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File Designation 862.542/1-148---6.3048

Date April 26, 1948

From Am Can Gen #25

To Sec St.

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State/Source Authority 1-2726 Date

WD C-7

GENERAL SERVICES ADMINISTRATION

GSA FORM 7117-12-721

300-17

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RG 59

Spec Control Files

LM 197

Roll 34 of 68

US State Dept Control File

1-1-R

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File Designation 862.542/7-147 --- 9.3047

Date Aug 5, 1947

From Am Emb, Mexico

To Sec St

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2-3-76
Date

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GENERAL SERVICES ADMINISTRATION

GSA FORM 7117 (2-72)

GPO : 1975 O - 503-659

330718

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LM 197 Koel 3

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1-56'R

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File Designation 862.542/10-147---12-3147

Date WASHINGTON: 1942

From U.S. GOV. PRINT. OFF.

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2-3-76
Date

WD-c.v.

GENERAL SERVICES ADMINISTRATION

GSA FORM 7117 (2-72)
GPO : 1973 O - 503-056

300319

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Files

LM 197 Reel 34
Central Files

-5-

Article 7

Each Government, party to this Accord, shall furnish as soon as possible to the central office referred to in Article 6, for transmission to the other Governments, parties to this Accord, a list of all former wholly or partly German-owned patents which are not available to the nationals of these Governments by way of dedication or royalty-free licenses, together with a schedule of the licenses and of non-German interests existing under or in those patents. In addition, the Governments, which can conveniently do so, shall furnish a list of all such patents still in force which are licensable on a royalty-free basis and of all such patents as have ceased or been dedicated to the public.

Article 8

The present Accord shall remain open for signature in London on behalf of any Government represented at the Conference in London until the 31st December, 1946. The Government of the United Kingdom shall notify to all other Governments represented at the Conference the names of the Governments on whose behalf the Accord has been signed.

Article 9

The Government of any other member of the United Nations, or of any country which remained neutral during the second World War, may become a party to this Accord by notifying the Government of the United Kingdom of its acceptance thereof before the 1st January, 1947. The Government of the United Kingdom shall inform all Governments represented at the Conference in London on German-owned patents, or which have accepted this Accord under this Article, of all acceptances so notified.

Article 10

Any Government, party to this Accord, may extend the Accord to any of its colonies, overseas territories, or to any territories under its protection or jurisdiction or which it administers under mandate, by a notification addressed to the Government of the United Kingdom.

The Government of the United Kingdom shall inform all other Governments, parties to this Accord, of any notification which it receives under this Article.

Article 11

This Accord shall come into force as soon as it has been signed on behalf of the Governments of the French Republic, the United Kingdom, the United States of America and of four other Governments.

IN WITNESS WHEREOF the undersigned duly authorized thereto have signed the present Accord.

Done in London this 27th day of July, 1946, in English and French, the texts being equally authentic, an original copy of each to be deposited in the archives of the Government of the United Kingdom, and a copy of the text in English to be transmitted by the Government of the United Kingdom to all Governments represented at the Conference in London on German-owned patents, and to all Governments entitled to become a party to this Accord under the provisions of Article 9.

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LM 117 Reel 33 0037

WAR DEPARTMENT
STAFF MESSAGE CENTER
OUTGOING CLASSIFIED MESSAGE
RESTRICTED

gvt
DEC 28 1947
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PARAPHRASE NOT REQUIRED. HANDLE AS RESTRICTED CORRESPONDENCE
PER PARAs 511 and 60a (4) AR 380-5

Civil Affairs Division
Mr Stephenson Ext. 71259

17 December 1947

OMGUS Berlin Germany

INFORMATION:

HQ EUCOM Frankfurt Germany

NUMBER: WARX 92535

From CSCAD cite Econ.

Reported here that prewar German patents outside Germany may be used to bar German exports which would contribute to European recovery. How seriously do you regard this problem?

Specs Request
Possibility being considered of effort to obtain agreement Ewp countries to extend privileges London Patent Accord to German nationals. What patent rights or other inducements in nature of trade privileges in western zone Germany could be held out to Ewp countries if necessary to secure their compliance? Is there anybody of German govt owned or controlled patents similar to those covered by London Patent Accord.

End

ORIGINATOR: CAD

DISTRIBUTION: CAD (State), OUS, PO

CM OUT 92535

(Dec 37)

DFG 1801052

RESTRICTED

Anal	Rev	Dist
<i>ll</i>	<i>ll</i>	<i>ll</i>

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882,842/12-1747

CSM

682-500/12

LM 197-33-626

INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH
DEPARTMENT OF STATE

127 AUG 10 PM 3 26

FROM LONDON
DATED AUG. 13, 1947
RECD ~~Aug. 19, 1947~~
10:35 AM

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SECSTATE WASHINGTON

A-1775

UK-Germany; accord on German-owned patents.

FROM LE
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UK FONOFF by letter dated Aug. 12, 1947, furnished following replies to 4 questions contained in Dept's Airgram No. 507 of May 5, 1947:

1) The Accord remained open for signature from 27th July until 31st Dec. during which time it was signed by the under-mentioned countries. Unfortunately I cannot give you the dates of all the signatures because it is not the normal practice to have these signatures dated:

The United States	July 27, 1946
The United Kingdom	" " "
France	" " "
The Netherlands	" " "
Belgium	No date
Canada	" " "
Czechoslovakia	" " "
Denmark	" " "
Luxembourg	" " "
Norway	" " "
Union of South Africa	Nov. 30, 1946

2) The following countries adhered to the Accord under Article 9. Our Library have no record of the dates of origin of the instruments of acceptance, but I give below the dates of deposit of their instruments

	1946
Bolivia	Dec. 13
Chile	Dec. 31
Dominican Republic (ad ref.)	" "
Ecuador (ad referendum)	Dec. 28
Guatemala (ad referendum)	Dec. 31
India	Nov. 4
Iran	Dec. 31
Iraq	" "
Lebanon	" "
New Zealand (inc. West. Samoa)	Nov. 21
Nicaragua (ad referendum)	Dec. 9
Paraguay (ad referendum)	Dec. 31

poland/

DECLASSIFIED
ON 11/22/00 BY 381 AND 507 OF (P)
AND 7/2/00 BY 381 AND 507 OF (P)

[Handwritten signatures and initials]

LM 197
Bed 24
Frame 57

London A-1775
August 13, 1947

UNCLASSIFIED

-2-

Poland
Syria (ad referendum)
Turkey
Venezuela (ad referendum)
Yugoslavia

1946
Dec. 31
Dec. 31
Dec. 30
Dec. 23
Dec. 30

3) Under Article 10 the Accord has been extended to the following Colonies and territories under British administration:

British Guiana
British Honduras
Ceylon
Falkland Islands
Gold Coast
Jamaica
Kenya
Malta
Newfoundland
Nigeria
Northern Rhodesia

Nyasaland
Palestine
Sarawak
Singapore
Southern Rhodesia
Tanganyika Territory
Trinidad & Tobago
Uganda
Windward Islands
Zanzibar

4) The Accord came into force under Article 11 on November 30th, 1946.

FCNOFF states delay reply was "due to difficulty in collecting this information and..... we cannot even now give you all that you require."

CLARK

Harrison/cm

UNCLASSIFIED

324

LN 197
Recd 34

Fitzpatrick
DI 8515, x365

Press Release
APC-30

Office of Alien Property Custodian
Washington 25, D. C.

For Release After 2:30 P.M.
Friday, March 22, 1946

Alien Property Custodian James E. Markham today took steps to assure American scientists of access to German wartime scientific developments by seizing existing German copyright interests in all German publications issued from 1939 to 1945.

The announcement of the seizures was made this afternoon at the opening of an exhibit at the Library of Congress showing enemy scientific journals and books republished under the APC's program. Through the republication, involuntary contributions of German scientists materially aided the allied war effort.

Mr. Markham explained the action was taken to make certain that basic American research needs could be satisfied in the future by reproduction in this country of German books and journals, where original copies were not available from abroad. The Custodian said that after the last war, American scientific and other research personnel were unable to obtain German books and periodicals for study because only limited editions were published in Germany during the war. In the absence of such a vesting, copyright statutes would in many cases prevent the reproduction of the materials, he added.

