and Guide to Vested Patents," a leaflet that gives general information on vested patents and the patent licensing program, was revised in January 1946 and, like previous editions, distributed gratis. Lists of patents on 70 different subjects of particular interest were prepared during the year, bringing the cumulative total of such lists to 356.

complete copies of all vested patents

Patent Libraries

At the close of the fiscal year, complete copies of all vested patents were available to the public in libraries maintained by the Office of Alien Property Custodian in New York, Washington, and San Francisco, and in 19 public and university libraries throughout the United States. Abstracts of vested patents are now located in 47 states and in almost 200 cities in libraries, technical institutions, industrial departments of banks, universities, and chambers of commerce.

The patent use and development program was centralized in June 1946, when the activities of its field libraries and technical representatives were

[2] For a description of these abstracts and of earlier publications, see *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1944*, pp. 102–103.

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transferred to Washington, D. C. The Portland, Oregon, library was transferred to the field office in San Francisco. The agency's Boston, Chicago, and Los Angeles patent libraries were loaned to public libraries in those cities. The Los Angeles library had been opened in November 1945 because of the concentration of industry in that area. It was used in carrying on extensive activities among manufacturers, trade associations, and chambers of commerce. During the period the Los Angeles library was functioning, the ratio of California license applications to total license applications increased from 5.5 percent to 9.4 percent.

Technical Program

Over 20 new screening and evaluation projects were initiated during the fiscal year, making a total of more than 100 such projects undertaken. The Office attempts to separate useful patents from those that appear obsolete or unsuited to American industry by asking industrial groups, university research foundations, trade and technical societies, and individual scientists and technicians to examine groups of patents in their respective fields and report on those warranting further research. Some of the projects completed during the year covered patents relating to steam turbines, electric power hammers, oxide coating for corrosion proofing of aluminum, seamless tubing, and precision measuring instruments. The largest series of projects, covering 600 agricultural patents, was completed by the American Society of Agricultural Engineers.

Members of the industrial intelligence teams sent to Europe by the Joint Chiefs of Staff were consulted to determine the relation of technical information gathered by them to the vested patents. The Office was then able to inform American manufacturers of processes described by these intelligence teams that might be covered by vested patents. Such technical information is extremely important to potential users of the patents, since in many instances the disclosures in the patents themselves are not sufficient to put the inventions to work without additional "know how".

Technical representatives of the Office from field offices in New York, Chicago, Los Angeles, and Boston made more than 400 calls on manufacturers during the fiscal year.

Aid to Small Business and Veterans

The program of cooperation with the Smaller War Plants Corporation to encourage the use of patents by small business and to inform veterans of the opportunities in vested patents was further developed during the fiscal year. The success of this program is evident from the data on size of business firms licensed. Over 50 percent of all new licensees during the fiscal year were firms with assets of less than $1,000,000.

Expert technical advice was made available to small manufacturers at meetings conducted in the chief industrial areas. Information booths and exhibits were provided for industrial and scientific conventions. Lists of patents of special value to small business were screened by the Technical Advisory Service of the Smaller War Plants Corporation.[3] The opportunity of procuring patent abstracts was called to the attention of the 160,000 small manufacturers[4] on the Census Bureau list, and 7,840 orders for abstracts were received in reply.

[3] After dissolution of the Smaller War Plants Corporation in January, 1946, cooperation was continued with its Technical Advisory Service, which became a part of the Department of Commerce.

[4] Firms having assets up to $1,000,000.

National, state, and municipal veterans' bureaus were informed of the patent licensing program, and meetings of field officers of the Veterans' Administration were addressed to explain the program. Placards, copies of the "Index and Guide to Vested Patents", and other literature were supplied to veterans' centers. Two "gadget-lists" were prepared, composed of consumer-goods patents particularly suitable for consideration by veterans with small capital. Twenty-three percent of all library callers during the last three-quarters of the fiscal year were veterans, and 22 percent of the total inquiries were received from veterans.

PATENT CONTRACTS

The Custodian has vested the rights and interests of 1,092 foreign nationals in 789 patent contracts between such nationals and American residents and corporations. These patent contracts provide either for licensing the American party, in which event the Custodian has also vested title to the patents, or for assignments, in which event title to the patents is now held by the American party. A large number of the contracts provide for periodic payments by the licensees or assignees for the use of the patented inventions. In other instances the licenses or assignments were paid for in full at the time the agreements were made. Still other agreements involved an exchange of patent rights between the parties.

Table 26 presents a classification of vested interests and contracts according to the nationality of the former owners. Of the total of 1,092 interests vested, 38 enemy interests, involving 30 contracts, were vested during the fiscal year.

Table 26.—PATENT CONTRACTS IN WHICH INTERESTS WERE VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERSHIP

numbers

Nationality	Number of contracts involved	Number of interests vested
Total	789	1,092
Enemy	619	839
Germany	[1] 572	[2] 778
Japan	6	10
Italy	21	32
Hungary	16	17
Roumania		1
Bulgaria		1
Joint (interests of nationals of two or more enemy countries vested)	4	(3)
Enemy-occupied	153	253
Belgium	3	14
Czechoslovakia	4	11
Denmark	6	10
Estonia		1
France	[4] 92	[4] 151
Latvia		1
Luxemburg	2	5
Netherlands	19	32
Norway	20	25
Poland	1	2
Yugoslavia		1
Joint (interests of nationals of two or more enemy-occupied countries)	6	(3)
Joint (interests of nationals of both enemy and enemy-occupied countries)	17	(3)

[1] It is believed that this number includes three Austrian contracts.
[2] It is believed that this number includes one Danzig and three Austrian interests.
[3] Interests are distributed in the above tabulation among the various specific nationalities.
[4] By Divesting Order No. 30, the Custodian returned to an American one interest in a contract, which had been vested as French.

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Problems of Administration and Disposition

Patent contracts present a variety of problems both in their administration and disposition. A basic consideration in many cases is whether the contract is legal under the antitrust laws. Other problems are concerned chiefly with the desires of the Custodian or the American parties to terminate or modify the contracts and with legal interpretation of the terms of the agreements. Table 27 shows in summary form the patent contract problems that have been resolved by June 30, 1946. Some of the more important of these problems are discussed below.

Table 27.—PATENT CONTRACT PROBLEMS RESOLVED, MARCH 11, 1942 TO JUNE 30, 1946

Nature of problem	Number of cases
Total	176
1. Termination of contract:	
a. By renegotiation (new contract executed)	10
b. By Custodian	6
c. By American party	18
d. By mutual agreement	3
e. By expiration of contract	47
f. By litigation (including consent decrees)	33
2. Claim of exclusive rights by American party:	
a. Affirmed by Custodian	
b. Denied by Custodian	9
3. Request by American party for standard nonexclusive, royalty-free license in exchange for surrender of royalty-bearing license:	
a. Granted by Custodian (same as 1a)	
b. Denied by Custodian	5
4. Claim by American party of agency to license vested patents:	
a. Affirmed by Custodian	
b. Denied by Custodian	4
5. Request by American party for renegotiation of specific provisions in contract:	
a. Granted by Custodian	
b. Denied by Custodian	5
6. Determination of Custodian's power to license patents	8
7. Special license granted to American party to ignore restrictive provisions in contract	21
8. Interpretation and clarification of contract provisions	7

Illegal Provisions

Through vesting the Custodian has succeeded to the interests and rights of foreign nationals in a large number of patent agreements containing provisions that may render them illegal under the antitrust laws. To determine the extent of its authority to deal with patents that may be controlled by such illegal agreements, the Office in cooperation with the Department of Justice is preparing to submit to the courts the issues in several agreements.

Some of the patent contracts in which interests have been vested by the Custodian have been the subject of antitrust actions instituted by the Department of Justice against the Amercian parties. In civil suits for violation of the antitrust laws the Office endeavors to have the decree formed so that the Custodian's interests in the patents are protected. The Custodian has been a party to five consent decrees entered in such cases.

Export Restrictions

During the fiscal year, particular attention was paid to the removal of export restrictions from a large number of patent agreements in which the Custodian had vested enemy interests. With the resumption of private foreign trade, several American parties to the agreements petitioned to have these prohibitions removed. The Office considered that the restrictions had been placed in the agreements solely for the benefit of the foreign party and might operate to curtail American production. A system of

special revocable licenses was worked out to afford relief from the restrictions on the ground that they were of doubtful legality. Seventeen such licenses were issued to companies having contracts with enemy nationals containing export restrictions. The license permits export or sale for export of any article manufactured or sold under the agreement. Such licenses are granted without charge, but the production for export bears the same royalty as other articles produced under the contract. The granting of the license is not construed as an affirmation of the legality of the basic agreement.

Patents Made Available for Licensing

A total of 1,314 patents and patent applications have been made available for licensing by the Office through investigation or termination of certain patent contracts. A breakdown of this total, by type of licensing permitted, is as follows:

Type of licensing	*Number of patents and patent applications*
Unrestricted royalty-free licensing	1,256
Restricted royalty-free licensing	56
Unrestricted royalty-bearing licensing	2
Restricted royalty-bearing licensing	

Further analysis of the contracts should disclose additional patents and patent applications that can be made available for licensing.

Assignments

Forty patents and one patent application have been assigned to the Custodian as the result of renegotiation of certain prewar contracts between enemy nationals and American citizens. One patent and one patent application have been assigned by the Custodian to private companies.

Collection of Royalties

Through June 30, 1946, the Custodian has collected a total of $10,512,858.09 in royalties due under the vested patents and patent contracts. Of this amount, $2,206,556.09 was collected during the fiscal year. Table 28 classifies collections by nationality of former owners of the vested properties.

Table 28.—ROYALTIES COLLECTED UNDER VESTED PATENTS AND PATENT CONTRACTS, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERSHIP

Nationality of former owners of patents and interests in patent contracts	Royalties collected		
	Total	Accrued prior to dates of vesting	Accrued subsequent to dates of vesting
Total	$10,512,858.09	$4,432,328.04	$6,080,530.05
Enemy	7,716,438.73	3,488,741.85	4,227,696.88
German	6,999,830.01	2,925,961.80	4,073,868.21
Italian	668,384.70	551,016.73	117,367.97
Hungarian	48,224.02	11,763.32	36,460.70
Enemy-occupied	2,796,419.36	943,586.19	1,852,833.17
Belgian	138,130.04	70,938.63	67,191.41
Czechoslovakian	254,050.71	155,502.12	98,548.59
Danish	59,528.19	49,456.26	10,071.93
Dutch	200,506.38	132,566.72	67,939.64
French	1,180,005.57	400,839.59	779,165.98
Luxemburg	158,183.39	84,779.68	73,403.71
Norwegian	806,015.10	49,503.19	756,511.91

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PATENT RIGHTS OF VESTED CORPORATIONS

In addition to patents and interests in patent contracts vested directly from foreign nationals, the Office has indirect control over another large and important group of patents through ownership of stock interests in American corporations. These patents are frequently referred to as "captive patents." Twenty-six vested companies own 5,533 unexpired patents and 707 pending patent applications. Of these, 5,028 patents and 686 applications are held by 15 manufacturing companies; the remaining 505 patents and 21 applications are held by patent holding companies. General Aniline & Film Corporation, which owns 3,749 patents and 432 patent applications, has the largest holdings, and two other manufacturing companies own more than 300 patents and applications each. Although patents of vested corporations constitute only 10 percent of all patents under the Custodian's control, they are exceedingly important because of the high percentage of valuable inventions among them. In addition to the patents which they own, vested companies have licenses, both exclusive and nonexclusive, under many other patents.

Problems of Policy

As has been indicated earlier, the Office generally licenses on a nonexclusive royalty-free basis all enemy patents in which the Custodian has full title, except those in which nonenemies claim an exclusive license or a title interest. The question has arisen whether a similar policy can and should be applied to patents of corporations in which enemy stock interests have been vested. Like patents directly vested in the Custodian, most of the patents of vested enterprises were originally issued to enemy nationals. Had they not been assigned or exclusively licensed before the war to companies now controlled by him, they would have been subject to the Custodian's general licensing policy.

The economic argument in favor of making the patent rights of vested companies generally available to all applicants is that such a policy would benefit the American economy as a whole by stimulating competition. The resultant advantages to the American consuming public would, it is claimed, greatly outweigh any monetary losses the Government might sustain through possible impairment of the value of vested corporate stock. Against this view it has been urged, generally with respect to specific companies, that depriving vested enterprises of exclusive patent rights would have the harmful result of restricting competition in certain industries by giving already dominant competitors an additional advantage.

Consideration must be given not only to the economic problems but also to the Custodian's legal authority to implement a program of terminating the exclusive patent rights of the companies. Regardless of the merits in any particular case, there are doubts as to the extent to which the Custodian can pursue a course of action that may reduce the dollar value of vested property (in this case, vested stock in the companies). Moreover, the Custodian is sole and undisputed stockholder of only a few of the corporations involved. The Office does not consider that it has authority under existing law to impose upon a company a patent policy that might materially reduce the value of interests not vested in the Custodian or of vested interests claimed by nonenemies.

Termination of Exclusive Patent Rights of Vested Corporations

The problems involved in captive patents have been considered not only within the Office of Alien Property Custodian but also by the Executive Committee on Economic Foreign Policy (hereafter referred to as ECEFP), composed of representatives of several Departments and agencies. While the Office of Alien Property Custodian does not hold a membership in the ECEFP, it participated in the discussions on matters concerning its activities. During the fiscal year the ECEFP completed its captive patent study and recommended a program of terminating the exclusive patent rights of vested corporations. On February 7, 1946, the program was approved by the President.

In general, the ECEFP recommended that the Office undertake an active policy of promoting nonexclusive licensing, wherever possible royalty-free, of patents controlled by enterprises in which the Custodian owns majority interests, subject only to considerations of military security and of reasonable protection of nonenemy interests. The ECEFP recognized that new legislation, executive orders, or court action might be required to implement some of its recommendations.

With respect to particular situations, the ECEFP offered the following specific suggestions:

1. When a firm is owned wholly by the Custodian, vest all patents owned by it and cancel all its exclusive licenses under vested enemy patents. Then license both classes of patents royalty-free to all applicants.
2. When any vested firm has exclusive licenses or patent assignments granted by enemies either to cloak the enemy interests in the patents or pursuant to illegal contracts, cancel the exclusive licenses and vest the assigned patents.
3. When there are non-vested minority proprietorship interests and the exclusive patent rights are not subject to attack for cloaking or illegality, use the Custodian's majority interest to have the company buy up the minority interests. If that is not possible, use the Custodian's interest to have the company issue to all applicants nonexclusive licenses at reasonable royalties.
4. When any vested firm is involved in antitrust litigation, use the Custodian's interest to obtain the company's acceptance of a consent decree providing for general licensing of its patents at reasonable royalties.
5. Retain control of all vested firms until their patent rights have been brought into harmony with this program.

Administration of Manufacturing Companies Owning Exclusive Patent Rights

The Office has thus far not implemented the ECEFP program with respect to the exclusive patent rights of manufacturing companies for various reasons, including the legal problems arising from the possible effect of nonexclusive licensing on the value of the securities of the companies. With one minor exception, there are either nonenemy claimants to the vested interests or minority stockholders in every manufacturing company subject to the policy.

The legal necessity of protecting minority interests involves not only the extent of the Custodian's right to issue directives to the companies; it also involves the scope of management discretion by members of boards of directors who represent his majority stock interests. Directors are reluctant to vote in favor of licensing their companies' patents unless they believe such a policy to be consistent with the interests of the companies. That such consistency is often possible appears from the fact that a number of American companies not subject to the Custodian's authority have voluntarily adopted policies of nonexclusive licensing at reasonable royalties to all applicants. If, however, the members of boards of directors of vested companies consider that adoption of such policies in their cases would impair the value of the stockholders' interests, consideration can be given to requiring the companies to buy up the minority interests. This is generally impracticable either because the minority shareholders are unwilling to sell or because the companies have insufficient funds.

The Office is deferring sales of vested manufacturing companies having exclusive patent rights pending resolution of the problems involved.

Administration of Patent Holding Companies

Adoption of the ECEFP program required no important changes in the Office's administration of vested patent holding companies, which hold patents for the purpose of licensing them. The policy toward this group of companies has always been, wherever possible, to dissolve the companies and then treat their patents in the same manner as other patents held directly by the Office unless it was clear that continuing the companies would make possible a much more effective utilization of the patents. Dissolution of four patent holding companies in which the Custodian is sole stockholder has been prevented by the necessity of preserving assets intact pending the outcome of pending and prospective litigation initiated under Section 9 (a) of the Trading with the Enemy Act by persons who claim interests in the vested companies. However, these companies and three other patent holding companies in which the Custodian has substantial stock interests have made all of their patents available for nonexclusive licensing at reasonable royalties. There are two other active patent holding companies in which the Custodian has controlling interests. The Magnesium Development Corporation, operating under a consent decree, is required to license its "fabrication patents" royalty-free indefinitely and its "production patents" royalty-free "during the existence of the present emergency," with the proviso for both classes of patents that reasonable royalties may be charged applicants who refuse cross-licenses under their own patents. One company, Kalio, Inc., does not make its patents available because they were licensed exclusively before the war to a manufacturing corporation, Karl Lieberknecht, Inc., in which the Custodian has vested a majority of voting stock.

American Lurgi Corporation and Chemical Marketing Co., Inc., patent holding companies whose patents had been vested separately early in the war, are among those prepared for liquidation and dissolution during the past fiscal year. The Office had previously postponed liquidating these two companies because they were in a particularly favorable position to conduct further research and development on certain patents. During the period in which they continued as going concerns they acted as the Custodian's agents for licensing the patents involved and charged reasonable royalties in order to recover research and development expenses.

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Copyrights and Trade-Marks

The copyright program of the Office of Alien Property Custodian falls broadly into two parts: (1) the administration of contracts made between foreign copyright owners and American exploiters before the war, and (2) the administration of foreign interests in United States copyrights through licenses issued by the Office. The fields of administration cover five main categories of works: periodicals, books, motion pictures, plays, and music.

The trade-mark interests administered by the Office include not only trade-marks (and the registrations and good will attaching thereto) and contracts involving trade-marks, but also trade-names, commercial prints and labels, and residual or reversionary rights that enemy nationals may have in the trade-marks and good will of American corporations.

COPYRIGHTS: GENERAL

Vesting

Until this fiscal year, the vesting of copyrights had generally been selective; interests had been vested only when the works were already under prewar contract and royalty-bearing [1] or when a request for a license was received from an American on a work previously not exploited here.[2] On March 22, 1946, however, following the recommendations of a number of American scientific and library groups, the Custodian vested the American copyright interests of German nationals in all published works reported in the *Halbjahrsverzeichnis* for 1941, 1942, and 1943, and in the *Deutsche Nationalbibliographie* for 1944. Since these catalogs are estimated to cover more than 100,000 titles, the vesting of interests in the copyrights pertaining to them permits the Custodian to license the reproduction in the United States of many scientific works previously unavailable here in quantity. The licensees, of course, must, as in all cases of licensing by this Office, themselves secure the master copies from which the reproductions are to be made.

Although the vesting of copyright interests of German and Japanese nationals has continued, the vesting of copyright interests of other nationals has virtually been terminated. The Custodian had ceased vesting the copyright interests of Italian nationals by the end of 1943, after Italy became a cobelligerent. The vesting of copyright interests of nationals of nonenemy countries was terminated by the end of the calendar year 1944. Requests for the vesting and licensing of copyrighted works that were published in Hungary, Bulgaria, and Roumania after December 7, 1945, have not been honored by the Office. Furthermore, requests received since January 5, 1946

[1] In a few instances the works vested were under prewar contract but were not royalty-bearing.

[2] Until this fiscal year, the chief exceptions to this selective policy were scientific and technical periodicals. In certain instances several hundred different periodicals, reproduction of which might prove valuable in connection with the war effort, were vested even though no actual requests for licenses had been received at the time.

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(when the Government of Austria was recognized by the United States), for licenses on unvested works by Austrian nationals have been denied.

Estimates of the number of copyrighted works in which interests have been vested indicate that the total is probably between a quarter and a half million. It is impossible to make an exact count because the publishing houses, performing rights societies, and similar organizations in the United States have themselves been unable to determine from their records the number of individual copyrighted items of foreign origin in catalogs of works that they have been licensed to exploit. An additional difficulty is that a given work may be included in several contracts covering different forms of exploitation, especially when copyrights concerning music and plays are involved.[3]

The largest number of works covered by vesting orders is in the field of music. The Custodian has vested interests in musical compositions in the catalogs of music publishers in most of continental Europe, and while no actual item count has been made, it is estimated that the number of titles runs to several hundred thousands. The predominating foreign interests are French and Italian. In the remaining types of works—books, plays, periodicals, films, photographs—the largest proportion of vested interests is German and Austrian.

Until 1946, it was the policy not to vest or to issue a license covering any work that, on inspection, was found not to contain the copyright notice required by law to secure copyright protection in the United States. Such works were assumed to be in the public domain.

In the case of *Heim* v. *Universal Pictures Co., Inc.*, 154 F. (2d) 480 (C. C. A. 2d. 1946), however, the court said that publication in a foreign country by a foreign author does not require "as a condition of obtaining or maintaining a valid American copyright, that any notice be affixed to any copies whatever published in such foreign country, regardless of whether publication first occurred in that country or here, or whether it occurred before or after registration here." In view of this decision copyrights to such works are now considered subject to vesting.