The need for reproduction of enemy materials is greater now than after the last war, Mr. Markham pointed out, because editions of the materials were limited in Germany and many volumes were destroyed by military activity.

The vesting followed the recommendations of a number of American scientific and library groups, Mr. Markham said. The American Library Association formally adopted a resolution recommending that the APC "seize all copyrights in publications of enemy origin issued during the period from 1939 to 1945 and that in order to advance republication, reprinting and dissemination of publications of enemy origin due consideration be given to continuance of licensing designed to foster such reproduction," Mr. Markham continued. The American Association of Research Libraries also asked that all such rights be vested.

Licenses to reproduce material in which copyrights were vested will be granted on a basis designed to encourage republication. Details may be obtained from the Office of Alien Property Custodian, Washington 25, D. C.

December 9, 1948

MEMORANDUM FOR FILES

Subject: German Patents and Trade Marks.

In connection with the recent French request for an international conference to discuss patents and trade-marks both inside and outside Germany, I asked Mr. Dixon of IR what are the chief pending questions in this field which are of interest to the United States. He listed them as follows:

1. Disposition of German trade-marks which have been vested in foreign countries. This has already been the subject of a conference in London. A proposed international "Accord" has been prepared, and it is hoped to discuss this agreement with other countries in the near future.
2. Reciprocal patent and trade-mark rights between Germans and foreigners. This is a subject of particular concern to CMGUS which is anxious to establish an agreed and equal basis for the treatment of German patent owners abroad and foreign patent owners in Germany. There seems to be no opposition in principle on the part of other countries, but it will be necessary at some point to have discussions on how the matter can be worked out. The principal rights in question are the "priority" rights, by which the applicant for a patent in one country will receive a priority on his application in a second country, if that application is made within a certain period.
3. Proposed International Patent Office. This is a plan favored by France and the Benelux countries, according to which there would be located at The Hague a consolidated office to conduct, on behalf of the participating countries, the research work necessary to determine the novelty of patents requested in current applications. The other countries seem to be afraid of a security danger if Germany is allowed to retain its prewar superiority in this field. CMGUS is reluctant to accept the idea.
4. Revival of foreign rights in patents and trade-marks in Germany. This is the question of reinstating rights which lapsed or were terminated during the war. It also includes the problem of extending the rights for a period equivalent to the period of loss, and the problem of compensating the owner for royalties which accrued while he was deprived of the rights.

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5. Treatment in Germany of German-owned patents and trade-marks which have existed abroad and are the subject of the London Patent Accord and the proposed trade-mark accord mentioned in paragraph 1. The French maintain that these subjects are closely related and should be discussed together, but CMGUS feels it may be desirable to continue certain trade-marks in Germany, even though the same marks have been suppressed abroad.

John W. Auchincloss

cc: Mr. Lewis

10
W. Auchincloss:ifa

LM 197
Reel 35
91-2

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2-16
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Pact 35
LM 497
L64 W7

From
536 Slater
Secretary of Bipartisan Economic Panel

5th April 1967

MEMORANDUM

The Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, has submitted a report to the Secretary of the Panel. The report is attached to this memorandum.

1. The report contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.
2. The report also contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.
3. The report also contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.

LM 197
Ref: 35
661-2

5th April 1967

MEMORANDUM

The Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, has submitted a report to the Secretary of the Panel. The report is attached to this memorandum.

- a) The report contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.
- b) The report also contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.
- c) The report also contains a summary of the views of the Working Party on the subject of the 17th section of the Finance Act 1963, the extension of the U.S. tax credit to the United Kingdom, and a recommendation that the Government should consider the possibility of extending the U.S. tax credit to the United Kingdom.

300627

From

J.E. Slater

Secretary of Bipartite Economic Panel

This is suggestion Giroux ready for Working Party on T.M. & P. agents

LM 197
Rec 135
661-2

DEPARTMENT OF STATE

FOR THE PRESS

FEBRUARY 27, 1947
NO. 150

The Department of State today announced that the Accord on the treatment of German-owned patents which was reached at a twelve-nation conference at London in July 1946 has come into force. A total of twenty-eight governments signed or accepted the Accord before January 1, 1947.

Under the terms of the Accord, it was to come into force upon signature or acceptance by January 1, 1947 of France, United Kingdom, the United States, and four other countries. In addition to France, United Kingdom and the United States, the other countries which signed or accepted were: Belgium, Canada, Czechoslovakia, Denmark, Luxembourg, Netherlands, Norway, the Union of South Africa, New Zealand (including Western Samoa), India, Bolivia, Chile, Dominican Republic, Ecuador (ad referendum), Guatemala (ad referendum), Iran, Iraq, Lebanon, Nicaragua (ad referendum), Paraguay (ad referendum), Poland, Syria (ad referendum), Turkey, Venezuela (ad referendum), and Yugoslavia. The Accord also applies to Newfoundland and Southern Rhodesia, and to the following territories: British Guiana, British Honduras, Gold Coast, Kenya, Nyasaland, Sarawak, Singapore, Trinidad and Tobago, Uganda and the Windward Islands.

The general effect of the Accord will be to make available to the nationals of all participating governments full rights to use, without the payment of any royalties, all former wholly German-owned patents issued by those governments, subject to the protection of existing rights lawfully acquired by non-Germans. The number of patents which will be affected by the Accord is known to be well above 100,000. Licensing of these patents under the provisions of the Accord will remove a possible impediment to international trade which would have arisen had the interested governments licensed these patents on an exclusive basis. The Accord is also consistent with policies already put into effect by the Office of Alien Property Custodian.

The Accord also provides for the interchange of such information acquired in the enemy territories as is required to effectively work the patents through a central office which France will establish, to provide facilities for receiving and disseminating reports and information pertaining to the German technological situation from governments which are participants to the Accord, and for notifying those governments of matters of common interest under the Accord.

The text and a brief description of the Accord were released previously in State Department release No. 546 of August 5, 1946.

LM 197 Reel 3
Page 854

02.27.46
Draft Accord on the Disposition of German Trade-Marks

Article 1

Subject to other provisions of this Accord, each signatory Government undertakes that all German trade-marks in its possession or control, or capable of being placed in its possession or control under its laws and regulations relating to German-owned property, shall be effectively prohibited from further use within its jurisdiction.

Article 2

In any case in which a signatory government determines that its system of law prevents it from effectively prohibiting further use of a trade-mark subject to the terms of Article 1 which is used in its jurisdiction by a company owned or controlled by such government, the provisions of Article 1 shall not be applicable to such trade-mark in the jurisdiction of any signatory government which takes adequate measures to ensure

that any company owning or controlling such trade-mark within its jurisdiction shall not thereafter enforce its rights under such trade-mark as against any company owning or controlling the same trade-mark, subject to the terms of this accord, in the jurisdiction of another signatory government, and

that any use of such trade-mark within its jurisdiction shall require such trade-mark with additional identification which will distinguish his product from that of other authorized users of such trade-mark.

Article 3

Article 3

Each signatory government undertakes, upon application of the appropriate agency of the British, French or United States Zones in Germany, to permit the use of a trade-mark subject to the provisions of Article 1 of this Accord for a reasonable period in connection with experts from such Zones provided such trade-mark is used in conjunction with another trade-mark for the purpose of establishing such other trade-mark for an undertaking, however, shall not apply to any mark used to identify products of local manufacture to which the provisions of Article 1 are applied.

Article 4

The obligations of Articles 1 and 2 shall not extend to a trade-mark which exists within the jurisdiction of only one signatory government.

A trade-mark originated by a company lawfully controlled by a signatory government which at the time of the coming into force of the Accord is used within its jurisdiction of the signatory governments only to identify the products of such company.

Article 5

Nothing in this Accord shall be applied to diminish any proprietary rights or rights of use in a German trade-mark which were lawfully acquired by non-Germans prior to the coming into force of this Accord.

Article 6

Nothing in this Accord shall be applied to diminish any proprietary rights or rights of use in a German trade-mark which were lawfully acquired by non-Germans prior to the coming into force of this Accord.

LM 197
Reel 35 E 888-91

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belonging to companies organized under the laws of Germany in which companies there is a 50 per cent non-German share interest or in which there is non-German control acquired prior to the war.

Article 7

For the purposes of this Accord, each Government may treat as non-German those trade-marks belonging to persons in special classes (such as Germans residing outside Germany, German refugees, etc.) whose property that Government has exempted or may in the future exempt from its laws and regulations relating to German-owned property.

Article 8

In order to carry out the purposes of Articles 2 and 3 of this Accord and to provide for the interchange of information through a central office, the Government of _____ will provide facilities for receiving and disseminating reports from signatory governments and for notifying these governments of matters of Government interest under this Accord.

Article 9

The signatory governments agree that the prohibition against use referred to in Article 1:

a. May be carried out by each signatory government by such means as it considers appropriate;

b. Shall not be construed as preventing a token use of trade marks if such token use is considered by a signatory government to be essential to achieve the objective of Article 1.

c. Shall not be construed as preventing the use, for a reasonable period of any trade-mark in conjunction with a new trade-mark, for the purpose of establishing such new trade-mark.

Article 10

For the purposes of this Accord:

A German trade-mark is any trade-mark or company or trade name which was owned or held by a German national before December 31, 1946. For the purposes of this definition, a German national is understood to include any company more than 50% German-owned.

The jurisdiction of any government shall comprise all areas, including colonies and territories, to which the trade-mark law of such government applies.

Article 11

This Accord shall supersede any prior agreement concluded between any of the signatories to the extent inconsistent therewith, but shall not affect the obligations under any prior agreement with a government not a party to the present Accord.

Article 12

Retification provision

Article 13

This Accord shall come into force when it has been adhered to or signed by the Governments of the French Republic, the United Kingdom, the United States of America and _____ other countries.

MEMORANDUM

The Department of State refers to memorandum No. 43 from the French Embassy dated January 31, 1949 in which the Embassy requested the Department's views regarding the interpretation of Article 4 of the London Patent Accord.

The purpose of Article 4 of the London Patent Accord is considered by the United States Government as follows:

A. In the event an Alien Property Custodian had vested a German patent and had disposed of such patent or issued some license on the patent before August 1, 1946, such disposal or license need not be upset.

B. In the event some interest had been granted by the former German owner to a non-German before August 1, 1946, that interest might be observed and protected.

FOR
RECORD

12/25/49

LM 197
Reel 35
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In situations where the United States Government has acquired whatever residual rights remain in a patent which this Government has not liquidated, such as in the case of the honoring of the existing non-exclusory rights. However, upon the termination or expiration of such non-exclusory rights, these patents are deemed to be German and made available for non-exclusive, royalty-free licensing in accordance with Article 1 of the Accord.

It is considered that such treatment is consistent with the provisions of Article 4 of the Paris Agreement on Reparations, January 10, 1946, which provides that German assets shall be disposed of in a manner which will permit their return to the governments of the countries of origin.

Department of State
Washington, D.C.

100031

LM 197
Rev 35
F 169-70

RECORDS DIVISION
SEP 16 1948
DEPARTMENT OF STATE
INTERNATIONAL CHAMBER OF COMMERCE
International Headquarters
38, Cours Albert Ier, Paris, VIII

Document No. 8293 for
4.VI.1948 - cl.

68th SESSION OF THE COUNCIL
(8th June, 1948, 10 a.m. and 3 p.m.)

SUGGESTED TREATMENT OF GERMAN TRADE MARKS OUTSIDE GERMANY (c)

RESOLUTION
adopted by the

Commission for the International Protection of Industrial Property
at its meeting of June 3rd, 1948.

The Commission for the International Protection of Industrial Property of the I.C.C. reaffirms its anxiety to see a return as soon as possible to normal conditions for the international protection of industrial property and proposes for the consideration of the Governments concerned the following recommendations with respect to German owned trade marks:

1. Uniform treatment of German owned trade marks registered outside Germany appears desirable.
2. It is recommended to restore to the former German owners trade marks owned by them outside Germany and which are not well-known.
3. In the case of such trade marks which are well-known, it is also desirable to restore them to the former German owners subject to due compliance with the conditions laid down by the respective national laws.
4. The application of the provisions of Paragraphs 2 and 3 hereof shall be without prejudice to the rights of non-German nationals in the said trade marks provided it be established that they are the real owners of the said marks or that they control the companies in whose names the said marks are registered.
5. The recommendations in the preceding paragraphs shall not apply to German trade marks which have already been disposed of and now belong in good faith to third parties.
6. An International Commission should be created for the purpose of providing for such exceptions to the above rules as may be advisable.

DECLASSIFIED
E.O. 11652, Sec. 3(E) and 5(D) or (F)
Authority: NND 760050
By: NARS, Date: 7/99



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National Archives and Records Administration

7. Applications and registrations for trade marks made in the territories of the countries interested in the names of German nationals and corporations between September 3rd, 1939 (so far as December 31st, 1946 should be deemed null and void and consequently removed from the Register. In this connection, international registrations by German nationals or corporations should be treated the same way as the aforementioned national registrations.

(o) The attached recommendations were unanimously adopted by all the delegates present, with the exception of those from Czechoslovakia and the Netherlands who abstained from voting.

(oo) The Commission guided in this respect by the decisions taken at the Neuchatel Diplomatic Conference of 8th February, 1947, recommends to the consideration of the Governments concerned the special circumstances attending Czechoslovakia and suggests that where 3rd September 1939 is mentioned above it should be replaced as regards Czechoslovakia by 17th September, 1938.

LM 147
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Reel 34

PAYMENTS ACCORD AND PROTOCOL.

ORIGINAL ACCORD.

Signatory Powers

Belgium
Canada
Czechoslovakia
Denmark
France
Luxembourg
Netherlands
Norway
South Africa
United Kingdom
United States

Accepting Powers

New Zealand
India
Bolivia
Chile
Dominican Republic
Ecuador
Guatemala
Iran
Iraq
Lebanon
Nicaragua
Paraguay
Poland
Syria
Turkey
Venezuela
Yugoslavia

ADDITIONAL PROTOCOL

All the Original Signatory Powers have accepted the Protocol. Of the Accepting Powers the following have not yet signified acceptance:

Yugoslavia
~~Nicaragua~~
Chile
Poland

Note:-

Chile has very recently notified her intention to withdraw from the Accord and Protocol. The position of Nicaragua cannot be clarified until relations between His Majesty's Government and the Nicaragua Government have been restored. Yugoslavia has certain objections to the amendments contained in the Protocol, and it seems unlikely that the Yugoslav Government will accept the Protocol. The Polish Government has also recently notified a difference of opinion about the terms of the Protocol.

Accepted by non-party countries:

Honduras
Ethiopia
Saudi Arabia
Korea
Cuba

Enclosure No 2 to despatch No 2579 of Nov. 17, 1947.
from the Embassy at London, England.

PROTOCOL

The Governments parties to the International Accord on German-owned Patents drawn up in London on 27th day of July, 1946:

Desiring to amend in certain respects the aforesaid Accord:

Have agreed as follows:—

ARTICLE 1

Article 3 of the International Accord on German-owned Patents drawn up in London on 27th day of July, 1946, shall be amended by the deletion of the words "regardless of where such products are manufactured" and the insertion of the words "provided that such products are manufactured in a country or territory to which the Accord applies," after the word "inventions."

ARTICLE 2

Article 9 of the aforesaid Accord is amended by the substitution thereof of the following paragraphs:—

"The Government of any other member of the United Nations, or of any country which remained neutral during the Second World War, may also become a party to this Accord by notifying the Government of the United Kingdom of its acceptance thereof before 31st July, 1947. The Government of the United Kingdom shall inform all Governments represented at the Conference in London on German-owned patents, or which have accepted this Accord under this Article, of all acceptances so notified.

"Any Government accepting this Accord between 1st January, 1947, and 31st July, 1947, undertakes that, in exercising the right provided for in Article 4, it will not protect or preserve rights or interests granted to or acquired by any non-German subsequently to 1st August, 1946."

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed the present Protocol.

Done in London this day of July, 1947, in English and in French, both texts being equally authentic, in a single copy, which shall remain deposited in the archives of the Government of the United Kingdom.

The Government of the United Kingdom shall transmit certified copies of this Protocol to all Governments represented at the Conference in London on German-owned patents and to any Government which has become or is entitled to become a party to the Accord under the provisions of Article 9 thereof, as hereby amended.