Royalties

By the end of the fiscal year 1946, the Custodian had received approximately $1,631,000 in royalties on copyrighted works; approximately 83 percent of this total was derived from vested interests in royalty-bearing contracts made prior to the war. Reports are received from 270 American reporters in connection with 550 prewar contracts with 423 foreign nationals. These contracts cover numerous copyright items, including catalogs which in some cases cover thousands of individual copyrights. Of the royalties collected under these contracts more than half has been from music, including music used in radio, motion pictures, and other forms of dramatic presentation. The remainder was derived from books, plays, and other copyrighted items.

Over a quarter million dollars of the royalties has been obtained from licenses issued by the Office. More than a thousand licenses have been so issued, but some of these have been royalty-free. Others have not yet begun to yield a return because war-urgent books were licensed with a limited royalty provision that permitted the licensee to recoup costs of republication before royalty charges accrued. Because of the limited,

[3] See *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, pp. 131–133.

although extremely important, market for scientific books, the sales of a number of these republications have only recently begun to reach the totals allowed royalty-free.

Table 29 indicates total royalty collections and the nationalities of the former owners of the copyrighted works on which these monies were earned.

Table 29.—ROYALTIES COLLECTED UNDER VESTED COPYRIGHTS, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERS

Nationality of former owners of copyright interests	Royalties collected		
	Total	Accrued prior to dates of vesting	Accrued subsequent to dates of vesting
Total	$1,630,599.20	$781,280.93	$849,318.27
Enemy	759,274.69	305,374.24	453,900.45
German [1]	498,834.42	166,135.18	332,699.24
Japanese	2,873.10	2,072.03	801.07
Italian	242,494.23	128,269.07	114,225.16
Hungarian	12,898.44	6,973.46	5,924.98
Roumanian	1,336.13	1,211.13	125.00
Bulgarian	838.37	713.37	125.00
Enemy-occupied	871,324.51	475,906.69	395,417.82
Belgian	15,337.76	4,778.82	10,558.94
Czechoslovakian	21,552.87	12,056.45	9,496.42
Danish	52,865.77	43,458.91	9,406.86
Dutch	624.08	447.65	176.43
French	757,461.09	396,145.80	361,315.29
Norwegian	9,107.84	6,715.11	2,392.73
Polish	13,956.35	12,110.14	1,846.21
Yugoslavian	318.75	193.75	125.00

[1] Includes amounts payable on copyright interests vested from persons who may be nationals of Austria.

ADMINISTRATION OF PREWAR COPYRIGHT CONTRACTS

The procedure followed in the identification of contractual interests in copyrights of nationals of enemy and formerly enemy-occupied countries has been described in previous reports.[4]

Table 30 indicates the number of accounts under prewar contracts administered by the Office.

Music

The administration of copyrights of music is complicated by the variation in the uses of music and the rights that are granted for such uses. Blanket agreements, for example, covering radio broadcasting, sheet music publication, and mechanical recording rights were customarily granted by European licensors to large licensing groups, such as ASCAP, in the United States. Film synchronization rights were granted to the Music Publishers Protective Association, and symphonic and operatic rights were held under similar arrangements by orchestras and operatic managements.

[4] See *Annual Report, Office of Alien Property Custodian, for the period ending June 30, 1943*, pp. 29–30; *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1944*, p. 110.

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Table 30.—FOREIGN ACCOUNTS UNDER PREWAR CONTRACTS ADMINISTERED BY THE OFFICE OF ALIEN PROPERTY CUSTODIAN AS OF JUNE 30, 1946

Nationality of former ownership	Number of accounts	Number of contracts [1]
Total	423	550
Enemy	218	271
German	155	192
Japanese	18	21
Italian	30	37
Hungarian	13	19
Roumanian	1	1
Bulgarian	1	1
Enemy-occupied	205	279
Belgian	10	10
Czechoslovakian	6	9
Danish	11	21
Dutch	6	9
French	149	207
Norwegian	10	10
Polish	12	12
Yugoslavian	1	1

[1] Some contracts cover numerous copyrighted titles.

These contracts have already yielded and continue to provide substantial royalties, more than half of which have been for works by French and Italian nationals. The G. Ricordi of Italy catalog, for example, has earned, since vesting, more than $50,000 per year; the Puccini operas have paid a total of more than $150,000; *Clair de Lune*, more than $100,000. The popular operetta, *Blossom Time*, has earned approximately $35,000.

Through negotiations with ASCAP and American Music Publishers the Office has settled certain royalty disagreements and collected approximately $350,000 due for vested music copyrights.

Books, Plays

The Office continues to receive royalties on a number of plays and books licensed under prewar contracts. The *Babar* stories for children and Simenon's *Maigret* detective stories are among the more popular books. Proust's *Swann's Way* has also been a good source of royalties during the past fiscal year.

COPYRIGHTED WORKS LICENSED BY THE CUSTODIAN

Books

All licenses granted by the Office for republication of foreign books provide a six-month period of exclusivity in order to protect the licensee while he is preparing the book for publication. At the end of that period, the licenses are generally nonexclusive.

Licenses issued to Government agencies and most of those issued to nonprofit organizations are royalty-free. Commercial licenses for translations of works are subject to a royalty charge of 10 percent of the list price of all copies sold. In all but a few instances works to be reproduced in the original foreign language are licensed at a royalty charge of 15 percent of the list price.[5] On all works which were "war urgent" in character or

[5] In a few instances, because of special circumstances, the royalty charges were higher.

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which are important to American industrial progress, whether reproduced in the original or in translation, a royalty waiver covering a maximum of 40 percent of the first printing, or a minimum of 100 copies, has been granted to permit the licensees to recoup their costs of republication.

Table 31 indicates, by types of reproduction rights granted and by royalty status, the cumulative number of licenses granted for books and the number of titles so licensed.

Table 31.—LICENSING OF BOOKS, MARCH 11, 1942 TO JUNE 30, 1946

Type of reproduction right granted	Number of different titles	Number of titles licensed (counting each title as often as it was licensed)		
		Total [1]	Royalty-free	Royalty-bearing
Total	[2] 909	998	150	848
Original	841	883	[3] 90	[4] 793
Translation	45	46	12	34
Excerpts (in original or translation)	46	48	46	2
Other [5]		21	2	19

[1] Some of these works cover more than one volume.
[2] Detail in this column does not add to total because more than one type of reproduction right was granted on several works.
[3] Reproduced chiefly by microfilm.
[4] Reproduced chiefly by photo-offset.
[5] Includes licenses for special purposes such as the right to destroy plates.

The licensed books deal with subjects that were of direct interest to those engaged in war activities and which undoubtedly will prove of continuing interest in peacetime scientific pursuits. The materials covered by these works include analysis of gases, analysis of metals, atomic fission, ballistics, electric amplifiers, electrolytes, electron emission, food analysis, magnesium, magnetic measurement, optics, organic chemistry, sound waves and measurement, synthetics, etc. The prices charged for the works have in most instances been less than the prewar prices charged by the German publishers. They have been sold principally to industrial concerns, Government agencies, and research institutions throughout the United States and in many allied nations.

Periodicals

Until October 1945, the Alien Property Custodian exercised a dual role of publisher and licensor in periodical republication. On October 22, 1945, however, the Custodian withdrew as publisher and at present acts only as licensor.

Originally undertaken to meet urgent war needs, the Office's Periodical Republication Program was found to have continuing value to research and educational institutions. Before the Custodian withdrew from the program, arrangements were made, therefore, to assign it to licensed publishers.

Licenses for periodicals are generally issued on the same basis as those for books.

Table 32 indicates, by types of reproduction rights granted and by royalty status, the number of periodicals and articles licensed for republication.

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Table 32.—LICENSING OF PERIODICALS, MARCH 11, 1942 TO JUNE 30, 1946

Type of reproduction right granted	Number of different titles	Number of titles licensed (counting each title as often as it was licensed)		
		Total	Royalty-free	Royalty-bearing
Total	[1] 499	1,270	1,263	7
Microfilm	[2] 477	1,228	1,228	
Photo-offset	5	5		5
Excerpts (incl. selections, articles, maps, charts and loose prints)	35	37	35	2

[1] Detail in this column does not add to total because more than one type of reproduction right was granted on several titles.
[2] Certain titles were relicensed periodically after vesting of current new issues of individual periodicals.

Music

Table 33 indicates, by types of reproduction rights granted and by royalty status, the number of compositions and groups of compositions licensed for reproduction. Among the works licensed during the last fiscal year were *Lili Marlene*, for use in a motion picture and in disc recordings, and the operetta, *The Last Waltz*.

Table 33.—LICENSING OF MUSIC, MARCH 11, 1942 TO JUNE 30, 1946

Type of reproduction right granted	Number of titles licensed		
	Total	Royalty-free	Royalty-bearing
Total	[1] 128	8	120
Publication (sheet or book)	109	7	102
Mechanical (phonograph or sound track)	16	1	15
Performance	3		3

[1] Total includes seven catalogs and two books of music, each of which covers many different titles.

Motion Pictures

The Office has vested copyrights to more than 2,000 foreign motion pictures, together with the physical film. Through arrangements with the Library of Congress provision has been made for a centralized depository for the film, but the administrative problems involved in their exploitation have been handled by the Office.

Many of these pictures solved very important educational and informational problems posed by the military services during the war. Film was also licensed for education purposes to non-profit organizations. In addition, if circumstances warranted, complete motion picture productions, as well as stock-shot footage, were licensed for commercial exploitation.

INVENTORY AND CATALOG.—The inventory of foreign films completed at this time covers 2,164 films, amounting to approximately 8,867,000 feet. This leaves about 300 films, aggregating some 3,000,000 feet, still to be inventoried. The items not yet fully inventoried consist largely of motion pictures left in the hands of the former distributors but under licenses from this Office. The titles of the inventoried material eventually will be compiled in a new issue of the catalog, which unlike the old catalog will show

the titles inventoried alphabetically according to the country of origin of the film.

NONCOMMERCIAL LICENSES ISSUED BY THE OFFICE.—During the fiscal year 1946, royalty-free licenses were granted to the Board for the Netherlands Indies, Surinam and Curacao, and to Artkino Pictures, Inc., the United States representative of the Government-controlled Russian film industry. These two licenses are general in character and give the holders the right to use in their own new productions footage duplicated from films held by the Office of Alien Property Custodian.

Under special circumstances royalty-free licenses occasionally are granted to non-profit educational or charitable organizations. One royalty-free license, permitting the use of stock-shot footage selected from the German documentary film, "Triumph of the Will", was issued to an American organization interested in fighting Nazi racial doctrines.

NEGOTIATED COMMERCIAL LICENSES ISSUED BY THE OFFICE.—Under appropriate circumstances, commercial licenses have, since the inception of the program, been issued on a negotiated basis to United States distributors of foreign motion pictures.[6] A descriptive summary of film licenses outstanding at the end of the fiscal years 1945 and 1946 is given in Table 34. Licenses, covering certain German and Austrian films, that expired by their own terms during these fiscal years were not renewed.

Table 34.—NEGOTIATED LICENSES FOR MOTION PICTURE FILM OUTSTANDING AS OF JUNE 30, 1945, AND JUNE 30, 1946

Bases for negotiated licenses	Licenses outstanding	
	June 30, 1945	June 30, 1946
(a) Distributor had right to destroy or reprint film. Custodian vested films as a means of preservation. Nonexclusive, one-year license; royalty 50 percent net income.[1]	1 License for 61 films (Hungarian). 6 Licenses for 42 films (German).	1 License for 61 films (Hungarian).
(b) Exhibitors of foreign films were granted licenses on pictures previously shown in their own theaters. Nonexclusive, terminable on thirty days notice.	3 Licenses for 145 films (German).	3 Licenses for 145 films (German).
(c) Distribution and exhibition licenses for maximum commercial advantage. Nonexclusive, one-year licenses; royalty 50 percent net income.[1]	3 Licenses for 48 films (Italian).	3 Licenses for 56 films (Italian).[2]
(d) German film, twelve years old, required new sound track at considerable expense. Exhibition and distribution license. Nonexclusive, three-year license; payment of a flat fee.	1 License for 1 film (German).	1 License for 1 film (German).
(e) License granted to permit showing of films in German Prisoner of War Camps in the United States. Special four-month license; royalty 50 percent net receipts.	1 License for 1 film (German).	

[1] In three licenses under (a) and one under (c), royalty was collected after the distributor had recouped the cost of certain storage charges paid to storage companies having liens on the films.
[2] During fiscal 1946 one of the licenses issued prior to that year was supplemented by the addition of eight new titles.

COMPETITIVE BIDDING FOR LICENSES.—The Office of Alien Property Custodian has approximately 400 German and Austrian films, almost all of which, prior to vesting, had been in the hands of American distributors. By the Spring of 1945, the value of these films to Government agencies and the armed forces had become negligible. In order to exploit them while they still had market value, it was decided to offer them for license in groups of 50. The proposed licenses were exclusive and royalty-bearing, and were to run for three years. Although the films selected were considered non-propagandistic in character, one paragraph of the proposed license form provided that no film could be publicly exhibited until it had again been screened and approved by a qualified censoring body.

Shortly after the announcement was made in June 1945 that a preliminary lot of 50 films was being offered for distribution, numerous protests were received by the Office. These alleged that all German films contained Nazi propaganda and should, therefore, not be licensed. In view of the vehemence of the protests the proposed offering was withdrawn pending further investigation.

LICENSES FOR STOCK-SHOT FOOTAGE.—American motion picture producing companies have continued their requests for the use of portions of vested films. These duplicated "stock-shots" are incorporated in their own new productions. The footage so used is selected by them and is licensed at $2.50 per foot.

As of June 30, 1946, 32 licenses of this type had been issued to 15 producing companies, permitting the use of stock shots from 40 German and 94 Japanese titles in 16 new American productions.

[6] For a fuller discussion see *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, pp. 128–130.

TRADE-MARKS

In accordance with his policy of selective vesting the Custodian has vested through June 30, 1946, more than 400 trade-marks, interests in trade-mark contracts, and residual rights in trade-marks. Most of this vested property had formerly been owned by nationals of Germany. Only 16 marks had been held by nationals of formerly enemy-occupied countries, and these were vested primarily to protect the interests involved.

Vesting Policy

There has been no change in the vesting program adopted in July 1944. The program is being currently reviewed, however, to determine whether the policies developed on the basis of wartime needs will serve adequately to meet postwar problems. The four major principles of the program are as follows:

I. Trade-marks related to vested enterprises:

(a) Trade-marks owned by vested enterprises.—An American business enterprise in which the Custodian has vested the stock of nationals of enemy countries may own trade-marks or trade-names, acquired from such nationals, in which more or less nebulous residual rights might still be claimed by the foreign nationals. Before selling the vested stock the Custodian may vest any residual rights to the good will of the American business which nationals of enemy countries might conceivably claim, including such trade-names and trade-marks.

(b) Trade-marks used but not owned by vested enterprises.—An American business enterprise in which the Custodian has vested the stock of nationals of enemy countries may have acted in the past as the manufacturing and selling agency of such nationals, using their trade-marks with their consent. Before selling the vested stock the Custodian may vest the trade-mark rights.

II. Trade-marks related to non-vested enterprises.—Trade-marks and trade-mark rights owned by nationals of enemy countries may be vested if they are being used pursuant to prewar agreements by American enter-

prises (without enemy affiliations) engaged in manufacturing, or in selling goods of American manufacture, under these marks.

III. Trade-marks vested to prevent inequitable use.—The Custodian also occasionally vests trade-marks to prevent the inequitable use of the marks thus vested or of confusingly similar marks.

IV. Trade-marks vested to collect royalties.—The Custodian vests interests in trade-mark contracts in order to collect royalties which may be due enemy nationals.

Description of Vestings Related to Trade-Marks

The total number of trade-marks, interests in trade-mark contracts, and potential residual or reversionary rights in trade-marks held by the Custodian at the end of the fiscal year 1946 are as follows:

1. Vested trade-marks:

(a) Trade-marks proper:

German	361
Japanese	5
Italian	27
Hungarian	7
French	12
Belgian	2
Dutch	2
Total	416

(b) Commercial prints and labels (all German) 21

2. Cases of vesting potential residual or reversionary rights of foreign nationals in trade-marks owned by American companies:

German	10
Italian	1
Total	11

3. Contracts relating to trade-marks in which foreign interests have been vested:

German	20
Italian	4
Hungarian	6
Total	30

Four of the trade-marks, interests in five contracts, and potential enemy residual or reversionary rights in the trade-marks of five American corporations were vested during the fiscal year. All the interests involved were German.

Vested Contract Interests.—In 21 of the 30 cases in which the Custodian has vested foreign interests in trade-mark agreements, the trade-marks have also been vested. In the nine other cases the trade-marks themselves were not vested because they were no longer in use in the United States or because title had passed to the American party to the contract.

As of June 30, 1946, the Custodian had collected royalties amounting to more than $800,000 under trade-mark contracts outstanding at the time of vesting. Table 35 indicates the nationality of the owners whose interests were vested. Almost half a million dollars represents royalties accrued prior to vesting; the remainder, royalties accrued since vesting.

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Table 35.—ROYALTIES COLLECTED UNDER VESTED TRADE-MARK CONTRACTS, MARCH 11, 1942 TO JUNE 30, 1946

Nationality of former owners of vested contract interests	Monies collected		
	Total	Accrued prior to dates of vesting	Accrued subsequent to dates of vesting
Total	$804,571.42	$490,922.54	$313,648.88
German	23,912.26	9,165.55	14,746.71
Italian	766,680.57	467,778.40	298,902.17
Japanese	180.65	180.65	
Hungarian	13,797.94	13,797.94	

Disposition of Vested Trade-Mark Interests

One of the major objectives in vesting interests in trade-marks and related rights is to prevent deception of consumers by misuse of trade-marks. This objective explains why, despite the number of interests vested, so few of those interests have been assigned by the Custodian to Americans. A trade-mark registration implies the right to exclude others from using a name or symbol identifying the commercial source of supply of a product; general use by firms that formerly did not make the products would entirely defeat the purpose of this identification by deceiving consumers who have come to rely upon the trade-marks as the assurance that a particular product originates with certain suppliers and has certain characteristics. On the other hand, if an American firm has used a particular enemy mark on products made in this country and sold here and abroad, assigning that trade-mark to the American firm represents a transfer of ownership or control without any effect on the product or its origin.

Transfers may be made, therefore, on the basis of the following principles:

1. Trade-marks (and related rights) owned by nationals of enemy countries but used by non-vested American firms on products manufactured and marketed here may be sold or offered for sale for a reasonable consideration to the American enterprise using those marks.

2. Trade-marks (and any related rights) owned or used (without ownership) by a firm in which enemy stock interests have been vested may be sold to the enterprise for a nominal consideration.

3. Trade-marks used by their enemy owners as designations for patented products, the patents for which have been vested, can be made available to American licensees under these vested patents. Restrictions, however, may be imposed on the length of time for which they may be used and the manner of use.

4. Trade-marks owned by nationals of enemy countries and used by them only on goods manufactured abroad and sold in the United States are not to be sold or licensed.

5. Trade-marks owned of record in the United States Patent Office by nationals of enemy countries but never used on goods manufactured or sold in the United States will not be sold or licensed.

Assignments.—In 1944, any residual or reversionary rights that Riedel-E. de Haen, A. G. might have had or claimed in the trade-mark, "Decholyn,"

used by Riedel-de Haen, Inc.[7] were vested and sold to this firm for the nominal consideration of one dollar. During the past fiscal year additional assignments were made to Riedel-de Haen, Inc., again for a nominal consideration. Among the trade-marks owned by Riedel-de Haen, Inc. are "Nostal" and "Pernoston". These marks were issued to the American firms upon authority granted by the German firm, the registrant of the trade-marks, "Noctal" and "Pernocton". In view of the confusing similarity between the latter trade-mark registrations and the trade-marks used by the American firm, the Custodian vested the German-owned trade-marks and assigned them to the American firm so that it might cancel the registrations in the United States Patent Office.

In the case of Merck and Co., Inc., residual rights in its trade-marks owned by the German firm, E. Merck, also were vested and assigned. The property was taken for the purpose of depriving the German firm of any rights or claims that it might have in the good will of the American firm as a result of the similarity of names.

These transfers protect the consumer against deceptive use of the marks in connection with products not now identified with them, and protect the legitimate American users of the trade-marks from possible future nuisance claims by the German firms.

[7] For a discussion of the sale of the vested stock in this company, see Ch. IV, "Business Enterprises," p. 49.

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Real and Personal Property

This chapter deals with the programs of the Office of Alien Property Custodian concerning real and personal property. There was little change in the real estate program during the fiscal year; on the other hand, there were numerous new developments in the field of personal property (including tangible personal property, stocks, bonds and other securities, mortgage participations, bank balances, notes, claims and credits, insurance policies, leases to safe deposit boxes, and currency and coin), largely as a result of Executive Order No. 9567, of June 8, 1945.

REAL ESTATE

New Vestings and Acquisitions

New holdings of real estate that came into the possession of the Office during the fiscal year ending June 30, 1946, total $871,000 in value. Direct vestings account for $515,000 of this amount; the remaining $356,000 has been received as part of the Office's distributive shares of estates and trusts in which interests have been vested. Of the 77 parcels involved, 23 are located in California, 15 each in New Jersey and Pennsylvania, and 24 in twelve other states and territories.

As in the preceding year, most of the real estate vested this year consists of parcels inherited by enemy nationals from decedents in the United States. Some of the new vestings involve real estate reported on Form APC-56 under General Order No. 34.

Description of Real Estate Holdings

The $5,182,000 of real estate directly vested or otherwise acquired by the Alien Property Custodian from March 11, 1942, to June 30, 1946, is classified in Table 36 according to the nationality of its former owners and the method of its acquisition by the Custodian.

Table 36.—VALUE OF REAL ESTATE VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED ACCORDING TO NATIONALITY OF FORMER OWNERS AND METHOD OF ACQUISITION

NOTE.—Valuations are based upon sales proceeds of properties sold and appraised values of properties unsold.

Manner acquired	Total	German	Japanese	Italian	Other
Total	$5,182,000	$3,060,000	$1,293,000	$708,000	$121,000
Direct vesting of real estate	4,549,000	2,558,000	1,204,000	668,000	119,000
Received in lieu of payment of vested mortgages	35,000	23,000		12,000	
Received from distribution of assets of vested business enterprises	20,000	20,000			
Received from distribution of assets of estates and trusts in which the Custodian has vested interests	578,000	459,000	89,000	28,000	2,000

Urban property amounts to $4,281,000 of the total, and rural property to $901,000. Of the urban real estate, $4,085,000 is improved by buildings and $196,000 is unimproved. The major improvements on urban land are summarized below:

Type of buildings	*Number of buildings*
Commercial buildings	116
Commercial-apartment buildings (buildings containing both stores and apartments)	63
Apartment buildings (3 apartments or more)	51
Small hotels and rooming houses	10
Duplex dwellings	88
Single dwellings	374
Japanese Shinto temples	2

Vested rural property is classified as follows according to type of land, acreage, and value:

Type of land	*Acres*	*Value*
Agricultural	27,368	$638,000
Extractive (sand or oil)	460	111,000
Wooded land	14,070	83,000
Other	6,880	69,000
Total	48,778	901,000

Minor items of real property held by the Custodian consist of mineral and oil rights worth $2,000 (directly vested) and ground rents and leaseholds worth $30,000 (of which $18,000 was directly vested and $12,000 was acquired from distributions from estates and trusts).

Administration and Sale of Real Estate

The policies and procedures of the Office in administering vested real estate are designed to conserve the value of the property and maximize its yield while preparing it for sale as rapidly as possible.

Net income for the fiscal year from real estate holdings amounts to $262,000. Added to the $364,000 of income realized up to June 30, 1945, total net rental income is now $626,000. Mineral and oil rights, leaseholds and ground rents have yielded an additional $5,000 income.

During the fiscal year the Office collected $873,000 from sales of vested real estate. The total cash proceeds collected from sales of real estate from March 11, 1942, to June 30, 1946, amounts to $2,664,000. Another $19,000 has been received from the sale of ground rents, leaseholds, and other interests in real property.

Status of Real Estate Holdings June 30, 1946

At the end of the fiscal year the Office continues to hold real estate valued at $2,518,000. This property consists of 391 parcels, of which 243 are improved, 125 are unimproved, and 23 are farm properties. Of the total number of parcels, 133 are in process of sale or are being prepared for sale, while 258 parcels are withheld from sale for various reasons. The status of these holdings is set forth more fully in Table 37.

Nearly half, or 116, of the parcels withheld from sale are situated in California, where real estate has been unsalable because of the reluctance of California title insurance companies to insure title to real property acquired by purchase from the Custodian. Their position is based upon an apprehension that in many cases the Custodian does not hold valid title to the vested property since a determination was not made at the time of vesting whether the enemy owner residing abroad was alive. If he had

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died prior to vesting, leaving his property to heirs not specified in the vesting order, it is contended that title given by the Custodian would be subject to challenge.

Table 37.—SALES STATUS OF REAL ESTATE HELD BY THE OFFICE OF ALIEN PROPERTY CUSTODIAN AS OF JUNE 30, 1946

Sales status	Total	Number of parcels		
		Improved	Unimproved	Farm
Total	391	243	125	23
Salable properties:				
Bids accepted but sales not completed, earnest money forfeited	1	1		
Advertised, insufficient offers received	47	16	30	1
In process, advertisements released to agents	13	13		
In process, advertisements not released to agents (except Californian, Hawaiian, and Italian cases)	50	36	14	
Advertisements approved on Californian cases	8	4	3	1
Hawaiian cases	14	6	8	
Properties withheld from sale:				
Other Californian cases (except Italian) [1]	116	63	37	16
Italian properties [2]	88	70	17	1
Not to be sold, except Italian cases [3]	20	16	3	1
Legal and title defects [4]	34	18	13	3

[1] Withheld from sale because of refusals by California title companies to insure the Custodian's titles.
[2] Withheld from sale at request of the Department of State.
[3] Withheld from sale because of possible eligibility of former owners for a return, or for other policy reasons.
[4] Cases involving Section 9 (a) suits, etc.

Furthermore, the California title insurance companies are reluctant to insure vested real estate in which a nonenemy foreign national might have held an interest because of what they consider to be the implications of a position taken in judicial proceedings by the Custodian with respect to the rights of nonenemy nationals in vested property. This position is that, under Section 5 (b) of the Trading with the Enemy Act, as amended, the Custodian has authority to retain any vested property or interest of nationals of any foreign country and that, consequently, even a nonenemy national may not maintain an action for the return of such property under Section 9 (a). If this position is sustained, the title companies believe that the vestings would be defective inasmuch as the nonenemy owners would have been deprived of their property without due process of law.[1]

MORTGAGES

New Vestings and Acquisitions

During the fiscal year mortgages valued at $148,000 were brought under the Custodian's ownership, $18,000 of this total having been directly vested and $130,000 having been received through distributions from estates and trusts. In the same period $115,000 of mortgages were disposed of through sale and the collection of principal.

[1] In the case of *Silesian-American Corporation* v. *Markham*, 156 F. (2d) 793, decided July 3, 1946, in the Second Circuit Court of Appeals (certiorari denied), the Court held that Section 9 (a) of the Trading with the Enemy Act, as amended, does apply to vestings under the amended Section 5 (b). Furthermore, Public Law 322, approved March 8, 1946, authorizes the allowance by the Custodian of title claims against vested property filed by friendly foreign nationals. In view of these developments, one of the major title companies in California indicated in September 1946 a willingness to insure titles to properties conveyed by the Custodian.

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Status of Mortgage Holdings as of June 30, 1946

The following summary indicates the value of mortgages vested or otherwise acquired and the value of those disposed of from March 11, 1942 to June 30, 1946, with the resultant amount held on June 30, 1946.

Mortgages vested and acquired:		
Directly vested	$849,000	
Received from distribution of estates and trusts	282,000	
Total value of mortgages brought under Custodian's ownership		$1,131,000
Disposition:		
Real estate received in satisfaction of delinquent mortgages	35,000	
Mortgages sold and principal amounts collected	261,000	
Total value of mortgages disposed of		296,000
Total value of vested mortgages held on June 30, 1946		835,000

Income from Vested Mortgages

The net income from vested mortgages during the fiscal year was $23,000. Including the $39,000 received by the Office prior to this fiscal year, the total net income from vested mortgages is $62,000.

TANGIBLE PERSONAL PROPERTY

Tangible Personal Property Vested and Acquired

New Vestings and Acquisitions.—During the fiscal year ending June 30, 1946, the Custodian vested $24,000 of tangible personal property. An additional $25,000 of personal property was acquired in the same period through distributions from the executors of estates in which interests had been vested. This property consists of such items as jewelry, art objects, household furnishings, farm implements, and automobiles. The greater part of it belonged to nationals of Germany and Japan, most of whom were repatriates.

Total Vestings and Acquisitions.—The total value of tangible personal property vested or otherwise acquired by the Custodian as of June 30, 1946, amounts to $1,102,000. Of this amount $1,067,000 was directly vested and the remaining $35,000 was acquired from distributions of the assets of decedents' estates. These figures do not include estimates of the value of several items of vested tangible personal property on which no reasonable approximations of market value are now available. Table 38 indicates the various types of property included in the total of $1,102,000.

Table 38.—STATUS OF VESTED TANGIBLE PERSONAL PROPERTY AS OF JUNE 30, 1946

Type of property	Total vested or acquired	Status as of June 30, 1946	
		Sold	All bids rejected as inadequate or not yet offered for sale
Total	$1,102,000	$835,000	$267,000
Industrial machinery and equipment	421,000	354,000	67,000
Industrial materials	190,000	85,000	105,000
Office, farm, and store equipment	41,000	30,000	11,000
Jewelry	152,000	146,000	6,000
Art objects and collectors' items	80,000	44,000	36,000
Household furnishings and personal effects	68,000	34,000	34,000
Miscellaneous consumers' goods	150,000	142,000	8,000

Nationality of Former Owners.—The distribution of the $1,102,000 of tangible personal property according to nationality of former enemy ownership is as follows:

Nationality of former owners	*Value*	*Percent*
German	$373,000	33.8
Japanese	232,000	21.1
Italian	94,000	8.5
Hungarian	63,000	5.7
Roumanian	339,000	30.8
Bulgarian	1,000	.1
Total	1,102,000	100.0

Disposition of Vested Tangible Personal Property

It is the general policy of the Office to sell all vested tangible personal property at public sale through the medium of sealed bids. If a public sale is impracticable, however, property may be sold on the basis of negotiated prices.

The most important property sold during the fiscal year was a complete unit of forge shop machinery and equipment for a bomb manufacturing plant, which was sold to the Navy Department. A Roumanian firm, Industria Romana Mecanica si Chimica, S. A., had contracted in March 1939 with an American firm for the delivery of this equipment at a price of $766,250 plus $50,000 covering engineering services and licenses in connection with the plant. Originally the American firm intended to charge $375,000 for the bomb plant equipment, but it was informed by Roumanian sources that the price would have to be raised to include considerable "commissions." In November 1939 the American firm placed its order for the manufacture of the bomb plant equipment at a price of $277,500 with an American steel company. By the time it was completed Roumania had come under the domination of Nazi Germany, and as a result the State Department in December 1940 denied an export license for the equipment. In the meantime the Roumanian firm had paid all but $78,000 of the purchase price.

Negotiations for the sale of the bomb plant equipment were carried on with interested parties by the American firm during 1941 and the early months of 1942 with no success. These negotiations were halted by the intervention of Foreign Funds Control of the Treasury Department. On July 2, 1942, the Alien Property Custodian, having found that the bomb plant equipment was the property of nationals of a foreign country, Roumania, vested the property by Vesting Order No. 46. This equipment was turned over to the United States Navy Department for a consideration to be subsequently determined. The Navy Department moved the equipment from Brooklyn, New York, to Blairsville, Pennsylvania, where it was put into operation for the war effort.

Negotiations were opened with the Navy Department in May 1945 for the establishment of a sales price. The Navy Department pointed out that the manufacturer's price for the equipment was $277,500. On the other hand, the Office emphasized that a fair price should take into account other expenditures that constituted reasonable costs to the Roumanian concern (the ultimate consumer). A compromise figure of $323,900 was ultimately agreed upon and paid to the Custodian.

Other sales of tangible personal property during the fiscal year amounted

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to approximately $60,000, of which $55,000 was obtained from the sale of jewelry.[2]

PROGRESS OF SALES.—As indicated in Table 38 covering the status of vested tangible personal property as of June 30, 1946, $835,000 worth of property has been sold out of a total of $1,102,000. The remaining $267,000 worth of property either has not yet been offered for sale or, if offered, has not been sold because all bids were rejected as inadequate.

STOCKS, BONDS, AND OTHER SECURITIES

Vesting and Acquisition of Stocks, Bonds and Other Securities

With the issuance of Executive Order No. 9567 on June 8, 1945, the vesting program of the Office of Alien Property Custodian was extended to include stocks, bonds, and other securities that do not represent controlling or substantial interests in business enterprises. Previously this type of property had been under the control of the Treasury Department except in those instances where the property was in process of administration by persons acting under judicial supervision.

NEW VESTINGS AND ACQUISITIONS.—The Custodian vested directly $526,000 worth of stocks, $274,000 worth of bonds, and $28,000 worth of other securities during the fiscal year ending June 30, 1946. In the same period an additional $566,000 worth of stock, $1,522,000 of bonds, and $5,000 in other securities have been acquired as distributions from liquidating business enterprises and estates and trusts.

TOTAL VESTINGS AND ACQUISITIONS.—During the period March 11, 1942 to June 30, 1946, new vestings and acquisitions brought the totals of stocks and bonds coming under the Custodian's ownership to $2,912,000 of stocks and $6,593,000 of bonds. The bulk of this property, $1,919,000 of stocks and $6,256,000 of bonds, was acquired through distribution of the assets of estates and trusts and liquidating business enterprises in which interests had been vested. See Table 39.

Table 39.—STOCKS, BONDS AND OTHER SECURITIES VESTED AND ACQUIRED, MARCH 11, 1942 TO JUNE 30, 1946, AND DISPOSITION THEREOF TO JUNE 30, 1946

	Stocks	Bonds	Other securities
Property vested and acquired:			
Directly vested	$993,000	$337,000	$28,000
Acquired from distribution of assets of business enterprises	446,000	3,438,000	
Acquired from distribution of assets of estates and trusts	1,473,000	2,818,000	5,000
Total vested and acquired	2,912,000	6,593,000	33,000
Disposals:			
Liquidations and sales	1,556,000	2,902,000	1,000
Property returned to former nonenemy owners	127,000	17,000	
Total disposals	1,683,000	2,919,000	1,000
Total held on June 30, 1946	1,229,000	3,674,000	32,000

[2] For discussions of sales of tangible personal property owned by vested enterprises in liquidation see Ch. IV, "Business Enterprises," p. 56 and Ch. V, "Selected Vested Enterprises," pp. 83–94.

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Sale and Liquidation of Stocks and Bonds

The disposition program for stocks and bonds instituted in February 1945 has continued during the fiscal year. Policies and procedures are summarized below with respect to the various kinds of securities sold or liquidated.

POLICIES AND PROCEDURES.—Securities listed on established security exchanges are most easily marketed. A greater degree of competitive bidding is guaranteed the Office by its offering the securities on exchanges than could be obtained from written bids. The sales are carried out through brokerage concerns which are members of the exchanges. Brokerage commissions are paid at the regular rates prescribed by the exchanges.

The security issues not listed on security exchanges but which are actively traded are usually sold over-the-counter because this method of sale provides competitive conditions analogous to those on security exchanges. Over-the-counter sales are made through established brokers; commissions paid are the same as those for regular exchange transactions.

Sales of minority-interests in closely held corporations not having an active market for their securities are now carried out through public sales. Until January 1946 no sales of securities of this type had been undertaken by the Office. At this time approximately 23 percent of the outstanding capital stock of the Schmoller & Mueller Piano Company, a Nebraska corporation engaged in retailing musical instruments and household appliances, was offered at public sale by sealed bids. William H. Schmoller, a resident of Omaha, Nebraska, died in October 1941, leaving one-half of his estate to 16 German nationals. All right, title, and interest of these German nationals in the estate was vested by the Alien Property Custodian in November 1942. In this manner the Custodian acquired title to 229.875 shares of $100 par value capital stock out of 1,000 shares outstanding. Net proceeds from the sale of the 229 shares amounted to $166,000.

United States Treasury Bonds are disposed of in accordance with an agreement with the Treasury Department. This agreement was made because of that Department's desire to coordinate purchases and sales of Government securities by all Federal agencies with the Government's financing requirements. Under this agreement the Office requests the Treasury to effect sales of any United States bonds that it desires to liquidate. Proceeds from matured Government bonds may be temporarily reinvested in new issues at the suggestion of the Treasury Department. United States Savings Bonds, which may not be sold on the market, are redeemed by the Treasury Department upon submission of evidence of acquisition of ownership by the Office.

PROGRESS OF LIQUIDATION AND SALES.—Stocks amounting to $734,000 and bonds amounting to $349,000 were sold and liquidated during the fiscal year ending June 30, 1946. Total liquidations and sales for the period March 11, 1942 to June 30, 1946, were $1,556,000 of stocks and $2,902,000 of bonds. As of the end of the fiscal year 1946, the Custodian continued to hold $1,229,000 of stocks, $3,674,000 of bonds, and $32,000 of other securities. See Table 39.

MORTGAGE PARTICIPATIONS

Mortgage participations are fractional interests in real estate mortgages. Ordinarily mortgage participations have not been vested by the Custodian unless they were property in process of administration under judicial supervision. Consequently, most of the participations have been acquired

from the distribution of the assets of estates and trusts rather than from direct vestings.

The amounts of mortgage participations vested or acquired from March 11, 1942 to June 30, 1946, and the amounts liquidated to the latter date are as follows:

Directly vested	$248,000	
Acquired from the distribution of assets of estates and trusts	269,000	
Total participations vested and acquired		$517,000
Cash received by Custodian as proceeds of liquidation		187,000
Participations held as of June 30, 1946		330,000

During the past fiscal year only, the Custodian vested $49,000 of mortgage participations, acquired $39,000 from the distribution of the assets of estates and trusts, and liquidated a total of $86,000.

Income on mortgage participations thus far has amounted to $27,000, of which $10,000 was received during the fiscal year.

OTHER PERSONAL PROPERTY

Other types of personal property held by the Custodian consist of notes, claims [3] and credits, bank balances, interests in life insurance and annuity contracts, leases to safe deposit boxes, and currency and coins. Under the provisions of Executive Order No. 9567, issued on June 8, 1945, the Custodian's authority over these types of property was considerably broadened. Previously, these properties were not vested unless they represented property under judicial supervision, were required for the maintenance of other properties, or involved other special circumstances.

Notes, Claims, and Credits

The value of notes, claims, and credits directly vested by the Custodian is approximately $4,424,000. In addition, the Custodian has received $10,000 worth of such property from the distribution of the assets of estates and trusts and $5,000 as distributions from business enterprises in liquidation. The total amount of vested or acquired notes, claims, and credits, $4,439,000, falls into three main categories:

1. *Claims for compensation for property in libel.*—These claims for compensation arose out of the action of the Custodian in vesting enemy claims to Axis vessels seized by the Government in the spring of 1941.[4] The estimated value of two of these claims, involving an enemy ship and an enemy-owned cargo, is $890,000. No valuation can be placed upon claims to another 29 ships and one cargo before the outcome of various legal actions. During the fiscal year no claims of this nature were either vested or settled.

2. *Amounts due under court judgments arising from insurance cases, real estate partition proceedings, claims against bankrupt enterprises, etc.*—Claims and credits relating to amounts due under court judgments total $1,635,000, of which $127,000 was vested during the fiscal year 1946. The majority of the claims and credits of this nature vested during the fiscal year arose from real estate partition proceedings involving American citizens and enemy nationals who have been joint owners of real estate.

3. *Other notes, claims, and credits.*—There has been a marked increase in the number of notes, claims, and credits of various kinds not subject to judicial supervision which have been vested or acquired as a result of Executive Order No. 9567. Of the Custodian's holdings of $1,914,000 of this type of property, $1,369,000 was vested or acquired during the fiscal year.

COLLECTIONS.—By June 30, 1946, $945,000 had been collected of the total of $4,439,000 of notes, claims, and credits vested and acquired. During the fiscal year $174,000 of this sum was collected. Interest accruals amounting to $5,500 have also been received.

Bank Balances

The first objective of the expanded vesting program undertaken as a result of Executive Order No. 9567 was the vesting of bank balances.

Bank accounts, in general, are easier to investigate and to vest than other types of property. Usually there are fewer claims outstanding against them. In addition, the description of the account required for the vesting order need not be so detailed as in the case of securities. Some special problems, however, may arise. In some instances there are discrepancies between the amounts reported as the balance at different times. Form APC–56 calls for reporting the amount of the balance on June 14, 1941, and on December 31, 1945. If these amounts differ substantially an explanation is required from the bank. Discrepancies between the amounts reported in Form APC–56 and the Treasury TFR–300 form are similarly investigated. If persons other than the designated national claim an interest in the account such as fees for attorneys' services or service charges for banking facilities, these claims require special investigation before a vesting order can be drawn.

After a bank account is vested a copy of the vesting order is sent to the bank together with a demand for delivery of the balance of the account. A detailed statement is also requested of the bank in order to obtain full information on any deductions from the account that the bank may have made for service charges or other reasons.

Bank balances totaling $5,039,000 were vested by the Custodian during the period March 11, 1942 to June 30, 1946. Most of this amount, $4,558,000, was vested during the fiscal year. The Office has withdrawn from the banks and deposited with the Treasury $2,356,000 of the total amount vested, together with about $11,200 of interest. The bulk of the remaining balances has been recently vested and will be withdrawn at an early date.

Insurance Policies

Prior to Executive Order No. 9567 life insurance and annuity contracts were vested only for the maintenance of other vested property.

As of June 30, 1946, the Office has not vested any of the life and annuity contracts reported on APC–56. This work is being held in abeyance until other projects involving greater dollar amounts are well advanced. At the present time the Office holds approximately $35,000 of such property vested prior to the APC–56 program.

The administration of such property when the program gets under way will present many unique and difficult problems. The premiums on many policies have not been paid since 1941 and many are now running on extended term insurance. The interests that will be vested by the Custo-

[3] The discussion of claims in this section relates to those vested in the Custodian. Claims asserted against the Custodian are treated in Ch. XI, "Claims and Suits."