For the Government of the Union of South Africa:

For the Government of Belgium:

For the Government of Bolivia:

LN 197
#2

LN 197-24

LM 197
Reel 34

COPY

RESTRICTED

Principles suggested for dealing with
German trade-marks

1. Use of any mark which exists in two or more countries and is held in those countries by separate companies in which an Alien Property Custodian has vested German controlling interests shall, except as provided in paragraphs 2, 4 and 6, be prohibited in all signatory countries in which the mark is protected.
2. If prohibition as prescribed in paragraph 1 cannot be accomplished in accordance with the controlling statutory and constitutional provisions and administrative procedures of each signatory country, provision shall be made to ensure mutual waiver by the companies holding the marks of the right to enforce them against each other. Accompanying the use of marks in these cases, there would be an indication of source sufficient to prevent deception of the public.
3. Each signatory country undertakes to vest all other marks not referred to in paragraphs 1 and 2 which have also been vested or are capable of being vested in one or more of the other signatory countries. Use of all vested marks shall be subject to prohibition except as provided in paragraph 4.
4. Nothing in these proposals shall be applied to diminish any proprietary rights or rights of user in a mark which were lawfully acquired by non-Germans prior to
5. Each signatory country may treat as non-German-owned marks belonging to Germans in special classes (such as those residing outside Germany, refugees, &c.) whose property that country has exempted or may in the future exempt from its general law and regulations relating to German-owned property.
6. The delegations of the three powers should hold open, in reporting to their Governments, the possibility of agreement with respect to limited use of marks for exports from Germany at the request of the occupation authorities.

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7. The French and British delegations were of opinion that provision should be made to protect non-German interests in marks belonging to companies in Germany which were wholly owned or were controlled by non-Germans at the outbreak of war. The United States delegation express no opinion on the subject dealt with in this paragraph.
8. The French and British delegations also understand that the prohibition referred to may be carried out by vesting the marks in the Custodian, the vested marks not to be transferred, sold, or the use thereof authorised. The United States delegation express no opinion on the subject dealt with in this paragraph.
9. The French delegation is further of opinion that the principles set out above should be applied pending the conclusion of a Treaty of Peace and in order to establish, during the interim period, uniformity of treatment of German-owned trade-marks in the possession or control of the Allied and Associated Powers.

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January 15, 1948

Report of United States Delegation to Preliminary
Discussions on Treatment of
German Trade-mark Rights

The conference was convened at the British Patent Office, London, on December 3, 1947, pursuant to an invitation of the British Patent Office August 13, 1947 (Exhibit A), and the acceptance of the United States (Exhibit B) and of France.

The United Kingdom, in its invitation, outlined the general purposes of the conference, and the United States in the interval between the invitation and the date of the conference developed a position to be advocated by the United States delegation. This position is set forth in full in (ECEFP D-136/47) and constituted the instructions of the delegation.

The following representatives of their respective governments were present at the convening of the conference.

UNITED KINGDOM

Sir Harold Saunders - Comptroller General of Patents,
British Patent Office (Conference
Chairman)

Mr. B. G. Crewe - Assistant Comptroller

Mr. S. E. Chisholm - Assistant Comptroller (Trade-marks)

Mr. H. W. Clarke - Secretary

FRANCE

M. Billecoq - Foreign Office (Delegation Chairman pro tem) 1/

M. Raynal - Patent Office

UNITED STATES

1/ As indicated below, M. Mathon, Comptroller of the French Patent Office, subsequently joined the French delegation as Chairman.

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UNITED STATES

Mr. Lawrence C. Kingsland - Commissioner of Patents
(Delegation Chairman)

Mr. Roger C. Dixon - Department of State

Mr. Max Isenbergh - Department of Justice

Observers:

Mrs. Minahan - U.K. Foreign Office

Mr. Ellis - U.K. Trading with the Enemy Department

During the first session, Mr. H.W. Monroe (British Military Government, Germany) attended the conference as observer, and at the second session, December 4, 1947, Mr. Emile Vander Stucken (OMGUS) attended in like capacity. At the fourth session, December 11, 1947, M. Mathon, Comptroller of the French Patent Office, joined the French delegation as chairman.

Six meetings were held. The first three, on December 3-5, were devoted primarily to exposition of the British and United States positions, criticism of them, and attempts to devise compromise proposals. The French did not advance any substantive proposals in this period. The British delegation originally advanced the position outlined in Exhibit A and further elucidated in Exhibit C. In brief, it called for the opening to general use of all German trade-mark rights, including those held by custodians. The British stated their belief that this was the simplest way of destroying such rights and preventing the resumption of exclusive rights in them by the Germans, or the acquisition of such rights by anyone else. They clearly had the additional motivation of opening to British producers export markets formerly German-dominated.

This proposal was criticized by both the French and United States delegations on the ground that it would produce one of two possible results, either of which was objectionable: (1) If the marks would in fact be used

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ty great numbers of enterprises which formerly had no association with them, there would be widespread deception of the public. The British recognized this shortcoming of their position, but felt that it could be at least partially controlled. (2) On the other hand, if the marks, upon being opened up to all, would in fact be rendered valueless and as a practical matter not usable by anyone, the proposal would be impossible of effectuation in many cases in the United States because of statutory and constitutional barriers, particularly where the problem of minority stockholders was entailed. The French made the further criticism that the British proposal would be contrary to established trade-mark doctrine.

The United States position, advanced as set forth in ECEFP D-136/47, was criticized by the British mainly on the ground that, being limited to cases in which multiple ownership was involved, it would leave unaffected the majority of German marks. The French agreed with this criticism, emphasizing, as did the British, the belief that any proposal for an international accord would not be sympathetically received unless it was comprehensive in its application.

At the end of the third meeting the British stated that they were ready to go along with our proposal for concurrent use of marks by the present owners in cases in which prohibition of use cannot be effected, if it could be broadened so as to admit to concurrent use certain British companies which had been given the right to use German marks during the war. They explained that, under Section 3 of the Patents Emergency Act of 1939, they had granted this right for a limited period of two or three years for the purpose of establishing new marks. This was done in some 60 instances (mostly in the drug field) in which the product had been marketed in Britain by the Germans before the war and in which there was no adequate substitute name immediately available. They asked that consideration be given by the other delegations before the next session to broadening of concurrent use in this or any other manner so as to make it acceptable to them.

The conference was adjourned from December 5 to December 11 to enable the French to consult with their Government.

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The second three meetings were held from December 11 - December 13. At the start of the first session, the British introduced a new proposal (Exhibit D). It was similar to their original position in being directed mainly to the problem of the large body of "loose" marks existing in Europe. It did not, however, repeat the earlier British proposal of general opening up of marks, owing to the combined French - United States opposition in the first three days of the discussions, and advanced instead a program for general suppression of marks without reference to the existence of multiple ownership. The anti-cartel aspects of the proposals of the United States delegation had no apparent influence on the British formulation. Moreover, the problem of preserving legal rights of non-German minority stockholders in vested corporations holding trade-marks was dealt with merely as one aspect of protection of "third party rights". Further, the formula for "third party rights" gave more protection to non-German interests in corporations located in Germany than accords with the established policy of the United States. The delegation of the United States had no alternative but to reject this proposal. The French stated that they also had objections, but did not state them specifically.

It is believed that the British proposal to treat the minority stockholder problem in this manner was motivated mainly by their examination of a sample list of marks furnished them by the United States delegation comprising some of those under the control of the Office of Alien Property. In this examination, they discovered few cases of multiple ownership as between the United States and Britain, and apparently drew the conclusion that they would receive little benefit from operation of concurrent use. The United States delegation stated that there was no basis for assuming that the list provided was a representative one and requested the British to defer final judgment until a complete list should be available.

In view of this development, the United States representatives agreed to provide the British and French

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with a complete list of marks controlled by the Office of Alien Property which would be involved in this proposal, as soon as possible after their return to this country. The other two delegations assumed a like undertaking to provide needed information on the status of German trade-mark rights within their jurisdictions.

The French then proceeded to an outline of their position for the first time. They stated that they desired to see prohibition of use of all German marks, with the exception of those in which third-party rights were involved. Such prohibition would be enforced by custodians pending the conclusion of a peace treaty with Germany, at which time ultimate disposition of the marks would be determined. They were motivated partly by the desire to prevent the use of any prewar trade-marks by Germans, basing their argument for this squarely on Article 6A of the Paris Reparations Accord.^{2/} They pointed out that there were over 30,000 German trade-marks in existence in France, most of which were international registrations under the Madrid Arrangement.

The French also clearly desired to prevent the re-activation of German marks, whether in German or Allied hands, in competition with newly-developed French marks in export markets.

The French stated that, if there were a general provision calling for prohibition of use of German marks, they would be willing to accept the United States proposal on concurrent use, in the interest of reaching an agreement. (A fuller statement of the French position, which the French delegation undertook to make available after the conference adjourned, has not yet been received.)

The British likewise indicated their willingness to accept the concurrent use proposal. While doubting its value, they recognized its acceptance to be necessary in order to obtain agreement, in the light of our constitutional and statutory difficulties which prevent in this country any program for uniform treatment of all marks.

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^{2/}"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...."

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With respect to loose marks, both the British and French favored a program of comprehensive vesting coupled with prohibition. The position of the United States was that vesting trade-marks of no economic importance would impose heavy administrative burdens, and that on the other hand, if a loose mark were of significant value, there would be no object served in destroying it unless destruction affirmatively promoted some national policy. Paragraph 3 as finally drafted is a compromise between these two positions. By excluding marks which exist in only one of the signatory countries, it limits the obligation to vest marks which have been important enough to have been comparatively widely used in German export trade and consequently goes far toward the American objective of avoiding administrative labor in insignificant cases.

Throughout the discussion the French consistently refused to agree to any provision which would permit use of old German marks by the occupation authorities on present German exports. Both the British and the United States delegations made it clear that no more was contemplated than a limited use, upon the request of the occupation authorities only, and in a manner which would prevent any reacquisition of rights by the former German owners, such as waiver by vesting authorities as the owners of the marks of their right to exclude products bearing the marks. The French were unwilling, however, to give the proposal further consideration unless they could know specifically the categories of goods to which it would apply.

Owing to this strong French opposition and to the fact that the problem is primarily a short-run one somewhat apart from the main problem of the disposition of vested German rights, it was agreed that no recommendation would be made on the subject by the conference. Paragraph 6 of the "Principles" was accordingly drafted to reflect this outcome.

At a very late stage of the discussions, the French delegation placed great emphasis upon their recommendation that all of the proposals should be effective only pending

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the conclusion of a peace treaty and should be for the purpose of "regulating in the interim period the use of German trade-marks in the possession or control of Allied or Associated Powers". They based their argument on experience under the London Patent Accord, stating that non-adherence to the Patent Accord by a significant number of countries had placed the signatories at a disadvantage. They believed that, because of this experience, few countries would adhere to a trade-mark accord unless it were made conditional on inclusion in the peace treaty of a general provision prohibiting use by Germans of their old marks in foreign markets. For example, a provision imposing upon individuals and enterprises in Germany the obligation to suppress marks in other countries in which their ownership is still recognized would permit the principles of the accord to be extended to countries which were not signatories.

This proposal was rejected by both the British and the United States delegations. The American delegation made clear their feeling that the value of the proposed recommendations, particularly those relating to the multiple ownership problem, would be largely negated by making them provisional in this manner. While they perceived no objection to provisions in a peace treaty with Germany which would confirm or enlarge the application of a prior accord on the subject, they felt that to the extent that countries could now agree on a program for treatment of German trade-marks, the agreement should be unprovisional in order to permit the signatories to make final dispositions of German trade-marks as soon as possible. Accordingly, the French made a unilateral statement on this subject. (See paragraph 9.)

The provisions of the "Principles" formulated by the conference thus contain the main essentials of the program adopted by the Executive Committee on Economic Foreign Policy. Paragraphs 1 and 2, with the comparatively minor exceptions noted below, contain in their entirety the United States position with respect to the solution of the multiple ownership problem. While no provision parallel to paragraph 3 is contained in the United States program, this provision is not inconsistent with the general approach adopted by the Executive Committee. Although no agreement

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was reached on the difficult subject of use of prewar marks on German exports, the United States position is not prejudiced by paragraph 6, and the way is left open for later resolution of this problem.

Notes on the "Principles"

Paragraphs 1 and 2 reflect the position which the United States delegation was instructed to advance to solve the problem of multiple ownership and prevent the preservation of marks of potential utility in establishing or renewing cartel agreements. It should be noted that the case in which a mark is held by a company within Germany and one company outside is not covered by either paragraph. The conference attempted to deal with this problem but decided, with respect to paragraph 1, that the question of whether marks prohibited outside Germany should also be prohibited within must await clarification of the general treatment of trade-marks within Germany. The British delegation agreed with the United States position that it would be preferable to suppress marks within Germany whenever suppression would be called for within the signatory countries, but felt that it was impractical to attempt to get agreement on such action at this time.

In connection with paragraph 2, the British and French categorically rejected the proposal that firms within Germany should be permitted to participate in concurrent use, a proposal advanced by the United States delegation in the hope that it would solve or contribute to the solution of the German export problem. Neither wished to see German firms regain benefits from their trade-marks to this extent.

Paragraph 3 was regarded by the British and French as the most important in the document. In their view paragraphs 1 and 2 merely represented exceptional instances of what they considered to be the more general problem. They pressed the American delegation to agree to a reformulation of the "Principles" with paragraph 3 stated first, and paragraphs 1 and 2 explicitly labeled as special cases. The American delegation rejected this

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proposal, pointing out that it was the cases comprehended by paragraphs 1 and 2, involving as they do cartel problems and the marks of greater economic importance (although not the greater number of marks), which shaped the views of the Government. To put the paragraphs dealing with the marks of major significance to the United States in a subordinate position would so much distort the United States view as to mislead the other countries which may be invited to a larger conference. At the close of the conference, the British, although acceding to our view, asked that this Government further consider giving paragraph 3 the major emphasis. They argued that other countries would be more favorably disposed to participate in an international accord if such emphasis were given to paragraph 3.

Paragraph 4, merely assuring that non-enemy interests will not be prejudiced, and Paragraph 5, following Article 5 of the London Patent Accord, need no comment.

Paragraphs 7 and 8 deal with matters which the United States delegation believed to be outside the scope of their instructions.

Paragraphs 6 and 9 have been fully described above.

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No. 14735

POLITICAL DIVISION
FEB 10 1947
FEB 19 1947

INTERNATIONAL AFFAIRS SECTION
USPOLAD, BERLIN
POLITICAL DIVISION

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Via Airmail Pouch

Bern, February 19, 1947

Subject: London Accord on German Patents

The American Minister at Bern has the honor to transmit as enclosure No. 1 a translation of an article entitled "Seizure of German Patents" which appeared in the January 25, 1947 issue of the Gazette de Lausanne, and which was written by the newspaper's special correspondent at London, P.-L. Kent. This article is the first to appear in a Swiss newspaper with respect to the relationship of Switzerland to the London Accord on the disposition of German patents.

Particular attention is invited to the circumstance that the correspondent for this Swiss newspaper chooses to describe as "pillage" the effort of the Allied Governments to make available on a non-discriminatory basis the results of German research and German patents to the end that world commerce may be freed from German dominance and control.

Attention is equally invited to the correspondent's statement that Switzerland "has not yet been officially invited to adhere" to the London Patent Accord. It will be recalled that an invitation was extended by the British Legation at Bern on October 3, 1945 in conformance with Article 9 of the London Patent Accord. This fact has not, however, been made public by the Swiss Government.

854 - Patents

Enclosure:

Translation of Newspaper Article dated January 25, 1947.

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Original and hectograph to the Department
Two copies to USPOLAD, Berlin
One copy to American Embassy, London
One copy to American Embassy, Paris.

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of the original
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Enclosure No. 1 to despatch No. 14735, dated February 10, 1947,
from the American Legation, Bern.

COPY

GAZETTE DE LAUSANNE
January 25, 1947

Seizure of German Patents
(From our Special London Correspondent)

While the attention of the world was directed toward the destruction of German cities and industries and toward the removal of industrial plants, a systematic pillage was carried out in Germany and will have profound and lasting consequences. This was the confiscation by the Allies of all German patents and secret processes, which, in the last instance, made up Germany's economic importance.