[4] These claims are described fully in the *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1944*, pp. 127–128.

dian may be the rights of both the insured and the beneficiary or only one of the two. The interests of third parties may also be involved. The value of most policies may hinge largely on whether the insured is alive or dead, and on the date of death; since the residence of most of the insured persons involved was Germany or Japan, these facts may not easily be established.

Leases to Safe Deposit Boxes

Although the Office now clearly has jurisdiction, as a result of Executive Order No. 9567, over all contents of safe deposit boxes belonging to German and Japanese nationals, no vesting of the rights of access to, or of the contents of, safe deposit boxes was undertaken in this fiscal year. Previous experience of the Office in a few cases of this type indicated that the contents of the boxes were of little value. For this reason the Office decided not to institute any extensive vesting program on safe deposit boxes until other German and Japanese property of greater value has been vested.

Currency and Coin

Currency and coin amounting to approximately $340,000 were vested during the fiscal year ending June 30, 1946, as a result of the expanded vesting program. All of this amount was vested as the property of a designated enemy country, Germany, and was taken in two lump sums of approximately $170,000 each.

The first case involved the eight German spies and saboteurs who landed on the coasts of Long Island and Florida in June 1942, bringing with them a substantial sum in United States currency and coins. All eight were apprehended by the Federal Bureau of Investigation, tried, and convicted on charges of espionage. Six were executed and two received long prison sentences. The Federal Bureau of Investigation found quantities of United States currency and coins, not only on the persons of the spies, but also concealed in their rooms and elsewhere, and even in the custody of third persons. This money was identified as property of the German Government entrusted to the men at Lorient, France, by an officer of the German High Command to assist these agents in carrying out their task of espionage and sabotage in the United States.

The second case concerned other German espionage agents and saboteurs who were apprehended by the Federal Bureau of Investigation during the war. The money seized from them represented funds furnished by the German Government. All the money was in United States currency and coin, with the exception of approximately $1,400 worth of Swiss notes.

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» IX «

Property Under Judicial Supervision

This chapter deals with the functions of the Office of Alien Property Custodian in representing nationals of enemy and formerly enemy-occupied countries in judicial proceedings involving their property or interests, and with the functions of vesting and administering enemy interests in estates and trusts.

REPRESENTATION OF FOREIGN NATIONALS IN LEGAL PROCEEDINGS

Under Section 5 of Executive Order No. 9193, the Alien Property Custodian was delegated the responsibility of representing in the courts persons residing in enemy and enemy-occupied territory whose property or interests are involved in such proceedings as probate matters, trusts, bankruptcies, receiverships, real-estate partition suits, and attachments before judgments. Discharging this duty requires examination of court records, attendance in court, preparation of pleadings, briefs, and legal memoranda, and conferences with attorneys.

During the period of actual hostilities the Custodian had the responsibility of representing all persons residing in enemy and enemy-occupied countries. Within the past two years, however, this responsibility has been narrowed, particularly with respect to the formerly enemy-occupied countries and also with respect to certain of the enemy countries. The present nature and extent of the representation program can best be discussed according to three national groups: (1) German and Japanese; (2) Italian, Bulgarian, Hungarian, and Roumanian; and (3) nationals of the formerly enemy-occupied countries.

Representation of German and Japanese Nationals

Representation is still undertaken in court and administrative actions and proceedings concerning the property or interests of German and Japanese nationals. Subsequent to representation, during which formal investigation of ownership is completed, all German and Japanese property interests involved are vested.

As new cases arise in the courts, the Office is notified of them pursuant to its General Order No. 5, which requires the persons or officers acting under court supervision in the proceedings to file reports on Form APC–3 in all cases in which a designated enemy country or national has an interest. General Order No. 6 provides a method for service of process or notice on the Custodian.

Representation of Nationals of Other Enemy Countries

The representation procedure is no longer followed in cases arising after April 15, 1946, that involve the property interests of nationals of Bulgaria, Hungary, Italy, or Roumania. By the terms of Regulation No. 1 under General Order No. 5 and Regulation No. 1 under General Order No. 6,

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executed on April 1, 1946, the provisions of General Orders Nos. 5 and 6 do not apply to any case involving a person within Bulgaria, Hungary, Italy, or Roumania who is not a citizen or subject of Germany or Japan and whose property or interests are involved in any court or administrative action or proceeding initiated after April 15, 1946.

By Regulation No. 1 under General Order No. 20, also executed on April 1, 1946, the Custodian has consented to the payment, transfer, or distribution of property to any person within Bulgaria, Hungary, Italy, or Roumania who is not a citizen or subject of Germany or Japan, from the assets of an estate of a decedent whose death occurs after April 15, 1946, if the transaction is authorized by the Secretary of the Treasury under the provisions of Executive Order No. 8389, as amended.

Bulgarian, Hungarian, and Roumanian interests or property acquired, through inheritance or otherwise, on or before December 7, 1945, will be vested. Property that was acquired by nationals of these three countries after that date will not be vested, but if it came under judicial supervision before April 16, 1946, reports under General Order No. 5 are required and service of process or notice as provided in General Order No. 6 is permitted.

Pursuant to a request of the Department of State, the Office does not ordinarily vest Italian property interests. In certain cases, however, Italian property is vested when necessary to safeguard the property from loss or to protect the rights of the Italian heirs to inherit. These rights have been challenged in certain states that have enacted legislation prohibiting inheritance by nationals of countries that do not provide reciprocal rights of inheritance to citizens of such states.

Representation of Nationals of Formerly Enemy-Occupied Countries

In the course of the fiscal year the Office has nearly completed withdrawal from cases in which it represented the property rights or interests of nationals of the formerly enemy-occupied countries. Liberation of these countries restored communications with the United States and made it possible for their nationals to arrange for representation in legal actions and to receive service of process or notice. New cases involving nationals of the formerly enemy-occupied countries have been accepted only in rare instances since June 7, 1945. Withdrawal from old cases has been possible except in a few instances in which special difficulties have arisen, such as the absence of an attorney to appear to represent the person concerned. Withdrawals have been made in most cases with the cooperation of the diplomatic representatives of the liberated country.

The Office has continued to represent Austrian nationals who have property under judicial supervision. As in cases involving property of Italian nationals, the Office has refrained from vesting Austrian interests pursuant to a request from the Department of State.

Recovery of Expenses in Cases Involving Nationals of Formerly Enemy-Occupied Countries

In order to recover outlays in performing representation dealing with property that is not vested, the Custodian issues cost-and-expense vesting orders. These have been issued in 2,017 cases during the fiscal year 1946, making a total of 2,130 cases which have been disposed of by this means up to June 30, 1946. A backlog of 1,202 cases remains in which orders vesting costs and expenses may have to be prepared. Approximately 800 of these cases involve Austrian and Italian interests.

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Operation of the Program

Number of Cases.—As of June 30, 1946, a total of 14,822 cases involving foreign-owned property under judicial supervision had been reported to the Office of Alien Property Custodian in accordance with the requirements of General Order No. 5. Of this total, 1,265 cases were reported during the past fiscal year.

Cases Completed.—By June 30, 1946, approximately 12,210 cases had been completed insofar as representational activities are concerned. Of this total, 3,492 were terminated by vesting orders seizing the enemy interests.[1] In 1,618 cases the Custodian consented to the distribution (generally to blocked accounts) of the interests of nonenemy nationals. In the rest of the closed cases the Office either withdrew after the nonenemy nationals undertook their own representation or found that no property interests of foreign nationals were involved.

Cases Pending.—A total of 2,612 cases are still pending in the Office. These include 1,410 cases in which vesting orders must be issued seizing the property or interests of enemy nationals and 1,202 cases in which the Office must vest the costs and expenses.

Enemy Interests Vested.—There are various types of property under judicial supervision, of which estates and trusts are the most important. The amounts of the different types of vested property that were under judicial supervision at the time of vesting are shown in the following summary.

Type of property	*Estimated value as of dates of vesting*
Estates and trusts	$42, 650, 000
Real estate	140, 000
Mortgages	3, 000
Tangible personal property	15, 000
Stocks	433, 000
Bonds	38, 000
Mortgage participations	235, 000
Notes, claims, and credits	2, 525, 000
Total	46, 039, 000

Estates and trusts are discussed in the next section of this chapter since most of those in which the Custodian has vested interests are under judicial supervision. The other properties under judicial supervision are included in the discussion in other chapters on the various types of vested property.

ESTATES AND TRUSTS

New Vestings

During the fiscal year ending June 30, 1946, $7,299,000 of interests in estates and trusts were vested. Nationals of Germany were the former owners of $6,815,000 of this amount; the remainder belonged for the most part to nationals of Hungary, while Italian, Roumanian, and Japanese nationals held small amounts. The new vestings consisted of $3,239,000 of decedents' estates, $2,024,000 of trusts under wills, $2,003,000 of inter-vivos trusts, and $33,000 of guardianship estates.

[1] During the fiscal year, 176 of these cases were forwarded to the Department of Justice to obtain compliance with the vesting orders, making a total of 1,157 such cases so referred prior to June 30, 1946. As of that date 650 cases were pending in the Department of Justice.

Description of Interests Vested

The cumulative total of interests in estates and trusts vested since March 11, 1942, now amounts to $48,445,000. Of this amount $42,650,000 represents interests in estates and trusts under judicial supervision and $5,795,000 in trusts not judicially supervised. Table 40 indicates the value of the different enemy interests in the several classes of estates and trusts and the number of estates and trusts involved.

Table 40.—INTERESTS IN ESTATES AND TRUSTS VESTED, MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF FORMER OWNERSHIP

Type of property	Total	Nationality of former ownership			
		German	Japanese	Italian	Other enemy
Decedents' estates:					
Number of estates	(2,642)	(2,058)	(84)	(250)	(250)
Net value of vested interests	$17,908,000	$14,624,000	$204,000	$1,155,000	$1,925,000
Trusts under wills:					
Number of trusts	(724)	(619)	(9)	(71)	(25)
Net value of vested interests	$22,459,000	$19,071,000	$47,000	$2,911,000	$430,000
Trusts inter vivos:					
Number of trusts	(73)	(59)		(6)	(8)
Net value of vested interests	$8,395,000	$5,543,000		$502,000	$350,000
Guardianship estates:					
Number of estates	(96)	(39)	(31)	(21)	(5)
Net value of vested interests	$1,683,000	$1,204,000	$187,000	$228,000	$4,000
Total net value	$48,445,000	$40,502,000	$438,000	$4,796,000	$2,709,000

Distribution of Principal

During the fiscal year the Office received a total of $4,275,000 of cash and other property representing distributions of principal from vested estates and trusts. The total of such distributions through June 30, 1946, amounts to $17,282,000. These receipts include $11,800,000 of cash, and $5,482,000 of other kinds of property, primarily bonds and stocks. The Office has liquidated $3,103,000 of this non-cash property.

Table 41 shows the various kinds of property received in distributions from vested estates and trusts, and the amount of each kind which has been liquidated.

The first column of Table 41, carried over from Table 40, indicates the value of the interests in the four types of estates and trusts that have been vested. The second column reveals the amount of assets distributed from each of the four types of estates and trusts (minus figures), with the resultant increases in the Custodian's holdings of various other kinds of property (plus figures). The third column shows the subsequent liquidation of the non-cash items of property received from distributions (minus figures), with the corresponding increase in cash (plus figure). The fourth column shows the property held on June 30, 1946, including the remaining interests in estates and trusts ($31,163,000), the remaining holdings of distributed non-cash assets ($2,379,000) and the total cash derived both from direct distribution and from the liquidation of distributed property ($14,903,000).

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Table 41.—PROPERTY HELD AS OF JUNE 30, 1946, DERIVED FROM THE VESTING OF INTERESTS IN ESTATES AND TRUSTS

NOTE.—This table does not reflect income received from estates and trusts or from property distributed from estates and trusts.

[In thousands of dollars]

Type of property	Property vested	Changes in character of property resulting from—		Property held as of June 30, 1946
		Distributions of assets of estates and trusts	Liquidation of property received from distributions	
Total	48,445			48,445
Interests in decedents' estates	17,908	−10,335		7,573
Interests in trusts under wills	22,459	−5,661		16,798
Interests in trusts inter vivos	6,395	−851		5,544
Interests in guardianship estates	1,683	−435		1,248
Real estate		578	−132	446
Mortgages		282	−25	257
Leaseholds and ground rents		12	−2	10
Tangible personal property		35	−28	7
Stock		1,473	−1,138	335
Bonds		2,818	−1,730	1,088
Mortgage participations		269	−40	229
Other securities		5	−1	4
Notes, claims, and credits		10	−7	3
Cash		11,800	3,103	14,903

Distribution of Income

By June 30, 1946, the Office received $1,513,000 as direct income from estates and trusts and $219,000 as income from property distributed in kind from estates and trusts. Of these amounts $614,000 and $93,000, respectively, were received during the fiscal year ending June 30, 1946.

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Philippine Program

On September 12, 1945, a Philippine office was established in Manila by the Alien Property Custodian. Various military, economic, and political factors had prevented its establishment at an earlier date. During the Japanese occupation, civilian functions of the United States and Commonwealth Governments were inoperative. Later, after partial reestablishment of United States sovereignty in February 1945, military requirements took precedence over civilian; moreover, the war had completely disrupted the Philippine economy and rendered difficult the operation of civilian agencies. The Custodian also had to consider the effect that coming political independence for the Islands would have on the activities of a Philippine branch.

JURISDICTION OF THE ALIEN PROPERTY CUSTODIAN

The Trading with the Enemy Act is the legal basis for the jurisdiction of the Alien Property Custodian in the Philippines. Section 5 (b) of the Trading with the Enemy Act, as amended by the First War Powers Act, 1941, defines the term United States to mean the United States and any place subject to the jurisdiction thereof, including the Philippine Islands. The Tydings-McDuffie Act of 1934 provides, however, for the independence of the Philippines on July 4, 1946.

The Tydings-McDuffie Act specifies that the United States will surrender by proclamation of the President, on July 4, 1946, all rights of sovereignty in and over the territory of the Philippine Islands, and of possession of all property in the Philippines, with the exception of certain military reservations, naval fueling stations, and designated properties suitable for United States Government diplomatic establishments. Since the termination of the sovereignty of the United States would end the authority of the Custodian in the Philippines under the Trading with the Enemy Act, and since property vested in the Custodian was not excepted from the blanket transfer of United States property, the conduct of an alien property program in the Islands by the United States could not be continued beyond July 4 without some further arrangement. The Philippine Property Act of 1946, Public Law 485, 79th Cong., 2d Sess., approved July 3, 1946, permits retention by the Custodian of vested property in the Philippines, and provides for continued applicability of the Trading with the Enemy Act in the Islands after July 4, 1946. Public Law 485 provides also for ultimate turnover of vested property in the Philippines to the Republic, less claims, costs, and expenses of the United States.

CONSIDERATIONS LEADING TO ESTABLISHMENT OF OFFICE

The political status of the Philippines, their distance from the United States, and the protracted state of war presented the Office with a number of special problems. Although it was anticipated that policies and procedures developed in the United States could generally be applied to enemy property in the Philippines, it was questioned whether it would be politically advisable and administratively feasible to undertake the exercise of jurisdiction there.

Consultation with Other Government Agencies

In considering the establishment of a Philippine branch office, the Office consulted with other interested Government agencies, particularly the Department of State, the Department of the Interior, and the War Department.

The State Department was primarily concerned with the effect of a vesting program in the Philippines upon the long-standing historical and legal commitments respecting independence. In addition, so far as the pre-independence vesting program was concerned, the State Department requested adherence to the principles of the United Nations Declaration of January 5, 1943, wherein it was agreed that forced transfer of title to an enemy national during occupation would not be recognized. As a result of the State Department's position on these matters, the Custodian was prepared to relinquish jurisdiction should political considerations demand it. Techniques for dealing with property acquired by the enemy under duress in consonance with the United Nations Declaration were also formulated.

The Department of the Interior, as chief representative of American sovereignty in the Islands, was responsible for the organization and coordination of all United States governmental activities in the Philippines after liberation.[1] In its plans the Department of the Interior had provided for the establishment of a Philippine branch office of the Office of Alien Property Custodian as one of ten operating branches of the United States Government in the Philippines within the organizational structure of the Office of the High Commissioner. This provision was made because this Office not only had knowledge and experience with problems of enemy property but had in addition the necessary grant of power. The Custodian discussed with officials of the Department of the Interior the basic problems relating to the prospective discharge of his responsibilities within this administrative framework.

With the liberation of the Philippines, the Army originally had to assume the task of enemy property control along with all other aspects of a functioning military government. While the campaign was still in progress, an Enemy Property Custodian had been designated by military authorities and instructed to take into custody all property in the reoccupied areas believed to be enemy-owned. Military security and control had made such a procedure necessary. Enemy property control, however, was primarily an extra-military function and was recognized from the beginning as a temporary expedient pending reestablishment of civilian government.

Before the final defeat of the Japanese and the restoration of civilian authority in the Islands, the Office discussed with the Army the manner in which it would assume control over enemy property. The Army, as the first United States agency to resume operations in the Islands, was able

[1] Following the resignation of the United States High Commissioner to the Philippines, the President, on September 16, 1942, by executive order, transferred the duties, powers, and functions of such office to the Secretary of the Interior, who continued as *ex officio* High Commissioner until September 6, 1945. On that date a new High Commissioner was appointed.

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to offer the only firsthand information on some of the basic problems involved.

Philippine Survey

By the spring of 1945 the campaign in the Philippines was well under way. With final liberation of all portions of the Islands practically assured, the Department of the Interior was actively preparing for the resumption of United States Government activities in the Philippines. At the same time the Custodian, in conjunction with the Department of the Interior, began to work out the details for setting up a Philippine office. At that time factual data concerning the extent and value of enemy property in the Philippines were practically nonexistent. The only available information had been obtained from a study of the files and records of Government agencies in Washington to determine the total value of German and Japanese property in the Islands prior to December 7, 1941. The Office had made the study in 1944 and early 1945 at the request of a United States Government Commission studying financial conditions of the Philippines. Owing to the devastation of property and other circumstances arising from the war, it was conceded by all concerned that the value arrived at, estimated at from $25,000,000 to $50,000,000, was not necessarily accurate. In the absence of additional information, it was conceivable that the value and extent of enemy property not already destroyed or rendered useless would not justify expenditure of funds on a vesting program in the Philippines. For this reason and because of the anticipated grant of independence, it was felt that no plans could be realistically formulated and initiated without an on-the-scene study of prevailing conditions.

Two members of the Custodian's staff were commissioned in June 1945 to make a study of conditions in the Islands. The purpose of the trip was twofold: to ascertain whether there was sufficient enemy property in the Islands to justify an office and whether it would be possible to obtain suitable working and living quarters for personnel.

The Custodian's representatives concluded from their survey that there was sufficient vestible property to justify the opening of an office although reliable estimates as to types, extent, and value of property had to await the establishment and operation of an office. At the same time, however, they pointed out the serious handicaps that would be experienced in opening and maintaining a Manila office. With facilities for housing, offices, and transportation virtually non-existent, the Office was to be dependent upon the Army for these services.

In view of the fact that there was a considerable amount of vestible property in the Philippines and that the Army was prepared to provide facilities for the operation of a vesting program, the Custodian's representatives recommended that an office be opened as soon as conditions in Manila would permit.

Establishment of Office

On September 12, 1945, shortly after the proclamation of V-J Day and the transfer of Army civil controls to the newly appointed United States High Commissioner, the Custodian issued an order establishing a Philippine Office. The President of the United States and the High Commissioner were in full agreement with this action.

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VESTING PROGRAM

The vesting program of the Philippine Office was severely limited because of difficulties encountered in establishing the Office and uncertainty whether the Custodian would continue to vest property there after July 4, 1946. Under the circumstances, there was sufficient time to investigate and vest only a relatively few properties before the end of the fiscal year. The Office concentrated on those pieces of enemy property most important to the Philippine economy or requiring the most urgent action. Cases involving hemp, sugar, tobacco, and other perishable or important commodities received immediate attention in order that value losses resulting from looting and deterioration might be kept at a minimum.

Property Vested

As of June 30, 1946, a total of 51 vesting orders have been issued with respect to enemy-owned property in the Philippines. Of these, 22 involve interests in business enterprises; 23, real estate; and six, personal property. Complete liquidation has been effected in one personal property case and substantial liquidation in two business enterprise cases.

As of June 30, 1946, the Custodian's net equity in property in the Philippines vested from nationals of Japan amounted to approximately $9,058,000. This represents approximately 20 percent of the estimated amount of vestible property in the Islands.

Table 42 classifies net equity as of dates of vesting and as of June 30, 1946. Approximately one-sixth of the property has been liquidated.

Table 42.—NET EQUITY VESTED IN THE PHILIPPINE ISLANDS FROM NATIONALS OF JAPAN, CLASSIFIED BY TYPE OF PROPERTY, VALUED AS OF DATES OF VESTING AND AS OF JUNE 30, 1946

[In thousands of dollars]

Type of property	As of dates of vesting	As of June 30, 1946
Cash (proceeds of liquidation of other properties)		1,560
Interests in vested business enterprises:		
Stock	5,373	5,373
Equity in enterprises whose assets or excess assets have been vested	2,010	452
Notes and accounts receivable	1	1
Total	7,384	5,826
Other property:		
Real estate	988	988
Tangible personal property	170	168
Stock	109	109
Currency and coin	57	57
Notes, claims, and credits	350	350
Total	1,674	1,672
Grand total	9,058	[1] 9,058

[1] This figure is larger than the total shown in Table 3 as "Property in the Philippine Islands", as of June 30, 1946, because of the inclusion of $1,560,000 of cash proceeds of liquidation. This amount is reflected in the total cash figures shown in Table 3.