The fact is that today 70,000 German patents and a great number of special formulas have been treated as booty of war and have become the joint property of the Allied powers. Before the end of the war the Anglo-American institution called CIOS (Combined Intelligence Objectives Subcommittee) had entered Germany immediately behind the combatant troops. After the war English and American committees replaced this organization and worked in close collaboration. In this framework ten thousand technicians and scientists, divided up in three thousand teams, conducted research in ten thousand factories and offices, confiscating documents, patents, blueprints and interrogating specialists and technicians. They carried off a good number to England. The number of discoveries which remained secret is not known but it is known that in addition to the patents, photographs of which could be obtained by anyone for an average of sixpence, 1400 reports relative to this research have been published. Although 450,000 copies of these reports were sent to libraries and institutes, while a further 490,000 were acquired by manufacturers, inventors and other interested parties, the British authorities estimate that British industry has not yet taken sufficient advantage of the opportunities thus offered. Consequently, Sir Stafford Cripps has had a special exposé prepared which he says "Concerns our own efforts to increase production and our ability to compete on world markets".

In this prologue the Trade Minister invited little industries which do not have their own research service, to take advantage of this opportunity to acquire information. He also announced that a special office would supply translations of German documents not mentioned in the publications already cited.

Even non-Allied countries can acquire these reports of experts through the official British printing office. This is very important for Switzerland. With regard to the right to utilize German patents and processes, your correspondent has not yet been able to obtain official information; however, British citizens are able to use them free of charge. Apparently the same situation will obtain in all countries which adhered to the patent agreement two months ago. Switzerland, like all other countries, was informed about this agreement, but has not yet been officially invited to adhere.

Sir Stafford stated, moreover, that he had not yet been able to announce to the Patent Office the names of the non-Allied countries desiring to use the former German patents.

Nothing

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No. 14785

Nothing prevents Swiss nationals from acquiring the publications concerned and from thus obtaining an idea of the progress made in Germany during the war in all fields of interest. It is not devoid of interest to know that the Anglo-American research has been extended not only to the zones of these two countries but even to areas dominated by the Germans in occupied countries, as well as to Italy and Austria.

In conclusion, Sir Stafford Cripps stated that it is not yet known whether the German patents and processes seized by the Allied powers will be credited to the reparations account.

- P.-L. Pent

Translation: JRobertson

← what ever happened w/ this

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No. 88

American Legation, Vienna, Austria
March 14, 1947.

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PROPOSED/AUSTRIAN PATENT LEGISLATION

Prepared by Michael R. Gannett, American Vice Consul.

(Reference Department's circular, unrestricted instruction, file 800.842/18-1646 dated December 16, 1946)

Introductory Note

Between Austria's liberation in April 1945 and mid-March 1947 the Austrian Federal Government had not yet enacted legislation to replace the German provisions for patent matters, although proposed patent legislation was pending in Parliament at the end of that period. Also, the policies to be followed by the Austrian Government with regard to patent rights acquired through the Nationalization Law of July 26, 1946 had not yet crystallized. It was therefore not possible in this report to provide adequate answers to all of the questions posed in the Department's circular instruction of December 16, 1946 entitled "Recent Developments in Patent Law and Its Interpretation". The Legation has consequently provided preliminary replies in this report and at a later date will submit a report containing more adequate coverage of the subject.

854

As a consequence of the assumption of control in Austria by Germany on March 15, 1938, the Austrian Patent Office ceased accepting new patent applications after May 15, 1938; and in accordance with a German decree of June 17, 1938 (Part I, No. 98, Reich Gazette for that date; text given in Report No. 1120 of June 30, 1938 from the American Consulate General at Berlin), the Austrian patent system was absorbed into the German on July 1, 1938. The Austrian Patent Office thus became known as the "Reich Patent Office, Branch for Austria". The operations of this branch office, limited to patents issued in Austria and to pending applications made to the Austrian Patent Office prior to May 15, 1938, were, however, in accordance with Austrian law and regulations. Upon its abolition, the Reich Patent Office assumed its functions and continued to process under Austrian procedures applications made prior to May 15, 1938. The Austrian Patent Court became a court under the jurisdiction of the Reich Ministry of Justice.

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Following the liberation of Austria in April 1945, the German patent laws and regulations then in effect were retained in accordance with the provisions of the Transitional Law of May 1, 1945, (published as Item 6 in the Federal Gazette of that date) and the Austrian Patent Office was re-established in accordance with paragraph 67 of the Transitional Law of July 28, 1945, (Item 94 in the Federal Gazette of that date). Also, the Vienna Commercial Court was given jurisdiction over patent disputes, in the law of October 3, 1945 concerning reinstatement of the Austrian Civil Code (Item 158 of the Federal Gazette of October 12, 1945).

Draft patent legislation pending in the Austrian Parliament in mid-March 1947 contained the following provisions:

- a) Repeal of existing German laws, decrees and regulations issued after March 12, 1938 and before April 28, 1945;
- b) Reinstatement of the Austrian laws, decrees and regulations in force on March 12, 1938, with certain amendments;
- c) Creation of a new patent register to consist of new patents issued and also patents from among the following groups, upon application by the patent holders:
 1. All patents granted to Austrians and non-Austrians on the basis of Austrian law, regardless of whether issued by the Austrian Patent Office, the Austrian Branch of the Reich Patent Office, or the Reich Patent Office (up to April 27, 1945) provided, however, that patents issued prior to March 13, 1938 were still valid on that date, the periods of protection afforded by patents had not expired by the time application was made for inclusion in the new register, and the patents had not been declared invalid;
 2. Patents granted to Austrians and non-Austrians prior to April 28, 1945, by the Reich Patent Office on the basis of German law, provided that applications for such patents were made subsequent to March 12, 1937 (only one of each two identical patents issued in accordance with Austrian and German law would be included in the new register);
 3. Certain fees for the second half of 1945, and for 1946 and 1947, would have to be paid prior to inclusion in the new register; fees due for previous periods would be waived; fees paid for previous periods would not be refunded;
 4. Claims arising for causes occurring after April 27, 1945 in connection with patents not included in (1) and (2) above, would not be honored;
- d) Pending patent applications submitted by Austrians and

non-Austrians

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non-Austrians under Austrian laws, decrees and regulations prior to May 18, 1938, would retain priority - upon re-submission to the Austrian Patent Office - as of the dates on which originally submitted;

e) Pending patent applications submitted by Austrians and non-Austrians under German laws, decrees and regulations subsequent to March 12, 1937, and before April 28, 1945, would retain priority - upon re-submission to the Austrian Patent Office - as of the dates on which originally submitted;

f) Disputes arising over ownership and use of patents, occasioned by differences in Austrian and German provisions and procedures, would be settled in court;

g) Provisions for certain exemptions from prosecution for violations of patent laws, decrees, and regulations, occurring between March 13, 1938, and the effective date of the proposed law;

h) German petty patents issued prior to April 28, 1945, in consequence of applications submitted after March 12, 1937 would be converted, upon application to the Austrian Patent Office and provided such petty patents meet the Austrian requirements for patents, into Austrian patent grants with effective dates as of the original dates of issue; and pending petty patent applications submitted to the Reich Patent Office between March 12, 1937, and April 28, 1945, could be resubmitted to the Austrian Patent Office as Austrian patent applications with priority as of the original dates of submission; the German petty patent provisions would be repealed without being replaced (Austria had no such provisions prior to 1938);

i) Patent and petty patent applications submitted subsequent to March 12, 1937 by Austrians and non-Austrians to other than the Austrian Patent Office, the Austrian Branch of the Reich Patent Office, and the Reich Patent Office, would - upon application to the Austrian Patent Office - be granted priority as of the dates of original applications; however, such applications to the Austrian Patent Office would be granted priority only to the extent that reciprocity by countries in which applications were originally submitted would be accorded to Austrians and to persons living in Austria, who had submitted patent and petty patent applications to the Reich Patent Office between September 1, 1938 and April 27, 1945;

j) A patent application based on a design or process which was published or utilized more than six months prior to the date of application, would not be honored;

k) A person claiming priority of invention must raise his claim within six months of the date of the application which he contests, in order for his claim to be honored; for the period within which claims to priority of invention may be raised against applications submitted to the Austrian Patent Office between August 13, 1945, and the effective date of the proposed law, see (g) below;

l) Persons

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- l) Persons who in good faith made use of methods covered by patents included in the proposed new register, or of methods covered by pending applications resubmitted in accordance with the proposed law, would be permitted to continue such use; but should such use greatly reduce the value of patents or patent applications, the users would then be required to pay license fees for continued use;
- m) Pending patent suits commenced under German provisions for revocation of patents or for compulsory licenses would have to be resubmitted under Austrian provisions;
- n) Patent applications submitted to the Austrian Patent Office between August 13, 1945 and the effective date of the proposed law, would - upon subsequent application - be considered applications submitted in accordance with the proposed law with dates of priority as the dates of original submission to the Austrian Patent Office;
- o) The Vienna Commercial Court would retain exclusive jurisdiction over patent violation suits only, and the Vienna Patent Court would be re-established with exclusive jurisdiction over all other patent litigation;
- p) The Ministry of Trade and Reconstruction would be granted supervisory powers for the administration of the proposed law and patent procedures;
- q) The deadline date for performance of acts provided for in paragraphs (c), (d), (e), (i), (k), and (n) above, would be set and announced by the Ministry of Trade and Reconstruction;

The date of March 13, 1938 used in paragraphs (c), (e) and (i) above, was chosen in order to assure to persons who submitted patent applications to the Reich Patent Office or to other non-Austrian patent offices at any time during the year prior to March 13, 1938 (on which date Germany assumed control of Austria) the full benefit of the twelve-month period, contained in most international patent conventions, within which to avail themselves of their priority rights, under Austrian patent laws and regulations.

The Austrian Patent Office contemplated that the Austrian Government would adhere to the London Revision of the International Patent Convention and had therefore incorporated in the proposed law certain minor amendments to the pre-1938 laws to conform with required provisions of that revision. It was the Austrian Patent Office's intention, however, to revive the former Austrian laws, decrees and regulations as soon as possible with only those changes considered most pressing, leaving to a later date such other reforms as might be considered desirable.

In the absence of Austrian legislation on the matter, the Austrian Patent Office had not issued any patent from the liberation up to the middle of March, 1947. The Patent Office had accepted applications, however, and conducted pre-

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liminary examinations of those received. During 1946 the Patent Office thus received 5,564 applications.

As a consequence of German control of Austria from 1938 to 1945, certain records of the Austrian Patent Office were removed to Berlin, most of which had not been returned by mid-March, 1947. The files of patents issued in Austria and abroad were quite complete up to 1938, but files subsequent to 1938 had yet to be completed. Negotiations for return of these records to Vienna from Berlin were in process between the United States Element, Allied Commission for Austria, and the Office of Military Government (United States) in Berlin. The Austrian Patent Office was still understaffed, although certain of the former key employees had returned to its service. Efficiency of the staff was reduced during the extreme cold of the winter months of 1946-47 owing to lack of adequate heating and lighting facilities for their offices. It was the intention of the Patent Office to continue the same standards for search as conducted prior to 1938, upon resumption of patent issuing. As indicated above, however, the Patent Office did not intend to resume issuing patents until new patent legislation had been enacted by the Austrian Parliament, and it was therefore impossible in mid-March 1947 to give an estimate of the length of time between application and issuance.

The only provisions applying solely or principally to foreigners contained in the draft law pending in the Austrian Parliament in mid-March 1947 or contemplated for inclusion in subsequent decrees and regulations, were reported to concern Germans and other ex-enemy nationals of the United Nations only. These provisions rose in connection with the term "German external assets" as used in the Potsdam Declaration of August 8, 1945, which provided that the reparation claims of the Soviet Union against Germany would be met in part from German assets located in Eastern Austria. As there was no agreement in mid-March 1947 on the definition of this term, it was then not yet possible to determine in what manner the Potsdam Agreement would affect German patent matters in Austria. The Austrian Patent Office therefore stated that, in accordance with the provisions referred to above, it intended, following enactment of the proposed law, to constitute its new patent register by groups according to nationality of patent owners; thus it would accept the applications of one nationality first, of another next, and so forth, arbitrarily accepting the applications of German nationals last in the hope that by their turn an agreed definition of "German external assets" would have been reached. The inclusion of other ex-enemy nationals of the United Nations in the German group apparently was for no particular reason other than to reduce the discrimination accorded German patent owners.

Of the 5,564 applications received by the Austrian Patent Office during 1946, 632 (11.4%) were submitted by non-Austrians, as follows: Swiss 246; Czechoslovak 69;

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United States citizens 58; Dutch and Hungarian 41; French 40; Swedish 38; British 21; Norwegian 19; Polish 14; German 12; Italy 10; Belgian 5; Danish and Finnish each 4; Spanish, Portuguese and Rumanian each 2; and Lichtenstein, Canadian, Australian and Latin American 1 each.

The Austrian Patent Office in mid-March 1947 was not issuing any publication specifying the patents granted in Austria from time to time, as it had not yet resumed issuing patents. Photostatic copies of previous Austrian patents issued, however, were available upon request.

As of mid-March 1947 no industrial research contract was known to exist between the Austrian Government and any private agency. The Austrian State, however, became owner on September 17, 1946, through operation of the Nationalization Law of July 26, 1946, of a considerable number of Austrian industries (reference Legation's report No. 26 of March 10, 1947) and thus secured ownership of many Austrian and foreign patents. The Nationalization Law, however, had been implemented only to a minor extent, and the whole question of methods and degree of centralized control to be exerted over the nationalized concerns remained as yet a large issue between the political parties. It was therefore not possible to predict what policy the Austrian Government might adopt with regard to patent matters as they affected nationalized concerns. In a circular letter of January 8, 1947, however, the Ministry of Property Safeguarding and Economic Planning called to the attention of the persons responsible for the management of the nationalized concerns that, during the first year of operation under the law, the acquisition and disposal of patents and licenses, among other matters, must have the prior approval of the Ministry.

The Austrian Patent Office stated that in so far as the problem had arisen prior to 1938 with regard to state-owned enterprises, the Austrian Government had carefully followed the provisions of paragraphs 5(a) through 5(c) of the Patent Law in force at the beginning of 1938. These paragraphs provided that employees of state-owned enterprises be accorded the same rights to their own inventions as employees of other industries, except that a state-owned enterprise could acquire ownership of inventions made by an employee while in the line of duty even if no contract covering the matter existed between the employee and the state-owned enterprise.

Approved:

K.E. Rankin
Chargé d'Affaires a. i.

Michael R. Gannett
American Vice Consul

Sources: Austrian Patent Office;
Patent Branch, Legal Division, USACA

File No. 654
MRGannett:11

cc: Office of Political Adviser, Berlin

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SECRET
 ECEFP Recommendation on Patents dated 25
 JM-84 September 1945 (Secret)

1. Director Director, 26
 of Legal Oct.
 Political Division 45
 Affairs
1. The ONGGUS Organization Plan, dated 12 October 1945, assigns the reorganization and supervision of the Patent Office to the Legal Division. A quadri-partite committee on The German Patent Office and Laws was appointed by the Legal Directorate on 11 September 1945.
2. Part I of the subject report received from your Division contains recommendations which are applicable to the Legal Division.
3. Information is requested as to the existence of a cover letter designating the report as a directive.

 Charles Fahy
 Director

2. Director Acting 29
 Legal Dir. Oct.
 Division Pol. 45
 Affairs
1. With reference to item 1 (3), the Office of Political Affairs has been unable to discover any covering letter designating the report in question as having the character of a directive.

 Loyd V. Steere
 Acting Director

854 Patents

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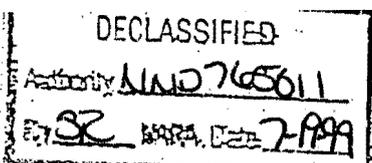
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(GERMANY) (FWD)
LEGAL DIVISION
APO 742

19 July 1945

Journal of Forward Echelon
from 0001 to 2400 18 July 45

1045 a. Col. McLendon had a conference with Lt. Gen. Clay at the request of Col. McLendon, during which the following matters were covered:

- (1) Col. McLendon gave Gen. Clay full information as to what had been found by him at the Reich Patent Office (in U.S. Zone) on 17 July 45, including the condition of the building, preliminary estimate of its restorability, presence of the 200 German Patent Office personnel, extent of records there, and work now in progress in restoring the records to an arrangement which would put them in readiness for use. Col. McLendon stated that he (Col. McLendon) proposed to take the following action, if approved:
 - (a) Take over control of the Reich Patent Office for the US Group Control Council for Germany, pending establishment of multi-partite control, and to notify the Commanding General, Berlin District, accordingly. Col. McLendon stated that he had already informed the German personnel at the Patent Office to that effect and had started issuing orders to them accordingly.
 - (b) To assemble Dr. Klauer and the leading officials of the Patent Office at 1430, 18 July 45, for the purpose of fully informing them as to their interim status, and for giving all necessary control orders now needed.
 - (c) To commence vetting of the German personnel at 1500, 18 July 45, and to remove any German personnel that are immediately objectionable.
 - (d) To have the work of transferring the records from the basements to the upper offices continued and to have the records put in a state of readiness for any future use that might be desired.
 - (e) To endeavor to arrange thru Berlin District for pay for the German officials and employees during the interim period, in order to make it possible for them to live while working.
 - (f) To request Berlin District to have a preliminary Engineer survey made as to possibilities of restoring the Patent Office building to full usefulness, and for the making of temporary repairs need for the time being.