Vesting Policy

Vast quantities of Philippine property had been seized by the Japanese during their occupation of the Islands or purchased by them through duress or for less than fair value. There was, of course, no question of the desirability of vesting property acquired by the Japanese before December 7, 1941. On the other hand, property acquired by Japanese during the

occupation could not be categorically termed enemy property. Every instance of transfer of title to an enemy during the occupation had to be examined on its merits to avoid injustice to Philippine citizens who had been deprived of property for inadequate or no consideration.

Within the general vesting policy, it was decided to treat property acquired by Japanese enemies after December 7, 1941, as follows:

(1) If ownership by the enemy national is definitely determined through competent evidence and there is no question of duress, it is the policy to vest title in the Custodian.

(2) If ownership by the enemy national is definitely determined through competent evidence but duress is conclusively proved and the consideration received was so grossly inadequate relative to the value of the property transferred as to constitute confiscation, it is the policy not to vest title in the Custodian.

(3) If there is no competent evidence of conveyance or transfer of title other than actual possession by the enemy national during the Japanese occupation and the value of the consideration was at the time of taking substantially less than the value of the property taken into possession, and the nonenemy person demonstrating ownership has regained possession, it is the policy to vest the claim of the enemy national for the return of the consideration valued as of the approximate date of its delivery.

ADMINISTRATIVE PROBLEMS

The Philippine survey conducted by the Office had indicated that the extensive destruction of corporate and ownership records would be the greatest single problem in the work of investigation and administration. With respect to specific pieces of property all Government agencies concerned were in agreement that the most important problems would relate to the administration of the three largest Japanese agricultural corporations, Furukawa Plantation Company, Ohta Development Company, Inc., and the Gui Hing Plantation Company, which were of primary importance to the Philippine hemp industry.

Destruction of Records

The almost complete destruction of the records of the Bureau of Lands in the Philippines necessitated a search through records located in Washington, where valuable data were obtained regarding the ownership of agricultural lands and leases on public lands. Since all records of the Philippine Bureau of Customs were destroyed, it was impossible to ascertain the registry of any ship. With all records of corporations in the Bureau of Commerce destroyed, it was difficult to assemble information on any corporation. So far as corporations themselves were concerned there were few whose corporate records, including minute books and stock registers, had not been destroyed.

The inadequate documentary evidence proving enemy ownership, the lack of corporate records required for administration of property, and the lack of records for ascertaining the legality of claims against vested property were some of the major difficulties stemming from the general destruction of records.

Agricultural Corporations

While the ownership of real property by individual Japanese subjects has long been restricted by Philippine law, Japanese-owned corporations

that filed applications prior to 1918 were permitted to lease lands from the Philippine Government for a term of 25 years. Such leases could be extended for an additional term of 25 years. After 1918 the law specified that at least 60 percent of the stock of corporations applying for *new* leases must be owned by citizens of the United States or of the Philippine Islands.

The two largest Japanese agricultural corporations owning or controlling lands in the Philippines were Furukawa Plantation Company and Ohta Development Company, Inc. Organized prior to 1918 for the purpose of owning and operating hemp plantations, these corporations had provided about 40 percent of the global supply of hemp, while the Philippines as a whole produced 95 percent of the world supply.

The plantation lands operated by the corporations were in substantial part public lands leased to them by the Philippine Government in 1920 and 1921 on the basis of pre-1918 applications. Following their initial successes, these two corporations, with their banking base in Japan, proceeded, by circumventing the law, to acquire interests in many additional acres of land. The principal methods employed were: organization of smaller corporations through which additional tracts of public lands were acquired; subleasing lands previously leased by individuals or American- or Filipino-controlled corporations; and managerial contracts and other legal subterfuges. By these means the Japanese came into control of more than 150,000 acres of agricultural land in the Province of Davao, Island of Mindanao, where Japanese land settlement was largely concentrated.

The Custodian vested the stock of Furukawa Plantation Company, Ohta Development Company, Inc., and Gui Hing Plantation Company early in 1946. By recourse to material on file in the Department of the Interior on agricultural lands the Office was able to establish Japanese ownership and to obtain other information on their agricultural lands. From these and other records it was learned that the leases to public lands held by the corporations had either already expired or would expire during 1946.

Once the Custodian had begun supervision of the corporations, steps were taken on their behalf to have the leases renewed by the Commonwealth Government. At the same time the Office cooperated with the United States Commercial Company[2] in making plans for resuming operations. It was expected that restoration of hemp production to prewar levels would be of major assistance in rehabilitating the Philippine economy. As matters developed, however, the question of the rights of the lessee under the leases could not be settled immediately because the Commonwealth Government took the position that the formerly enemy-held leases should not be renewed and that the lands should revert to the public domain. Until this problem was resolved none of the agreements contemplated by the Custodian and the United States Commercial Company could be consummated.

Insofar as the Custodian was concerned there was the problem of what should be done by the corporations themselves to preserve their assets and assist in the rehabilitation of the Philippines and the supplying of hemp needed in the United States. Although he desired to cooperate with the United States Commercial Company and the fibre industry generally, the Custodian's rights as stockholder did not rise above those of the corporate entity. Since lease renewal was a corporate question, the Custodian

[2] The United States Commercial Company, as successor to the Foreign Economic Administration, was the Government agency responsible for procurement of essential materials from foreign sources.

authorized the corporations to employ counsel to advise them on their legal rights respecting the expired leases.

Meanwhile, the approval of Public Law 485 (July 3, 1946) provided for transfer of interests in vested agricultural lands or agricultural corporations to the Republic upon indemnification to the United States for claims and for costs and expenses of administration.

PUBLIC LAW 485

It has been recognized by all organizations concerned that alien property control should continue in the Philippines after the grant of independence on July 4, 1946. The central problem has been to determine what agency should be entrusted with this function after that date. Essentially three plans have been considered: the United States Government could continue to handle alien property in the Philippines through the Office of Alien Property Custodian; the Custodian's existing program and authority could be transferred to an autonomous United States agency in the Philippines; or the United States could transfer vested property and its control to the Philippine Republic.

Purpose of Philippine Property Legislation

The Independence Act of 1934 had contemplated that all property of the United States in the Philippines would be transferred to the Philippine Government upon independence except certain naval and military bases and consular or diplomatic establishments. Since, however, enemy property vested in the Custodian had not been held by the United States before the war, it had obviously not been considered in the transfer arrangements of the Independence Act.

As a result of discussion between American and Philippine officials it was agreed that it would not be feasible for title to property held by the Custodian to pass automatically to the Philippine Government upon independence. Thus it was proposed to Congress that legislation providing for the transfer or treatment of vested property in a way other than by blanket transfer be enacted. Both the Philippine and American representatives were in agreement that such legislation should not alter the purposes of the Independence Act.

Provisions of Philippine Property Act

Public Law 485, 79th Cong., 2d Sess., known as the Philippine Property Act of 1946, providing for the continued applicability to the Philippines after July 4, 1946, of the Trading with the Enemy Act, was approved on July 3, 1946. By Executive Order No. 9747 of July 3, 1946, the President authorized the Alien Property Custodian to continue the vesting program. Because of the unusual circumstances attending the administration of the Act, the President of the United States instructed the Custodian that exercise of his functions after independence was to be under the general supervision of the United States Ambassador to the Philippines. Philippine Republic Act No. 8, authorizing the President of the Philippines to enter into agreement with the United States for transfer of enemy property to the Republic, provided for implementation of the Act by the Philippines.

Those sections of Public Law 485 relating to the post-independence treatment of enemy property as defined in the Trading with the Enemy Act were concerned chiefly with the way in which vested property retained by the United States would pass to the Republic with due regard

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for the interests of both parties. Thus the Custodian was directed to turn over all Philippine agricultural lands and properties held by him to the Philippine Government. These lands were to be transferred immediately without waiting for settlement of claims, upon agreement of indemnification by the Philippine Government acceptable to the United States. With respect to vested non-agricultural properties in Manila, the Custodian was authorized to turn over to the Philippine Government such properties as were urgently needed for Government use. All other former enemy properties or the proceeds from them were to be transferred to the Philippine Government without compensation after the settlement of all claims and payment of costs and expenses of administration, or upon indemnification for such claims, costs, and expenses by the Republic acceptable to the United States.

Proposal for Autonomous Office

The Philippine Property Act provides that the powers of the President under the Trading with the Enemy Act in the Philippines may be exercised by such officer or agency as he designates. Inasmuch as the Act was approved on July 3, 1946, only one day before the granting of Philippine independence, the immediate designation of the Alien Property Custodian was considered the only practicable means of continuing the program at that time.

The designation of the Custodian does not, of course, preclude later adoption of an alternative arrangement. The Custodian, the High Commissioner, and other Government officials and agencies concerned are agreed that many operating advantages could be secured by transfer of the function to an independent agency of the United States Government to be located in the Philippine Islands. The establishment of such an organization is now under consideration.[3]

[3] On October 14, 1946, the Philippine Alien Property Administration was formally established by Executive Order No. 9789, subsequently amended by Executive Order No. 9818, of January 3, 1947.

» XI «

Claims and Suits

Termination of hostilities and enactment of recent legislation removing legal uncertainties surrounding the Custodian's authority to return property to nonenemy foreign nationals have made the settlement of claims one of the more extensive tasks confronting the Office of Alien Property Custodian. At the end of the fiscal year 1946 a total of 5,749 formal claim notices concerning property vested during World War II had been filed, of which 1,326 were received during the past fiscal year. Another 20,000 to 30,000 claims are expected to be filed as a result of recent legislation and additional vestings.

Most claims received by the Office may be classified as either title claims or debt claims. Claims in which ownership interests in vested property are asserted are referred to as *title claims*. Claims in which creditors seek payment of obligations owed prior to vesting by the former owners of vested property are referred to as *debt claims*. If a debt is secured by a mortgage or other lien, it is referred to as a *secured debt claim* as distinguished from an *unsecured debt claim*. Claims which cannot be classified as claims either for title to property or for recognition of security interests or for payment of unsecured debts are referred to as *miscellaneous claims*. Outside these categories are claims arising from the seizure of property during World War I.

Although an administrative remedy has been provided for the settlement of claims, certain classes of persons may institute suits against the Custodian in the Federal district courts pursuant to the provisions of Section 9 (a) of the Trading with the Enemy Act. At the end of the fiscal year 67 Section 9 (a) suits were pending.

In addition to suits instituted under Section 9 (a) there are numerous other matters in litigation in which the Custodian is involved.

TITLE CLAIMS

Nature and Description of Title Claims

Each title claim ordinarily presents two issues: first, whether the claimant is a person or organization eligible to recover vested property and, second, whether the claimant was the real owner at the time of vesting.

As of June 30, 1946, the Office had received 1,310 title claims. Of this number 886 asserted title to vested patents, copyrights and trade-marks; 58 asserted exclusive licenses or other rights in vested patents; and 366 asserted title to various other types of vested property.

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By nationality of claimants as reported in the notices of claim, these title claims may be distributed as follows:

Nationality of claimants as reported in notices of claim	*Total*	*Title to patents, copyrights, and trade-marks*	*Exclusive licenses, etc., under patents*	*Title to other property*
Citizens of United States:				
Residing in United States	863	606	55	202
Residing in nonenemy countries	5	.....	2	3
Residing in enemy countries	19	.....	1	18
Citizens of nonenemy countries:				
Residing in United States	103	98	.....	5
Residing in nonenemy countries	197	139	.....	58
Residing in enemy countries	5	5	.....	.....
Citizens of enemy countries:				
Residing in United States	71	29	.....	42
Residing in nonenemy countries	21	8	.....	13
Residing in enemy countries	26	1	.....	25
Total	1,310	886	58	366

At the time the claimed property was vested, the Custodian had made determinations as to the nationality of the former owners that differ considerably from nationalities indicated by claimants. Often the claimant is not the same person whom the Custodian, in his vesting order, found to be the owner of the property; in other instances the Custodian's findings and the claimant's statements disagree as to the facts concerning the latter's residence or citizenship. At the time of vesting the Custodian determined (generally on the basis of evidence concerning either residence or citizenship) that the nationality of the former owners was as follows:

Nationality of former owners as determined by Custodian's vesting order	*Total title claims*	*Title to patents, copyrights, and trade-marks*	*Exclusive licenses, etc., under patents*	*Title to other property*
German	785	520	40	225
Japanese	74	7	.....	67
Italian	65	13	1	51
Other enemy	39	17	3	19
French	148	140	4	4
Dutch	90	87	3	.....
Other enemy-occupied	109	102	7	.....
Total	1,310	886	58	366

No attempt has been made to evaluate patents, copyrights, trade-marks, and rights thereunder subject to title claims. A tabulation has, however, been made on other types of properties with respect to which title claims have been filed. This tabulation is shown in Table 43.

TABLE 43.—TITLE CLAIMS FILED MARCH 11, 1942 TO JUNE 30, 1946, CLASSIFIED BY TYPE OF PROPERTY CLAIMED AND NATIONALITY OF FORMER OWNERS AS DETERMINED BY VESTING ORDER FINDINGS

NOTE.—The properties subject to claim are stated on this table at their values as of June 30, 1946. Cash income and proceeds of liquidation are included with the various types of property from which they were derived. No attempt has been made to evaluate patent, copyright, and trade-mark interests subject to title claims or to determine the amounts of royalties collected by the Office on such interests.

[In thousands of dollars]

Type of property	Total	Germany	Japan	Italy	Other enemy	France
Total	90,137	85,741	1,345	1,406	1,201	444
Interests in vested business enterprises	82,794	80,673	1,078	538	505	.....
Real property (including mortgages)	1,008	680	162	153	13	.....
Tangible personal property	377	20	39	8	310	.....
Stocks and bonds	734	526	.....	34	.....	174
Bank balances	300	20	2	7	1	270
Notes, claims, and credits	1,363	1,348	14	1	.....	.....
Interests in estates and trusts	3,561	2,474	50	665	372	.....

Return of Property Prior to Public Law 322

AUTHORITY TO RETURN VESTED PROPERTY.—The Office always has had authority to return vested property to resident citizens of the United States provided pre-vesting ownership is satisfactorily established. Until the enactment of Public Law 322, 79th Cong., 2d Sess., approved March 8, 1946, however, the authority to make returns to nonenemy foreign nationals had been subject to legal uncertainties. Section 9 (a) of the Trading with the Enemy Act of 1917 permits return of property to persons not enemies or allies of enemies. A 1941 amendment to this Act (contained in the First War Powers Act) authorizes the vesting of property of foreign nationals, including nonenemies. As a result the problem arose whether a friendly foreign national could recover property pursuant to the original Act when the vesting of his property is authorized by an amendment.

Because of this seeming inconsistency, the Custodian refrained from considering the claims of friendly foreign nationals for the return of vested property. Consideration has thus far been limited to claims of persons clearly eligible as to nationality to receive a return under Section 9 (a). With the delegation to the Custodian by the President on May 16, 1946, by Executive Order No. 9725, of authority to return property to nonenemies under Public Law 322, the Office began establishing procedures for handling claims of friendly foreign nationals.

DETERMINATIONS OF VESTED PROPERTY CLAIMS COMMITTEE.—The Vested Property Claims Committee, an administrative body existing within the Office of Alien Property Custodian, determines whether claims should be allowed or disallowed.

Summary proceedings are instituted by the Office of General Counsel of the Office of Alien Property Custodian in cases where the evidence on file clearly indicates that the claims are entitled to allowance. After approval of these claims by the Committee, notices of intention to return property are published in the Federal Register.

Plenary proceedings entail formal hearings. A member of the General Counsel's office represents the Custodian. Claimants are usually represented by counsel but they may appear in their own behalf. The practice of holding prehearing conferences attended by a member of the Committee and the contestants has been followed in order to expedite the

proceedings. At such conferences stipulations concerning facts in dispute are entered into and understandings are reached on the procedure to be followed at the hearings. In each case the Committee issues a tentative determination, which is given to all parties concerned in order that oral or written proposals for modification of the determination can be made before its issuance in final form.

As of June 30, 1946, the Committee had determined in summary proceedings 153 title claims and 51 title claims in plenary proceedings. A total of 163 claims have been allowed under both proceedings. The Custodian has returned over $905,000 of property to successful claimants.[1] By types of property the total amount returned may be classified as follows:

Interests in business enterprises	$741,000
Stocks	127,000
Bonds	17,000
Cash	20,000
Total	905,000

These dollar amounts do not include 217 patents and 48 patent applications, interests in one patent contract, and one copyright, which also have been returned.

STATUS OF TITLE CLAIMS AS OF JUNE 30, 1946.—As a result of these determinations of the Vested Property Claims Committee and of other factors, such as the withdrawal of claims by claimants, the number of pending title claims has been reduced from 1,310 to 1,091. A complete summary of the status of all 1,310 claims as of June 30, 1946, is as follows.

Status of claim	*Total*	*Title to patents, copyrights, and trade-marks*	*Exclusive licenses, etc., under patents*	*Title to other property*
Allowed by Vested Property Claims Committee	163	153	1	9
Settled by compromise after institution of Section 9(a) suits by claimants	9	.....	.....	9
Disallowed by Vested Property Claims Committee	26	9	4	13
Section 9 (a) suit won by Custodian	1	.....	.....	1
Withdrawn by claimants	20	16	3	1
Pending	1,091	708	50	333
Total	1,310	886	58	366

As a result of disposals of claims, the total dollar value of property other than patents, copyrights, trade-marks and related interests subject to title claims has been reduced from a total $90,137,000 to $79,976,000 as of June 30, 1946.

Provisions of Public Law 322

NATIONALITY ELIGIBILITY.—Public Law 322[2] provides authority for the administrative return of vested property to friendly foreign nationals. As drawn the language of the Act does not designate in an affirmative manner the persons to whom returns may be made. Rather, it provides

[1] In addition $702,000 has been paid to persons who asserted claims through suits under the Trading with the Enemy Act. The Vested Property Claims Committee does not consider cases in which suits are pending.

[2] See Appendix, Exhibit H, for text of Act.

that vested property or interests therein may be returned (provided other conditions discussed later are met) whenever determinations are made that claimants are not within the following categories:

INELIGIBLE CLASSES

1. A government of a nation with which the United States has been at war since December 7, 1941.
2. Individuals voluntarily resident at any time since December 7, 1941, within an enemy nation (except citizens of the United States and diplomatic and consular officials of nonenemy countries).[3]
3. Individuals who were at any time, since December 7, 1941, citizens or subjects of an enemy country and who were present at any time from such date to March 8, 1946, in enemy or enemy-occupied territory or engaged in business in any such territory.[4]
4. A corporation or association organized under the laws of an enemy nation, except that American citizens or American corporations owning *in toto* the stock of the corporation or assets of the association are eligible to receive a return of the vested property.
5. A foreign corporation or association which at any time after December 7, 1941, was controlled, or in which 50 percent or more of the stock was owned, by claimants ineligible to receive a return under the above enumerated provisions. However, return may be made to a corporation or association so controlled or owned if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United States has at any time since December 7, 1941, been at war and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to March 8, 1946.

By interpretation, the following classes of claimants are *prima facie* eligible.

ELIGIBLE CLASSES

1. Governments of countries with which the United States has not been at war at any time since December 7, 1941.
2. American citizens, regardless of their place of residence at any time since December 7, 1941.
3. Citizens of allied and neutral countries who were not voluntarily resident in enemy countries at any time since December 7, 1941.
4. Citizens of enemy countries who have resided outside enemy and enemy-occupied territory at all times since December 7, 1941, and who were not engaged in any business in such territory.
5. Corporations and other associations organized under the laws of the United States or a political subdivision thereof.

[3] Public Law 671, 79th Cong., 2d Sess., approved August 8, 1946, amends this provision of Public Law 322 by providing that an individual who was deprived of life or substantially deprived of liberty pursuant to any law, decree or regulation of an enemy nation discriminating against political, racial, or religious groups shall not be deemed to have voluntarily resided in such territory.

[4] This provision is also amended by Public Law 671, which provides that return may be made to an individual who, as a consequence of any law, decree or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation.

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6. Corporations and other associations organized under the laws of nonenemy countries unless there was an enemy interest in such organization of 50 percent or more at any time since December 7, 1941. A return may still be made if the enemy interest arose as an incident of the occupation by the enemy of the country under the laws of which the organization was formed, provided that the enemy interest was terminated prior to March 8, 1946.
7. Corporations and associations organized under the laws of enemy countries are not eligible for a return, but if the corporation's stock or the association's assets were wholly owned by American citizens or American corporations since December 7, 1941, the vested property of the organization may be returned to the American owners.

Requirement of Pre-Vesting Ownership.—The Act provides that certain conditions must be met before eligible nationals may receive a return of vested property. One of these requirements is that the person seeking a return must have been the owner of the vested property immediately prior to its vesting in or transfer to the Alien Property Custodian. The former owner's legal representative (whether or not appointed by a court in the United States) or successor in interest by inheritance, devise, bequest, or operation of law also may receive a return of property provided neither he nor the former owner is ineligible as to nationality.

Property Held Under Cloaking Arrangement.—A property or interest, or the net proceeds thereof, cannot be returned if it was held or used at any time after September 1, 1939, by or with the assent of the owner at the time of vesting under an arrangement designed to conceal the property or interest of a person ineligible to receive a return under Public Law 322.

Return Must Be in Interest of United States.—A condition precedent to the return of any property or interest is a finding that the return is in the interest of the United States. With respect to this requirement the President on May 16, 1946, addressed a letter to the Custodian in which he stated that it was his desire that the Custodian in the administration of Public Law 322 consult with other agencies and departments of the Government. The Departments of State, Treasury, War, Navy, and Justice were particularly mentioned. The President considered that, through such consultations, the Custodian would be advised of the public interest in such matters as national security, foreign relations, financial and fiscal policy, and commercial and antitrust policy, as they relate to the return of vested property.

In accordance with the desires of the President several conferences have been held with representatives of Government departments and agencies. The object of these meetings was to ascertain the interest of each department and agency and to establish administrative procedures whereby they could voice their objections to any prospective return of property. The arrangements concluded generally provide that the Office will supply summary information to each department or agency on each title claim in which it is interested. Any agency opposed to allowance of a claim will thereupon communicate to the Office its objection.

Liability Under Renegotiation Act or Royalty Adjustment Act.—Under Public Law 322 there must be a determination, with respect to the returned property, that the Alien Property Custodian and the claimant or his predecessor in interest, if any, have no actual or potential

liability under the Renegotiation Act (50 U. S. C. 1191) [5] or the Royalty Adjustment Act (35 U. S. C. 89-96).[6] As alternatives to these requirements, the claimant may provide security or undertakings adequate to assure satisfaction of all such liabilities or the Custodian may retain sufficient property to meet any liabilities.

By the provisions of Public Law 322 a returnee has the right within 90 days after return of the property to file a petition in the Tax Court of the United States for a redetermination in respect to any final order determining excessive profits made against the Alien Property Custodian by the War Contracts Price Adjustment Board. On the other hand, any agreements made or notices or orders issued under the Royalty Adjustment Act are binding on the person to whom return is made.

RETURN OF CAUSE OF ACTION.—A returnee under Public Law 322 does not acquire any right of action against the United States or any corporation owned by it, or any person authorized or licensed by it, founded upon the retention, sale, other disposition, or use of the property during the period it was vested. Except for these limitations, any person to whom return is made shall have the same rights, privileges, and obligations in respect to the returned property as if there had been no vesting.

RIGHTS OF THIRD PERSONS.—Third parties, other than those who would be ineligible to receive a return of property under Public Law 322, may prosecute an action at law or suit in equity against a person to whom a return has been made to establish any right, title, or interest in the returned property. The period of time the property was held by the Alien Property Custodian is not to be included in determining the application of any statute of limitations.

PUBLICATION OF INTENTION TO RETURN VESTED PROPERTY.—At least 30 days before making a return to a person or organization outside the United States, the Office must publish in the Federal Register a notice of intention to make the return. After publication of the notice, the property to be returned is subject to attachment by any United States citizen, resident, or corporation. The writ of attachment must be served upon the Custodian and issued prior to the return. If the notice to return is revoked, the attachment is invalidated. The purpose of this provision is to give American creditors time to attach property for the satisfaction of debts before the property or its proceeds can be withdrawn from the country.

RECOVERY OF EXPENSES.—The Custodian is authorized to retain or recover from any property or proceeds returned an amount not exceeding expenses incurred for the conservation, preservation, or maintenance of the property or of other property returned to the same person.

ATTORNEYS' FEES.—No property can be returned unless a schedule of fees paid or to be paid to all attorneys at law or other representatives for services in connection with such return has been furnished to the Office. This

[5] The Renegotiation Act authorized a War Contracts Price Adjustment Board created by the Act to renegotiate certain war contracts where there are excessive profits. If the contractor and the Board fail to reach an agreement with respect to the elimination of the excess, the Board is authorized to fix the amount thereof. The contractor has the remedy of filing within 90 days a petition with the Tax Court of the United States for a determination of the excessive profits.

[6] The Royalty Adjustment Act provides that, if the head of any department believes that royalties paid by a licensee to a licensor on Government procurement are excessive or unreasonable, he can after notice and hearing fix a fair and just rate. If the licensor objects to the rate, he has the right to sue the Government in the Court of Claims.

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schedule can be approved only if the fees do not exceed fair compensation for the services rendered and if the total fees do not exceed 10 percent of the value of the property returned. Provision, however, is made for judicial review of these determinations in the district courts of the United States, which are authorized to approve larger fees if circumstances warrant.

Preparations for Administration of Public Law 322

EXECUTIVE ORDER No. 9725.—The first step in making preparations for the administration of Public Law 322 was the execution by the President on May 16, 1946, of Executive Order No. 9725, by which the Alien Property Custodian was designated as the officer to administer the act.

PREPARATION OF FORMS.—In order to obtain necessary information upon which to act under Public Law 322, the Office has devised new claim forms. Form APC-1A is for use by all claimants except inventors who seek return of patents or patent applications; Form APC-1B is for use by inventors. Persons who have already filed a notice of claim on another form, however, need not file again unless specifically requested to do so.

FILING OF TITLE CLAIMS BY RESIDENTS OF FOREIGN COUNTRIES.—Negotiations are being conducted with several foreign countries to establish procedures under which residents of these nations may submit title claims for return of property, interests, or proceeds vested in the Alien Property Custodian. An agreement already concluded with the French Government provides that residents of France may submit their claims to L'Office des Biens et Intérêts Privés, 146 Avenue Malakoff, Paris, for certification that they have not collaborated with the enemy. That agency will then forward the completed claim forms to the Office of Alien Property Custodian.

Similar arrangements probably will be made with a number of other foreign countries.[7] It is not expected that such agreements will be made with all nations since the amount of vested property formerly owned by residents of many countries is relatively small.

MEMORANDUM OF UNDERSTANDING WITH FRANCE.—On May 28, 1946, the Government of the United States and the Provisional Government of the French Republic signed a Memorandum of Understanding regarding settlement for Lend-Lease, reciprocal aid, surplus war property, and claims. Under this agreement the French Government assumed the obligation to process and pay all unpaid claims of French residents arising out of the use or infringement in war production of patent rights held by them. This includes claims for royalties involving French patent rights vested in the Alien Property Custodian that are subject to return under Public Law 322. Hence, royalties arising out of war production and paid to the Alien Property Custodian with respect to such patent rights by an American manufacturer are to be retained by the United States and not paid to the French claimant. Similar agreements with certain other countries are contemplated.

DESCRIPTION OF INDIVIDUAL TITLE CLAIMS

The Office published during the fiscal year a book containing the full text of final determinations of the Vested Property Claims Committee

[7] An agreement with the Netherlands provides that residents of that country may submit their claims to De Nederlandsche Bank, N. V., Amsterdam.

issued prior to May 16, 1946, in plenary proceeding cases.[8] Although these determinations are not, in all respects, precedents for the allowance or disallowance of similar claims asserted pursuant to Public Law 322, it is believed they are of value to those who anticipate assertion of ownership claims under the new law.

Two title claims reported in the above-mentioned volume and discussed below are exemplary of the issues involved. The first case involves principally the nationality issue and the second case is concerned mainly with the ownership issue.

Claim of George Yamaoka

By Vesting Order No. 176, dated September 28, 1942, the Custodian vested 390 shares (97.5 percent of all the outstanding shares) of Meito China Corporation, a New York corporation, as the property of specified nationals of a designated enemy country (Japan). Included in the vested shares was one registered in the name of George Yamaoka, a native-born United States citizen and a resident of New York. The vesting order recited that the national interest required that he be treated as a national of a designated enemy country (Japan).

Yamaoka filed Notice of Claim No. 573, dated April 13, 1943, and a hearing was held before the Vested Property Claims Committee on April 20, 1945. The facts as developed at this hearing disclosed that the claimant was a member of a New York law firm which in 1940 was counsel for Nagoya Sisto Kaisha, Ltd., a Japanese company with a branch office in New York City engaged in importing and selling chinaware. Early in 1940 Nagoya caused Meito China Corporation to be organized and transferred its American business to that corporation in exchange for 400 shares of Meito China stock and $10,000 in cash. Of the 400 shares, 389 were later transferred to officers and employees of Nagoya who were residents of Japan. At the same time one share was transferred to the claimant.

The first question which the Committee had to decide was whether the claimant was the beneficial as well as the legal owner. At the hearing the claimant testified that the share of stock was a gift to him from Nagoya, that no other person had an interest directly or indirectly in it, and that it was not subject to any limitations on his right as a shareholder. Since neither the articles nor the by-laws of Meito China nor the corporate law of New York required directors to be stockholders, it was clear that the share was not issued to qualify the claimant as a director. Payment of a dividend to the claimant, which he included in his personal tax return, was evidence that the beneficial ownership rested with him. In addition, the Committee decided that it would be unreasonable to assume that Nagoya intended to cloak the ownership of single share of stock when 389 shares were registered in the names of residents of Japan. On this evidence the Committee held that the claimant was at the time of vesting the beneficial owner.

The second question was whether the claimant was a national eligible to recover at the time of hearing. Since he was an American citizen residing at all material times in the United States, recovery could not be denied on the ground that he was an enemy as defined by Section 2 of the Trading with the Enemy Act, as amended, for the reason that an American citizen can acquire enemy status, as thus defined, only by residence in enemy

[8] For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.; price, 35 cents.

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or enemy-occupied territory. The claimant according to the Committee was not a "foreign national" as defined in Section 5E of Executive Order No. 8389, as amended,[9] for the reason that he was an American citizen residing in the United States and determination that the claimant was the legal and beneficial owner precluded a holding that he was a person acting or purporting to act directly or indirectly for the benefit or on behalf of a foreign national.

The Committee further decided that the claimant was not a foreign national by virtue of the fact that Meito Corporation was a "foreign national." Although the claimant may have acted in a broad sense for or on behalf of a foreign national, in his capacity as officer and director of Meito, his activity did not rest upon his ownership of the claimed share.

It was also determined that the claimant was not a national of "designated enemy countries" as defined in Section 10 (a) of Executive Order No. 9095, as amended, for the reason that this category is merely a subclassification of "foreign national" as defined in Section 5E of Executive Order No. 8389. Although the vesting order recited that the national interest required that claimant be treated as a national of a designated enemy country, the Committee held that it was no longer in the national interest for the claimant to be treated as a national of a designated enemy country and that a retention of the claimant's property would not serve the purposes of the Trading with the Enemy Act, as amended, or related executive orders.

The Committee issued a final determination on December 3, 1945, allowing the claim.

Claims of Paul Gutschow and Phelan Beale

The Custodian by Vesting Order No. 166, dated September 24, 1942, vested 240 shares of the common stock of Jungmann & Co., Inc., a Delaware corporation. Paul Gutschow, by Claim No. 957, claimed ownership of the vested shares by reason of an alleged bona fide purchase prior to vesting from Helmuth Voss, a German citizen of Hamburg, Germany. Phelan Beale, by Claim No. 959 alleged Gutschow pledged them to him as security for a loan of $15,000 at four percent interest, executed May 25, 1940, on which obligation Beale asserted there remained unpaid $8,000 of principal and interest. Both claimants were residents and citizens of the United States.

Voss and Gutschow were both shareholders from the date of incorporation of the company, and by 1925 Voss owned 240 shares and Gutschow the remaining 60 shares. Beale had organized the company and thereafter served as its attorney.

In 1939, after the outbreak of war, Beale suggested to Gutschow that it would be prudent to take some action to prevent seizure of Voss' stock in the event the United States became involved. It was suggested by Beale that Gutschow offer to purchase Voss' shares for $15,000, and that he, Beale, obtain the funds for such purchase by rendering a bill to Jungmann & Co. in that amount for past legal services and, as soon as he received the money, loan it to Gutschow. At this time the net worth of the

[9] Section 5E of Executive Order No. 8389, as amended, reads in part:

"The term 'national' shall include . . .

"(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign county . . ."

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Company was $73,000, and Voss' equity, based upon his ownership of 240 shares, amounted to approximately $58,000.

On April 10, 1940, Gutschow, assisted by Beale, wrote a letter to Voss setting forth the above plan.

Voss replied that he had absolute confidence in Gutschow but he wanted to know what guarantees could be made in event of Gutschow's death, to which Gutschow cabled that Voss could repurchase the shares for $100 each. On May 23, 1940, Voss sent a radio message to Gutschow agreeing to certain proposals "on condition that when danger passed old state is reestablished" and that Voss had the right to repurchase for $100 in case of Gutschow's death. Gutschow replied that the death option was legal but that the further condition would impugn the good faith of the transaction. To this message Voss consented to waiving further conditions, adding the phrase "with full confidence in you."

The Committee held that the transaction was not intended to transfer beneficial interest of the stock in view of the conditions that prevailed internationally in 1940, the inadequacy of the payment of $15,000 for the 240 shares, the fact that even this inadequate consideration emanated from the treasury of the corporation, and the existence of an option to repurchase at a nominal sum. As a consequence the Committee on May 13, 1946, issued a final determination disallowing the claims.

DEBT CLAIMS [10]

Description of Debt Claims

As of June 30, 1946, there are pending in the Office a total of 3,502 debt claims filed by claimants whose notices of claim indicate that they are eligible for consideration (i. e., as to *unsecured debt claims*, United States citizens and noncitizen residents eligible under Public Law 671; as to *secured debt claims*, all classes of persons eligible to assert title claims under Public Laws 322 and 671).

TABLE 44.—DEBT CLAIMS FILED BY APPARENTLY ELIGIBLE CLAIMANTS, PENDING AS OF JUNE 30, 1946, CLASSIFIED BY NATIONALITY OF DEBTORS

[Amounts in thousands of dollars]

Nationality of debtors from whom property was vested	Number of claims	Total amount claimed	Amount of claims that could be paid if allowed [1]
German	2,146	58,293	10,403
Japanese	856	40,358	31,219
Italian	437	3,635	1,891
Hungarian	24	1,514	130
Roumanian	9	212	115
Bulgarian	3	28	28
Former enemy-occupied	27	33	16
Total	3,502	104,073	43,802

[1] The figures in this column have been calculated by comparing the total estimated value of all property vested from each debtor with the total face value of claims filed with respect thereto. In all cases in which the estimated value of the property was lower, the total amount claimed was scaled down to that amount. No attempt has been made to take into consideration accrued taxes for which claims have not been filed, possible gains or losses on liquidation of property, charges to be made by the Office to defray its administrative expenses, or possible future vestings of additional property of the same debtors.

[10] For a detailed discussion of debt claims see *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1944*, pp. 137–141, and *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, pp. 168–171.

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Table 44 classifies these claims by nationality of debtors. It also compares the face amounts of these claims with the amounts that could be paid thereon from assets vested from the debtors. The amounts payable of $43,802,000 are substantially less than the $104,073,000 face amount of claims because the total claims against the property of numerous debtors greatly exceed the value of the property. *Secured debt claims* constitute $8,022,000 of total debt claims; if found valid, they can be paid almost in full.

In addition to the 3,502 claims shown on the table the Office has received 414 other claims that may be classified as "debt claims." Included among these are 48 claims for a total of $765,000 that have been withdrawn by claimants and 366 unsecured claims aggregating $2,861,000 that were filed by nonresident foreign nationals, for whom no remedy on unsecured debts is contemplated by the pending legislation described below.

Authority to Pay Debt Claims

Authority of the Custodian to pay debt claims was still in doubt during the fiscal year, and the Office continued to follow a policy of withholding action on such claims. Although the decision of the Supreme Court in the case of *Cabell* v. *Markham* [11] settled by judicial process the right of an American unsecured debt claimant to maintain a suit under Section 9 (a) of the Trading with the Enemy Act, the Custodian continued to seek legislation to provide an orderly basis for the disposition of debt claims and to establish a priority system among creditors.

Accordingly, the Office drafted a new bill (H. R. 5089), which was introduced in the House of Representatives by Representative Sumners of Texas on December 20, 1945, and referred to the Committee on the Judiciary. Although hearings were held on this bill, no specific action was taken at that time. A substitute bill (H. R. 6890) was introduced on June 26, 1946.[12]

MISCELLANEOUS CLAIMS

As of June 30, 1946, the Office has on file a total of 523 claims that cannot appropriately be classified as either debt or title. They may be grouped as follows:

1. 142 claims ask damages of $3,060,000 based on torts or breaches of contract.
2. 10 claims seek compensation for $27,626,000 of property vested or confiscated by enemy governments or their agents.
3. 29 claims have been filed under supervisory orders terminated or soon to be terminated.

[11] For a more detailed discussion of this case, see p. 155.

[12] H. R. 6890 was approved by the President on August 8, 1946, and became Public Law 671, 79th Cong., 2d Sess. This law authorizes the payment from the assets vested from a debtor of the debt claims of citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the alien enemy acts. The law requires that, after payment of taxes and administrative expenses of the Office, priority be given to claims for wages, services and claims of the United States. Creditors' claims cannot be paid until the time for filing claims against each debtor has expired in accordance with bar dates to be fixed by the Custodian, until pending title claims for return of the property have been determined, and until the property is sufficiently liquid to permit payments. Any defenses which could have been asserted by the former owner can be used by the Custodian.

4. 118 claims have been made by executors, trustees, remaindermen, contingent heirs, and other persons seeking to protect interests of a contingent character in property held by the Custodian. These claims have generally been filed in estates and trusts cases in which the Custodian vested or demanded property on the assumption of continuance of life of certain residents of enemy territory. If, in any case, this assumption is incorrect, right to the property may have passed, under laws of inheritance or according to the terms of trusts, to nonenemies.

5. 201 claims have been erroneously asserted with respect to property not vested in the Custodian.

6. 23 claims have been filed for a variety of purposes, generally from misunderstandings of the types of claims that the Office may consider.

While some of these miscellaneous claims (particularly those in group 4) may ultimately be reclassified as title or debt claims, in general they are not claims of types toward which the Custodian may take any action.

SUITS AND OTHER JUDICIAL PROCEEDINGS

In accordance with Executive Order No. 9142 of April 20, 1942, the Department of Justice represents the Alien Property Custodian in litigation in which the Custodian has a direct interest as plaintiff, defendant, or otherwise.[13] This work is performed within the Department of Justice by the Alien Property Section of the Claims Division. In referring cases to the Department of Justice, the Office submits analyses of the legal and factual problems involved, together with recommendations as to conduct of the litigation. After referral, the Office cooperates with the Alien Property Section in the collecting of evidence and in other phases of the preparation of the cases for trial.

During the fiscal year ending June 30, 1946, the Office was interested in a total of 1,880 suits and other judicial proceedings, as compared with 1,489 during the preceding fiscal year. The various types of litigation involved are indicated in Table 45, and sections which follow discuss the nature of this litigation according to the classification in the table.

Table 45.—SUITS AND OTHER JUDICIAL PROCEEDINGS IN WHICH THE OFFICE OF ALIEN PROPERTY CUSTODIAN WAS INTERESTED, FISCAL YEARS 1946 AND 1945

Type of court matter	Number of suits during fiscal year—	
	1946	1945
Total	1,880	1,489
1. Actions for return of property or payment of debts, brought under Section 9 (a) of the Trading with the Enemy Act, as amended	81	31
2. Actions relating to banks or insurance companies in liquidation	26	19
3. Matters relating to corporate or individual insolvencies	13	11
4. Matters involving customs, taxes, or assessments	879	560
5. Matters relating to patents, trade-marks, or copyrights	27	32
6. Actions relating to real property	38	22
7. Matters involving estates or trusts	510	522
8. Causes in admiralty	56	52
9. Criminal actions	5	5
10. Matters involving property vested in World War I	3	6
11. Miscellaneous	242	230

[13] The only litigation handled directly by the Office of Alien Property Custodian involves representational activities described in Ch. IX, "Property Under Judicial Supervision," pp. 129–131.

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Section 9 (a) Suits

DEBT ACTIONS.—Section 9 (a) of the Trading with the Enemy Act, as amended, provides that a person, other than an enemy or an ally of an enemy, who claims an interest in vested property or asserts a debt claim against the former owner of such property, may institute a suit in a Federal district court for recovery of the vested interest or payment of the debt. Until the Supreme Court handed down its decision on December 10, 1945, in the case of *Cabell* v. *Markham*, 326 U. S. 404, there was considerable doubt concerning the right of an unsecured creditor to maintain a suit for the payment of a debt in view of the provisions of Section 9 (e) of the Act, which was added in 1920 and amended in 1928. Subsection (e) provides that no debt should be allowed under Section 9 "unless it was owing to and owned by the claimant prior to October 6, 1917" and "unless the notice of claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928." The Supreme Court held, however, that the limitations of Section 9 (e) are applicable only to claims against property seized during World War I and that the right to sue on a debt granted by 9 (a) has not been wholly withdrawn. The Court, however, expressly reserved decision whether Section 5 (b) of the Trading with the Enemy Act permitted the Custodian to adopt regulations affecting the payment of any judgment obtained upon such debt. (Subsequent to June 30, 1946, the approval of Public Law 671 provided for the orderly settlement of debt claims by administrative action in a manner designed to prevent inequities possible under the previous legislation. The right to institute suit on a debt was removed by that statute, which substitutes judicial review of administrative determinations.)

TITLE ACTIONS.—A question of basic importance to the administration of the Trading with the Enemy Act is whether a foreign national has the right to maintain suit under the provisions of Section 9 (a). This problem is presented in the case of *Uebersee Finanz-Korporation* v. *Markham*, a Section 9 (a) suit brought in the District Court for the District of Columbia by a Swiss corporation for the return of controlling stock in five American corporations. In the District Court the Custodian's motion to dismiss the complaint on the ground that the plaintiff was a foreign national and, therefore, ineligible for the remedy of return by judicial order, was granted.[14]

A Section 9 (a) suit now pending is *Aktiebolaget Vargos* v. *Markham*, in which plaintiffs seek to recover 535,000 shares of stock of American Bosch Corporation. The foreign national question is also involved in this suit as it is in *Swiss Bank Corporation* v. *Markham*, which involves 44,000 common shares, 2,225 preferred shares of Schering Corporation of New Jersey, and shares of two affiliated New York corporations, all of which the Custodian seized in 1942. In the latter suit plaintiff alleges it had received the securities as collateral for a loan made in 1942 to a Swiss corporation.

In *Littell and Marks* v. *Markham*, plaintiffs seek recovery of all the outstanding capital stock of American Hyalsol Corporation, a patent holding

[14] On appeal, the United States Court of Appeals for the District of Columbia, in a two-to-one decision rendered October 21, 1946, rejected the Government's contentions that the effectiveness of the power to vest property of foreign nationals granted by Section 5 (b), as amended, depended upon the Custodian's ability to retain property which he is authorized to seize and that the remedy of an aggrieved foreign national is not by a Section 9 (a) suit but in a suit against the United States for compensation under the Tucker Act (28 U. S. C. 250). A review of this decision has been granted by the Supreme Court.

company owning valuable patents licensed to DuPont and to Proctor and Gamble. The stock was vested on the theory that the shares were beneficially owned by German interests. *Standard Oil Company* v. *Markham*,[15] a case involving large sums of money and many important patents, is now on appeal.

Actions Relating to Banks and Insurance Companies in Liquidation

During the fiscal year the Custodian, as successor in interest to the Bank of Japan, discontinued an action against the New York State Superintendent of Banks to recover a disputed obligation of approximately $17,333,000 of the New York Branch of the Yokohama Specie Bank. Withdrawal of this suit will enable domestic creditors of the New York Branch whose claims are payable under the New York banking law to receive payment of their claims in full. The Custodian's action will enable the Office to obtain more expeditiously the excess proceeds remaining after payment of the claims of domestic creditors and the expenses of liquidation.

Matters Relating to Corporate or Individual Insolvencies

The interests of creditors of insolvent enterprises, as well as shareholders' interests, have been vested in a number of instances. Many of these companies are in bankruptcy, reorganization, or receivership. Appropriate action is being taken to assure the protection of the interests of the Government therein. In probably the most important of these cases, that of *Silesian-American Corporation* v. *Markham*, 156 F. (2d) 793, the Office has been able to strengthen its position by a Court decision requiring that new stock certificates representing the vested shares be issued in the name of the Custodian. The Supreme Court, however, has granted certiorari in this case.

Matters Involving Taxes or Assessments

As a result of vesting the assets of certain enemy nationals, the Custodian became the owner of claims pending in the Customs Court or the Tax Court. These claims against the United States are for refund of excessive duty charges or for reappraisal of the value of property upon which challenged rates of duty have been applied. Pending a determination as to the action to be taken in connection with these claims, no steps were taken during the past fiscal year other than to complete substitution of the Custodian as plaintiff in such cases. The proceedings have been continued from time to time upon motion of the Justice Department.

Matters Relating to Patents, Trade-Marks, or Copyrights

Because of the vast number of patents and patent applications vested by the Custodian, the Office is frequently involved in litigation in the Patent Office and in the Federal courts. Several vested patent applications which have been rejected by the Patent Office are the subject of appeals taken to the Court of Customs and Patent Appeals. In this type of litigation the Custodian has been substituted in place of the former plaintiff. Examination of patent contracts, licenses, and other similar agreements in which interests have been vested has disclosed some to be in violation of the antitrust laws; as a result the Custodian has joined with the Antitrust Division as party plaintiff in several antitrust suits. One of these suits was *United States and Alien Property Custodian* v. *Merck & Co.*, in which the Custodian had an interest in 49 patents and 16 patent applications. This case was settled by a consent decree under which the Custodian obtained clear title to the German-originated patents for nonexclusive, royalty-free licensing. A similar case, *United States and Alien Property Custodian* v. *Bendix Aviation Corporation*, involving 131 patents and 15 applications, was likewise settled by a consent decree in which the Custodian obtained similar relief.

[15] See *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, pp. 178–179.

Actions Relating to Real Property

The largest single group of suits relating to real property in which the Office has been interested during the past fiscal year involve mortgage foreclosure proceedings. In a number of instances the Custodian brought foreclosure proceedings based upon vested mortgages. In other cases persons holding mortgages on vested real estate instituted the proceedings. Of particular interest to the Office was the case of *Carodix Corporation* v. *Tieri et al.*, 185 Misc. 947, 58 N. Y. S. (2d) 277, decided by the Supreme Court, Westchester County, October 16, 1945. In this case the action was to foreclose a tax lien affecting property to which title was in the Alien Property Custodian. A motion to dismiss the complaint against the Custodian was granted on the ground that a state court had no jurisdiction over the person of the Alien Property Custodian and that the Court had no jurisdiction of the subject matter of the action. The Court stated that enemy property vested in the Custodian becomes property of the United States and a suit against the Custodian in his official capacity is a suit against the United States. That being true, the Court held that specific statutory authority to institute the suit had to be found and that the only statutory consent to suits against the Custodian is that provided by Section 9 (a) of the Trading with the Enemy Act. Actions permitted under this section must be brought in the Federal courts.

Matters Involving Estates and Trusts

Litigation pertaining to estate and trust matters covers a wide range of problems found in the law of decedents' estates. Wills have been denied probate because of the lack of formal execution, undue influence, and the lack of testamentary capacity on the part of the decedent, among other reasons. In many instances it has been necessary to establish genealogy in cases of intestacy in order to prove the Custodian's right to share in an estate. In numerous cases claims against decedents' estates were resisted successfully or substantially reduced.

Frequently encountered in estate cases is the question whether enemy nationals survived the testator. In cases where no vesting order has been issued, the courts have held the presumption of continuance of life applicable and awarded the distributive share to the enemy national subject to the vesting authority of the Custodian. In some cases where vesting orders have been issued the courts have refused to follow the presumption; in others they have held that they were bound by determinations in the vesting orders and have awarded the distributive shares of enemy nationals to the Custodian.

The Supreme Court ruled in *Markham* v. *Allen*, 326 U. S. 490 (1946), that a Federal court has under proper circumstances jurisdiction to adjudicate the rights between parties interested in an estate, although the estate is in process of probate in a state court. In at least two cases involving the validity of trusts where the trustees were unwilling to seek constructions in state courts, the Office found it necessary to initiate suits in Federal district courts to have the issues determined.

At the present time several estate matters in certain western states are being held in abeyance pending a decision by the Supreme Court of the United States in the case of *Allen* v. *Markham*.[16] This case involves the validity of a California reciprocity of inheritance statute, which is similar to statutes in several other western states. These statutues, in general, provide for escheat to the state or for passing to otherwise eligible heirs in cases where property is left to aliens residing in countries which do not have reciprocal inheritance laws.

Legal problems have also arisen concerning the vesting of property held in the United States for incompetents residing in enemy countries. In two cases it was contended that the incompetents did not have the mental capacity to change their domiciles and therefore must be regarded as having continued their domicile in the United States. The Appellate Division of the Fourth Department of the State of New York in one case, *In the Application of the Alien Property Custodian*, 60 N. Y. Supp. (2d) 897, directed that the property of an Italian citizen, residing in New York at the time he became an incompetent, be delivered to the Custodian pursuant to his vesting order. *Josephberg* v. *Markham*, 152 F. (2d) 644, involved property vested from Alfred Cerutti, a naturalized American citizen who went to Italy after he became an incompetent. In an action under Section 9 (a) of the Trading with the Enemy Act, the District Court for the Southern District of New York dismissed the complaint on the ground that the incompetent was an enemy or a national of an enemy country within the definitions and meanings of the Trading with the Enemy Act and Executive orders issued thereunder. The Circuit Court of Appeals reversed this decision, holding that an American citizen whose presence in Italy was for reasons beyond his control did not become a resident of Italy or an enemy or a foreign national under the Trading with the Enemy Act.

Causes in Admiralty [17]

One of the principal questions in admiralty litigation was whether the Custodian was entitled to be substituted in place of enemy nationals in actions by the United States for forfeiture of sabotaged Axis vessels. The Circuit Court of Appeals for the Third Circuit, in an opinion filed December 13, 1945, ruled that the Custodian had such right. This holding was made in the case of *The Antoinetta*, 153 F. (2d) 138, on which certiorari was denied by the Supreme Court on June 10, 1946.

Matters Involving Property Seized in World War I

Litigation pending at the beginning of the fiscal year concerning property seized during World War I was still undecided at the close of the fiscal year.

Miscellaneous Litigation

Of the cases which do not lend themselves to classification under any of the above groups, *Markham* v. *Taylor* is one of the most important since it involves the Custodian's right to summary possession of property vested in World War II. The case was instituted by the Custodian to gain possession of money due and owing to foreign nationals, whose interest in property was vested, which the defendant refused to deliver to the Custodian. In *Silesian-American Corporation* v. *Markham*, 156 F. (2d) 793,[18] the Custodian's

[16] For a discussion of this case, see p. 160.

[17] For a discussion of litigation involving ships in which the Custodian has vested interests, see *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1944*, pp. 127–128.

[18] For a discussion of this case, see p. 159.

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right to summary possession of vested property was challenged by attacks on the constitutionality of Section 5 (b) of the Trading with the Enemy Act, as amended by Title III of the First War Powers Act, but was affirmed by the Circuit Court of Appeals for the Second Circuit.

DESCRIPTION OF INDIVIDUAL CASES

Silesian-American Corporation v. Markham

156 F. (2d) 793 (C.C.A. 2d, 1946)

On November 17, 1942, the Custodian vested shares of stock of the Silesian-American Corporation which were registered in the name of a Swiss corporation, the certificates, however, being held by certain Swiss banks as pledgees. The vesting was based upon a finding that the shares were held by the Swiss corporation for the benefit of a German corporation. On February 12, 1943, the Custodian made a demand upon the Silesian-American Corporation to cancel the shares registered in the name of the Swiss corporation and to issue in lieu thereof new certificates in the name of the Alien Property Custodian. Silesian-American Corporation, a debtor in reorganization under Chapter X of the Bankruptcy Law, fearing that it might not be protected against the registered shareholder, and particularly against the pledgees, applied to the District Court for instructions.

The basic question involved was the power of the United States to compel the transfer of alien property. Until the amendment of Section 5 (b) of the Trading with the Enemy Act, by Title III of the First War Powers Act, 1941, Section 7 (c) was the only provision granting the President power to require the transfer of alien property and this power was limited to the property of an enemy or ally of enemy. However, the amended Section 5 (b) gave the President the power not only to investigate the transactions involving any property in which any foreign national had an interest but also to compel the transfer of such property.

The appellant objected to the constitutionality of Section 5 (b) on two grounds: namely, that the amendment delegates an unrestricted discretion to the President, and does not provide "just compensation" for seizures. After stating that the amendment rested upon the power "to provide for the common Defence and general Welfare," the Court held that the power to seize property may be lawfully conferred without attempting to fix the conditions and, since the law provides for exercise of the power through "rules and regulations", it could not be said that individuals would be subject to unascertainable duties or penalties; that depends upon the regulations themselves. It suffices that the power is to be exercised whenever the national interest demands the prescribed action.

Concerning the objection that the Section was unconstitutional because no provision was made for just compensation, the Court stated that it was settled by many decisions that "when the United States seizes the property of an individual, not an enemy, in pursuance of a public purpose, it impliedly promises to pay just compensation, and that such promise is 'just compensation' under the Fifth Amendment."

Having held that the amendment to Section 5 (b) was constitutional, the Court affirmed the decision of the lower court instructing that new certificates of stock be issued to the Custodian. Certiorari has been granted by the Supreme Court.

Allen v. Markham

156 F. (2d) 653 (C. C. A. 9th, 1946)

On January 23, 1943, the Alien Property Custodian issued Vesting Order No. 762 to take "all right, title, interest and claim" of four German nationals "in and to the estate of Alvina Wagner, deceased, and all the right, title and interest and estate" of those German nationals in and to the decedent's real property in San Francisco. By a California statute, effective July 1, 1941, a foreign national residing outside the United States may be barred from participating in distributions of American estates if the foreign country does not permit American citizens to inherit property within its borders. Six heir claimants in California who were disinherited by the will instituted a proceeding *in rem* in the California probate court to determine who was entitled to distribution of the estate. Seeking to frustrate any attempt at invoking the statute, and to secure a judgment ordering deliverance of the estate to him by the executor, the Custodian brought an action in the United States District Court for the Northern District of California against the executor and the California heirs. The District Court held that the California statute was unconstitutional because it entered the field of foreign relations, a domain reserved exclusively to the Federal Government. *Crowley* v. *Allen*, 52 F. Supp. 850 (N. D. Cal., So. Div. 1943). The Court did not rule on the status of Article IV of the 1923 Treaty of Friendship, Commerce and Consular Rights between the United States and Germany (44 Stat. 2132), which provided for reciprocal rights of inheritance.

On appeal the Circuit Court of Appeals for the Ninth Circuit, without deciding on the merits, reversed the District Court on the ground that the matter was exclusively within the probate jurisdiction of the state court. 147 F. (2d) 136 (C. C. A. 9th, 1945). On January 7, 1946, the Supreme Court reversed this decision and remanded the case to the Circuit Court for decision on the merits. *Markham* v. *Allen*, 326 U. S. 490, 66 Sup. Ct. 296 (1946).

In this second trial of the main issues of the case, the Custodian claimed that in accordance with the German American Treaty of 1923 the property had been inherited by the German devisees, and was thus subject to vesting by the Office. The appellants contended that the reciprocal inheritance article of the Treaty was abrogated and that, in the absence of such a reciprocal inheritance agreement, the property vested in them by operation of the California statute. The Custodian claimed that the statute was void because it is in conflict with the Constitution of the United States in that it invades the fields of foreign relations and war powers, which are reserved exclusively to the Federal Government.

The Court ruled that Article IV of the German American Treaty of 1923 had been abrogated by the declaration of war between the United States and Germany because its terms were incompatible with the existence of a state of war. The California statute was held to be valid and constitutional, thus vesting title to the estate in the California heirs-at-law. *Allen* v. *Markham*, 156 F. (2d) 653 (C. C. A. 9th, 1946).

Petition for certiorari to the Supreme Court will be filed,[19] and, if granted, the validity of the California statute will be finally determined. This determination will affect further action in suits brought under similar statutes in Montana, Nevada, and Oregon.

[19] Petition for certiorari was filed on October 18, 1946, and granted on December 9, 1946.

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» XII «

Organization

Throughout the fiscal year 1946 the Office continued under the direction of Mr. James E. Markham, as Alien Property Custodian and Mr. Francis J. McNamara, as Deputy Alien Property Custodian.

Administrative Units

The Office of Alien Property Custodian operates through administrative units constituted on a functional or regional basis. These units and the number of employees in each at the end of the fiscal year are listed below:

Administrative Unit	*Number of employees as of June 30, 1946* [1]
Office of the Custodian	8
Office of the Executive Officer	3
Division of Personnel	16
Division of Administrative Services	101
Office of the Secretary	16
Office of the General Counsel	83
Comptroller's Division	75
Vested Property Claims Committee	6
Division of Research and Statistics	34
Division of Investigation	93
Division of Real Estate and Liquidation	22
Division of Business Management and Control	27
Property Division	127
Division of Patent Administration	76
Manager of the New York Office [2]	3
Manager of the San Francisco Office [2]	8
Manager of the Hawaiian Office	18
Manager of the Philippine Office	42
Total	758

[1] Excluding fifteen irregularly employed and part-time employees.
[2] Includes employees assigned only to Managers of the branch offices. Most employees in these branch offices are members of other administrative units and are classified accordingly.

Officials of several of these major administrative units constitute an Executive Committee, which advises the Custodian in formulating policies and determining administrative actions.

An organization chart of the agency is presented as Chart 3.

Changes in Organization

The Division of Real Estate and Liquidation was established on January 7, 1946, and the Division of Business Management and Control, on January 13, 1946. These new divisions were organized to perform duties previously assigned to the Division of Business Operations and Liquidation. The functions of the latter division were gradually transferred to the two new divisions, so that by July 15, 1946, its affairs were concluded.

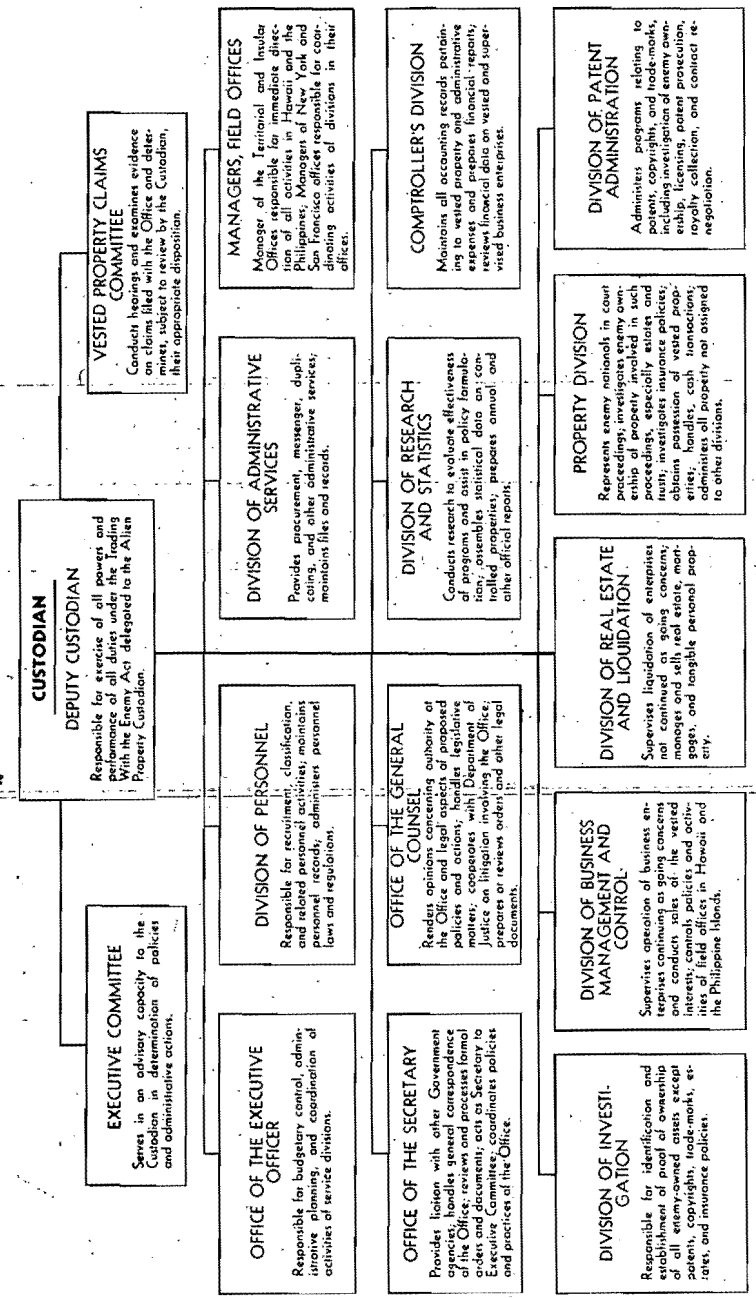

Chart 3.—Organization of the Office of Alien Property Custodian as of June 30, 1946.

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The Division of Personnel began operations on May 5, 1946, and the Division of Administrative Services on June 30, 1946. Those two divisions were organized to perform functions formerly handled for the Office by the Federal Deposit Insurance Corporation. The Division of Administrative Services took over the messenger and duplicating services from the Federal Deposit Insurance Corporation. In addition, it was assigned certain functions from other administrative units of the Office of Alien Property Custodian: the handling of records, mail, and files, from the Office of the Secretary; and supply and procurement operations, from the Office of the Executive Officer.

The Philippine Office was established in Manila on September 12, 1945, following the Japanese surrender.[1] Shortly thereafter a suboffice was set up in Davao.

Fluctuations in Size of Staff

At the beginning of the fiscal year, the Office had 760 full-time employees. A gradual reduction in the staff occurred during the following half year, with a low point of 593 full-time employees on November 30, 1945. This decline was necessitated by an initial limitation of the administrative expenses of the Office for the fiscal year to $2,500,000, as compared to $4,000,000 for the preceding year. In the course of the year, the Office was required to undertake new responsibilities, resulting from the establishment of the Philippine Office in September and the issuance of Executive Order No. 9725 on May 16, 1946, which designated the Custodian as the officer to administer the provisions of Public Law 322, 79th Congress (approved March 8, 1946), authorizing the return of vested property to properly qualified friendly foreign nationals. The assumption by the Office of certain service functions hitherto provided by the Federal Deposit Insurance Corporation further increased the need for personnel. As additional vestings authorized by Executive Order No. 9567 of June 8, 1945, were undertaken, the work-load of the Office increased. Supplemental budgetary authorizations permitted some expansion in personnel to handle these activities after January 1, 1946, to a total of 758 full-time employees at the end of the fiscal year.

Geographical Distribution of Personnel

The Office of Alien Property Custodian maintains branch offices in New York, Chicago, and San Francisco. The Comptroller's Division, the Liquidation Section of the Division of Real Estate and Liquidation, the Custody and Clearance Section of the Property Division, and a field office of the Estates and Trusts Section of the Property Division are located in New York. The Chicago Office is composed entirely of field staff members of the Estates and Trusts Section, while the San Francisco Office includes members of several different divisions. In addition there are the Hawaiian and Philippine Offices, whose employees are not members of other administrative units. A geographical distribution of full-

[1] See Ch. X, "Philippine Program," pp. 134-136.

time employees as of June 30, 1946, is shown below, together with comparable figures for June 30, 1945:

	1946	1945
Washington, D. C.	[1] 437	327
New York	205	332
Chicago	28	45
San Francisco	26	29
Miscellaneous field offices within the continental United States (Boston only in 1946)	2	6
Hawaii	18	21
Philippine Islands	42	....
Total	758	760

[1] Includes nine employees on detail abroad to carry on investigations in Germany.

The increase in number of personnel in the Washington Office is primarily due to the increased work-load in activities centered in Washington, and is offset by the decrease in the number of employees assigned to the New York, Chicago, and miscellaneous field offices.

Litigation Work Performed by Department of Justice

The Alien Property Section of the Claims Division of the Department of Justice continues to handle litigation involving the Office, as provided in Executive Order No. 9142 of April 21, 1942. At the close of the fiscal year the Alien Property Section employed a staff of 97 persons to perform this work.

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» XIII «

Finances and Accounting

The administrative expenses of the Office of Alien Property Custodian are paid from funds acquired by the Office through the vesting and administration of property. The amount that may be expended is established by annual authorizations by Congress. The Office maintains detailed accounting records on its own finances, on vested property, and on controlled business enterprises that are in process of liquidation.

FINANCES

During the fiscal year ending June 30, 1946, administrative expenses of the Office of Alien Property Custodian totaled $3,441,000, compared with a total of $3,563,200 authorized by Congress. A statement of these expenses and the means by which they were financed is shown in Table 46. The table also presents comparative data for prior fiscal periods.

Congressional Authorizations

Authorizations for the expenditure of funds by the Office during the fiscal year were made in three appropriation acts.

Initial Authorization.—The Office initially requested of Congress an authorization to spend during the fiscal year ending June 30, 1946, a total of $3,370,000. This sum was the estimated amount required to discharge functions that were being performed on July 1, 1945, and did not allow for new programs on which the Office began work later in the fiscal year. The Office was authorized by Public Law 156, 79th Cong., 1st Sess., of July 17, 1945, to spend $2,500,000.

Deficiency Authorization.—On December 28, 1945, the Office was granted a deficiency authorization of $730,300 in Public Law 269, 79th Cong., 1st Sess. This amount was for the following purposes:

Cash and securities program (new work under Executive Order No. 9567)	$250,000
European investigation program	65,200
Philippine Islands program	83,700
Additional work under old programs	249,800
Additional reimbursement to Department of Justice for litigation expenses	81,600
	730,300

For the first three programs there had been no previous authorization. Additional funds for the remaining two programs were justified on the ground of increasing work backlogs.

Increased Pay Cost Authorization.—The Office was authorized to spend an additional $332,900 by Public Law 349, 79th Cong., 2d Sess., of April 19, 1946. This Act was passed to provide funds to all Government establishments for the payment of the general increase in salaries that went into effect on July 1, 1945.

Table 46.—ADMINISTRATIVE EXPENSES AND MEANS OF FINANCING, FISCAL PERIODS 1943 THROUGH 1946

NOTE.—The statements shown on this table for the fiscal years 1943,1944, and 1945 are not identical with those shown in Table 32 of the *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945*, owing to adjustments made subsequent to June 30, 1945.

	April 21, 1942 to June 30, 1943	July 1, 1943 to June 30, 1944	July 1, 1944 to June 30, 1945	July 1, 1945 to June 30, 1946
ADMINISTRATIVE EXPENSES				
Personal services	$2,903,859.29	$3,365,576.47	$2,842,616.46	$2,412,530.04
Travel	146,231.77	106,938.32	67,041.58	53,046.04
Transportation of things	20,722.86	31,709.63	4,777.29	17,013.93
Communication services	63,369.31	61,735.32	52,224.25	49,425.67
Rents and utilities	312,226.43	346,121.48	268,832.75	221,402.20
Printing and binding	62,357.80	235,876.93	58,185.99	61,480.05
Other contractual services	198,520.79	207,326.81	120,104.50	82,839.05
Supplies and materials	61,376.07	23,293.49	10,699.08	30,147.20
Equipment	250,952.22	43,818.00	14,910.06	16,997.99
Reimbursement to Department of Justice	81,164.58	202,131.69	248,852.29	358,481.41
Reimbursement to Federal Deposit Insurance Corporation	468,948.41	335,030.94	274,029.05	137,835.64
Total	4,569,729.53	4,959,559.08	3,962,303.30	3,441,199.22
MEANS OF FINANCING				
1. Available from World War I Administrative Expense Fund	4,063,088.71			
Less: Amount reserved for World War I expenses	125,000.00			
	3,938,088.71			
2. Available from World War II Vested Property funds:				
(a) Recoveries of expenses from vested enterprises and other properties		77,207.38	23,965.51	15,117.16
(b) General transfers of cash from vested property funds	482,074.51	4,639,551.18	3,700,427.32	3,165,616.46
Add: Adjustment on account of reserve for World War I expenses	125,000.00			
	607,074.51			
3. Received as reimbursement for expenses incurred in representing persons residing behind enemy lines in court or administrative actions or proceedings			21,695.88	131,754.80
4. Received from miscellaneous sources:				
(a) License fees, receipts from sale of patent catalogues, and other receipts	24,566.31	126,527.42	128,915.96	93,052.72
(b) Receipts from sale of republished periodicals		116,273.10	87,208.63	35,658.08
Total	4,569,729.53	4,959,559.08	3,962,303.30	3,441,199.22

Means of Financing

While authorizations for the expenditure of funds by the Office are made by Congress, no appropriation is made for this purpose. The funds expended by the Office are those that it has acquired from its operations.

Essentially there are four sources of funds from which the Office may draw to defray its administrative expenditures. These sources, and the amounts derived from each, are indicated in Table 46. Summarily they may be described as follows:

1. *World War I Administrative Expense Fund.*—The $4,063,088.71 of unexpended administrative funds left over from the World War I Alien Property Custodianship paid for the greater part of the Office's expenditures during its first year of operation. Of this amount $125,000, reserved for future use on World War I matters, remains unexpended.

2. *World War II Property Funds.*—The greater part of the Office's administrative expenses is borne by property vested during World War II. There are two methods by which this property is drawn on to pay administrative expenses: (1) *Recoveries* of expenses from vested enterprises and other property; (2) *General transfers* of cash from vested property funds. During the past fiscal year $15,117.16 has been recovered and $3,165,616.46 of transferred funds were expended. A discussion of the conditions under which these two methods are used may be found in the succeeding section on allocation of expenses to individual alien accounts.

3. *Reimbursement for Representation Expenses.*—The Office has represented a large number of persons residing behind enemy lines in court and administrative actions and proceedings in the United States. In about two-thirds of these cases the Custodian has not vested the property interests of the foreign nationals represented because they were not enemy nationals. The Office recovers expenses of representing these persons by issuing special cost-and-expense vesting orders. During the past fiscal year 289 of these orders, covering 2,013 cases, were issued. The total amount recovered during the fiscal year was $131,754.80.

4. *Miscellaneous Receipts.*—The Office continued during the fiscal year to receive some income from miscellaneous sources. Fees for nonexclusive licenses under vested patents, receipts on sale of patent catalogs, and miscellaneous items yielded $93,052.72, and receipts from the sale of republished periodicals aggregated $35,658.08.[1]

Nature of Administrative Expenses

A classification of the administrative expenses of the Office according to objects for which the expenditures were made appears on the upper half of Table 46. Of the total of $3,441,000 expended during the fiscal year, the major items were personal services ($2,413,000), rents and utilities ($221,000), litigation services provided by the Department of Justice ($358,000), and administrative and personnel services provided by the Federal Deposit Insurance Corporation ($138,000).

There were significant decreases compared with the preceding year in the amounts expended on personal services and for services rendered by the F. D. I. C. The reduction in expenditures for personal services resulted from a forced personnel curtailment to keep within budget limitations. Reimbursement to the F. D. I. C. decreased because of the gradual taking over by the Office of its own service functions during the fiscal year.

The most significant increase was for reimbursement to the Department of Justice. The progressively greater volume and complexity of alien property litigation required the Office to provide greater funds to the Department to represent the Custodian in matters before the courts.

Allocation of Expenses to Individual Alien Accounts

ADMINISTRATIVE EXPENSES.—Up to the present time, administrative expenses have not been charged, to any appreciable extent, against specific properties. In general such charges have been made only under two conditions:

(1) If property is returned to a nonhostile national, a charge is made against the individual alien account (i. e., against the property returned)

[1] The program for republishing periodicals was terminated during the fiscal year and advance subscription fees collected in the fiscal years 1944 and 1945 in the amount of $63,691.03 were refunded. Thus the amounts shown for periodical publication receipts for these fiscal years on Table 46 are $63,691.03 less than the amounts shown in Table 41 of the *Annual Report, Office of Alien Property Custodian, fiscal year ending June 30, 1945.*

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for the expenses incurred in conserving, preserving, and maintaining the property. This practice will be continued with respect to returns made under Public Law 322, 79th Congress, amending the Trading with the Enemy Act, which provides that:

> . . . The Custodian may retain or recover from any property or interest or proceeds returned pursuant to this Section [§ 32] or Section 9 (a) of this Act, an amount not exceeding that expended or incurred by him for the conservation, preservation or maintenance of such property or interest or proceeds or other property or interest or proceeds returned to the same person. . . .

(2) If expenses are incurred on behalf of business enterprises controlled by the Office, they are recovered from the enterprises in order to avoid enrichment of minority stockholders and creditors at the expense of the Government.

The charges in each of these situations represent amounts that were directly attributable to the specific properties and that were originally paid as administrative expenses of the Office.

Charges made under these circumstances, however, represent the recovery of only a small proportion of the Office's administrative expenses. This may be noted from Table 46, which shows that, of the total expenses of $3,441,199.22 for the fiscal year 1946, only $15,117.16 was recovered from specific properties.

Thus far, except under certain circumstances such as those described above, it has not been considered necessary to allocate administrative expenses among the various accounts. So long as the property is not returned or disbursed but remains wholly under the ownership of the United States, it is immaterial whether or not the Office's expenses are allocated among specific properties.

In the future the Office may have to broaden the scope of allocation to individual accounts if H. R. 6890 becomes law.[2] A section of this bill relating to the payment by the Office of debt claims against the former owners of vested property includes the following provision:

> Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property or interest owned by the debtor immediately prior to its vesting in or transfer to the Alien Property Custodian, which remain after deduction of (1) the amount of the expenses of the Office of Alien Property Custodian, including both expenses in connection with such property or interest or proceeds thereof, and such portion as the Custodian shall fix of all the other expenses of the Office of Alien Property Custodian, and of taxes . . . paid by the Office in respect of any such property or interest or proceeds and (2) such amount, if any, as the Custodian may establish as a cash reserve for the future payment of such expenses and taxes. . . .

In accordance with this provision it is proposed to charge against individual accounts (1) all those administrative expenses that were incurred specifically in connection with properties in the account and (2) a prorata share of the general expenses of the Office. The latter charge will probably be made by debiting each enemy account with a percentage of the total value of the account. The percentage used will be sufficiently large to cover both administrative expenses defrayed by general transfers from World War II funds and expenses defrayed out of the World War I administrative expense fund.

Direct Management Expenses of Vested Property.—In addition to charging *administrative expenses* to particular properties, as described above, the Office has also charged immediately against vested properties expenses

[2] H. R. 6890 became Public Law 671, 79th Congress, approved August 8, 1946.

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incurred outside the Office specifically on their behalf. These charges are not reflected in the administrative expense accounts of the Office but only in the vested property accounts.

A distinction must be made between these direct management expenses immediately borne by vested properties and administrative expenses incurred within the Office in connection with specific vested properties. The former, consisting of such items as fees to local real estate agents retained to manage vested real property, are paid directly out of vested property funds. The latter, representing such items as salaries of employees of the Office, must, of course, be paid initially as administrative expenses.

ACCOUNTING

Accounting Records of the Office

As of June 30, 1946, the Office of Alien Property Custodian carried on its books a total of 34,000 World War II vested property accounts. Each account lists property held as the result of the vesting of property of a single national (or, in exceptional cases, of groups of nationals). The total number of items of property carried, exclusive of cash, was 67,400.[3] All transactions directly involving property vested from a given national are posted to these vested property accounts. Each account shows not only unliquidated property held but also cash receipts of principal and income and direct expenses charged against the specific account.

In addition to vested property accounts the Office also maintains accounting records on property held in safekeeping, on property seized in World War I, and on administrative receipts and expenditures.

Audit

In accordance with the policy followed in previous years, the accounts of the Office of Alien Property Custodian have been examined as of June 30, 1946, by certified public accountants. The report on the audit, conducted by Arthur Andersen & Co., appears on page 170.

Accounting for Vested Enterprises

As of June 30, 1946, the Office maintained the books of accounts of 210 vested business enterprises.[4] Most of these enterprises are in liquidation and have no staffs of their own for either accounting or other purposes. In addition, the Manila Office handles the accounting work of the 22 vested enterprises in the Philippine Islands. The remaining 124 vested enterprises, chiefly operating companies, either maintain their own accounting records or have their books kept by state superintendents of banking and insurance or by trustees in bankruptcy.

With respect to many of the business enterprises maintaining their own accounting records the Office analyzes monthly or quarterly statements submitted by the managements and reviews their accounting systems and tax problems. Public accountants are usually engaged to make annual examinations of the books of these enterprises and to prepare all tax returns.

[3] An item in some instances may embrace a number of individual properties. This is particularly true of copyrights since the enemy interests in thousands of works covered by a single music catalog may be regarded as a single item.

[4] The Office also maintains the accounts of approximately 20 subsidiaries of these enterprises and performs any remaining accounting work in connection with nearly 50 completely liquidated companies.

ARTHUR ANDERSEN & CO.

67 WALL STREET, NEW YORK 5, N. Y.,

January 7, 1947.

Mr. DONALD C. COOK,
Director, Office of Alien Property,
Department of Justice, Washington, D. C.

DEAR SIR: We have examined the general accounts maintained by the Office of Alien Property Custodian for the purpose of controlling vested assets and recording accountability therefor. In connection with this examination for the period from June 30, 1945 to June 30, 1946, we have reviewed the system of internal control and the accounting procedures and have examined or tested accounting records and other supporting evidence, by methods and to the extent we deemed appropriate. Our examination was made in accordance with generally accepted auditing standards applicable in the circumstances and included all procedures which we considered necessary. Such examination included a test-comparison of assets recorded at principal balances or nominal amounts, with the vesting orders issued therefor; test-check of acknowledgments of vesting of real estate, patents, copyrights and trademarks; test-check and confirmation of recorded cash receipts; test-examination of accounts and vouchers covering administrative expenses and other disbursements; reconciliation and confirmation of bank accounts; count of securities and personalty in the possession of employees in offices of the Custodian; confirmation of vested assets in the possession of others at June 30, 1946; and review of procedures followed in disposing of vested assets as to compliance with the policies set forth in regulations governing such disposals.

We had previously made similar examinations for various periods from March 11, 1942 to June 30, 1945.

The accounting records of many of the enterprises vested (corporations, partnerships, sole proprietorships, etc.), both in operation and in course of liquidation, were maintained in offices of the Alien Property Custodian. We reviewed the available accounting records of enterprises so maintained, except for those in Honolulu and Manila. Our review included the reconciliation and confirmation of bank accounts, count and confirmation of securities held in the United States, and review of major disposals of assets (other than sales made in the regular course of business) since dates of vesting, but we did not audit the accounts of such enterprises. With the exception of enterprises in various stages of liquidation whose aggregate assets were relatively minor in amount, and of a few enterprises not under the exclusive control of the Alien Property Custodian, the accounts of the enterprises, including those whose accounting records are maintained by their own personnel, have been examined by independent public accountants as of or since dates of vesting. Reports of the independent public accountants, submitted for our inspection, indicate that in many instances such accountants either did not express an opinion, or gave a highly-qualified opinion, as to the financial condition of such enterprises, because of inadequacy of available records or inability to confirm accounts with foreign interests.

Subject to the comments in the preceding paragraph, in our opinion, the exceptions disclosed by our examination as of June 30, 1946 were not relatively significant.

Very truly yours,

[s] ARTHUR ANDERSEN & CO.

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EXHIBIT A

List of Vesting Orders Issued by the Office of Alien Property Custodian, July 1, 1945 to June 30, 1946

NOTE: This list includes vesting orders, and amendments and supplements thereto, issued by the Office of Alien Property Custodian from July 1, 1945 to June 30, 1946, and published in the Federal Register. Following the regular numerical series of vesting orders there are listed orders in the 500–A series and the Philippine series. Amendments and supplements are cited immediately after the respective orders. The Federal Register gives for each order the dates of signing, filing and publishing, and the complete text.

Vesting order No.	Summary description of property vested	Federal Register citation
5069	All rights of Margaret M. Pippenbrink in the estate of Henry Daniel Marquard	10-8483
5070	Copyright interests of M. P. Belaieff	10-9682
5071	One patent; and all rights of Dr. Vogt & Co., Chemische Fabrik in a contract with Adam Bernhard, relating thereto	10-10133
5072	One patent; and all rights of Fernsch A. G. in a contract with Farnsworth Television Inc., relating to a patent	10-10134
5073	Certain patents	10-10134
5074	An undivided one-half interest in a patent; and an undivided two-thirds interest in a patent	10-10135
5075	One patent	10-10135
5076	All rights of Minna Auel in the estate of Emma J. Schoedde	10-8872
5077	The sum of $8,100, distributable to Catharine Sievers and others under the estate of Peter Sievers	10-8873
5078	An undivided one-half interest in certain real property located in Roosevelt County, Mont., and a bank account owned by Ernst Aerebee	10-10092
5079	All rights of Mrs. John Lindsharst and others in the estate of Sophie Castenow	10-8873
5080	All of the capital stock of Imoto Bros., Inc., and all rights of T. Imoto & Co. Ltd., and others in the debts of that corporation	11-7064
5081	Certain personal property owned by Niklaus L. Vacano	10-9593
5082	Copyright interests of certain German and Austrian nationals	10-9683
5083	All rights of Anna Roters and others in the trust created under the will of Elisabeth Oenning	10-8873
5084	All rights of Karl Altschul and other in a trust established under indenture of trust by Josephine Zimmerman	10-8874
5085	Certain real property located in Honolulu, T. H., owned by Rinichi Akinaka	10-9806
5086	An undivided one-half interest in certain real property located in Knoxville, Tenn., owned by Clara Herz; and all of her rights in claims against the City of Knoxville	10-10406
5087	All rights of Dengo Nakayama in two insurance policies	10-9807
5088	Certain real property located in Palisades Park, N. J., and one mortgage owned by Paul Weiss; and all of his rights in certain insurance policies and in claims against Reinard Weiss and Otto Venino, Jr	10-11078
5089	One patent	10-10135
5090	All rights of Oscar Seifert Museum in the estate of Clara C. Staebler	10-9238
5091	Certain real property located in St. Louis, Mo., owned by Peter Alt and others; and all of their rights in two insurance policies and in claims against St. Louis Union Trust Co. and/or Hemmelmann & Spackler Real Estate Co	10-11912
5092	Cash representing the proceeds of a bank account owned by Antonio Celle	10-9133
5093	Certain real property located in Brooklyn, N. Y., owned by Caroline Beyer and others; and all of their rights in two insurance policies and in claims against Hilda L. Weyer and others	10-9972
5094	All rights of Wilhelm Franz Vahle in a contract with Henry Vahle evidenced by an agreement and bill of sale	10-9133
5095	All rights of Michael Beck and others in the estate of Leo Beck	10-9238
5096	All rights of Paul Braun in a mortgage participation certificate of Bond & Mortgage Guarantee Co	10-9239
5097	All rights of Dora Ditterich and others in the estate of Leonard Dotzer	10-9239
5098	All rights of Amalia Frenssen and others in the trust created under the will of C. H. Einhausen	10-9239
5099	All rights of Wilhelm Schweiger in the estate of Theodor Feigner	10-9240
5100	All rights of Laura Sabo and her children in the estate of Leonard J. Fruzinski	10-9240
5101	All rights of Dietrich Rosenbrock and others in the estate of Fred Hevert	10-9240
5102	All rights of Nickolaus Muller and others in the estate of Eva Hoff	10-9241
5103	All rights of Jacob Schaefer in the estate of Elizabeth Kasch	10-9241
5104	All rights of Louisa Hohn and others in the estate of Augusta W. Kraft	10-9241
5105	All rights of Wilhelm Grilb and others in the estate of Henry Lang	10-9242
5106	All rights of Marie Gaube and two others in the estate of Henry Lutz	10-9242