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(g) To carry on no Patent Office activities, pending the establishment of multi-partite control, and instructions from our government as to the U.S. policy to be pursued with respect to German patent operations, except to ready the records, safeguard them and make information available to authorized agencies.

(2) Gen. Clay approved the above indicated proposals and stated that by all means every necessary step should be taken to safeguard the Patent Office records. Gen. Clay also stated that there was no objection to giving publicity to the steps taken.

(3) Gen. Clay was informed as to the steps that had been taken with respect to Reich Ministry of Justice officials and records in Thuringia and Upper Bavaria in June, including the assembling of some personnel and records at the Ministerial Collecting Center near Kassel. Information was also given as to the survey made by Col. McLendon of the Reich Ministry of Justice building and records in the Russian Zone in Berlin on 14 July 45. Col. McLendon stated that he proposed to establish contact with the Russians at the Berlin level with a view to interesting them in having the records and books in the Ministry of Justice building, which are now unguarded, put in safe storage for future sorting and use. This proposal was approved by Gen. Clay.

1430 b. (1) Col. McLendon, accompanied by Lt. Col. Nealen and Sgt. Rosenberg, proceeded to the Reich Patent Office for a scheduled meeting with the senior Patent Office officials which had been ordered by Col. McLendon. The officials were received by Col. McLendon in a large conference room of the Patentamt. Those present were:

Präsident Klauer

Senatspräsident Carl Müller, Chairman, presiding over the Trademark Appellate Senate

Senatspräsident Dr. Hans Röhmer, Chairman, presiding over the Ninth Appellate Senate

Senatspräsident Dr. Adolf Witt, Chairman, presiding over the First Appellate Senate

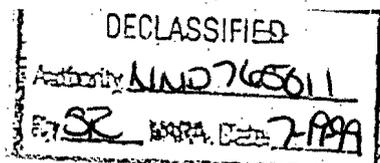
Senatspräsident Dr. Bruno Czolbe, Chairman, presiding over the Tenth Appellate Senate

Senatspräsident Dr. -Ing. Reich, Friedrich, Chairman, presiding over the Second Appellate Senate

Direktor Carl Henning, Chairman of the Division on Trademarks

Regierungsamtman Friedrich Michelsen, Superintendent of Office Bldg.

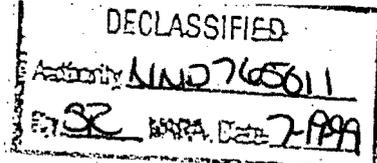
In order to clear up any misunderstanding, those present were reminded that the only government in Germany today was the Allied Military Government and that all normal activities of the Reich Patent Office were suspended as was the authority and prerogatives of the officials thereof. The following orders were issued to Dr. Klauer, as Acting Senior German official:



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- (a) Instructions for the Reich Patent Office No. 1, in English text only. See Incl. No. 1. (Note: At this point all officials were directed to leave the room except Dr. Klauer.)
- (b) To prepare a chart showing the normal organization of the Reich Patent Office, to include all departments, sub-departments and sections, together with the functions of the various parts.
- (c) To prepare a list of all employees of the Reich Patent Office as of the date of last full scale operations, which was assumed to be at about the beginning of the war, with notation as to any who had left the service to date, including those discharged and retired, with the reasons for separation, and the list to show all additions of new employees. (Note: Dr. Klauer stated that this would be difficult on account of the destruction of some of the personnel records in various fires caused in the course of bombing. He was told to do the best job possible. Dr. Klauer stated that no personnel records had been destroyed by design.)
- (d) Dr. Klauer was asked if he had in the Patent Office group, anyone capable of making first class translations of German into English, to which Dr. Klauer replied in the affirmative. Col. McLendon then directed that all future reports called for by him be submitted in English, and that a German text could be attached if desired, but that the English text would be the official one.
- (e) Dr. Klauer was interrogated briefly as to his career and he stated:
- (aa) That he was nearly seventy years of age; had never been a member of the Nazi Party; that no strong pressure had ever been made to compel him to join the Party, which he attributed to his age; and that he had always been opposed to the Nazi principles.
- (bb) That from 1910 to 1920 he had been a legal specialist in the Patent Office, and from 1921 to 1934 he was a Ministerialrat in the Reich Ministry of Justice and was head of the specialists dealing with laws relating to copyrights, unfair competition and patent rights.
- (cc) That his promotion to President of the Patent Office in 1934 was a normal promotion, except that an incompetent Party favorite was installed on the job for about six months, thus delaying his promotion.
- (Note: Dr. Klauer show evidence of his advanced age but appears quite active and capable.)
- (f) Dr. Klauer reported to Col. McLendon that three Patent Attorneys were outside and desired an audience with Col. McLendon. Col. McLendon directed Dr. Klauer to send the Patent Attorneys in, and that following this an inspection



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of the building would be made - Dr. Klauer, the senior building custodian, and two other officials who were familiar with the building to accompany Col. McLendon.

- 1545 c. (1) The three Patent Attorneys were received by Col. McLendon, and their spokesman stated that they represented the Chamber of Patent Attorneys and wished to get information as to their position. A draft of a Statute (in English) "Concerning the New Formation of the Chamber of Patent Attorneys and the Installation of a Provisional Board of Directors" was presented to Col. McLendon - see Incl. No. 2.
- (2) These Patent Attorneys were advised by Col. McLendon that:
- (a) The Reich Chamber of Patent Attorneys was not recognized in the U.S. Zone or Sector, but that consideration would be given in the future to a substitute organization.
 - (b) Inasmuch as the Reich Chamber of Attorneys and records were in the British Sector, the British would issue instructions concerning them.
 - (c) The paper presented (Incl. No. 2) would be read, but only as a matter of academic interest at the present time.
 - (d) Dr. Bruno Bloch presented for inspection Letter No. 212, 662/22, Department of Interior, U.S. Patent Office, dated 16 May 1923, indicating approval of his application for registration on the roster of attorneys entitled to practice before the U.S. Patent Office (Registration No. 11873, approved 15 May 1923).
- 1600 d. d. Dr. Klauer returned and presented a list of Patent Office employees now working in the buildings, showing names, grade, departments, etc. (copy is not attached). The list showed 260 officials and employees including 1 Präsident (Klauer) and 6 Senatspräsidenten, and indicates a representation of all departments.
- e. Col. McLendon then proceeded to make an inspection of the building. Details noted are not included here because of the volume. In general it was observed that the entire building was badly battered, some sections completely destroyed, all glass is out, roof is off of the boiler house which housed six large boilers of the heating plant, a direct hit wrecked the main steam lines except those leading from one boiler which heats a fraction of the building, enough of the building is intact to give reasonable protection to records (except for dust) during the summer months. It is estimated that at least 300,000 square feet of floor space is required to house records now in the building and provide minimum access to them. Original floor space of the building is estimated at 17,500 square meters (700 rooms at an average of 25 square meters per room.

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- f. It was ascertained that about 250,000 applications for patents were pending processing, of which 90% are on hand in the building. The large volume of material at Herringen is the Patent Office Library.
- g. (1) Dr. Klauer submitted an extension of his statement of July 10th (copy attached to Journal for 17 July 45), dated 18 July 45, in German text to be translated and copy furnished later.
- (2) Only 25 Fragebogen had been furnished by Public Safety, Special Branch, and these had been given to Dr. Klauer to have completed by the 25 leading officials, checked and ready for delivery at 1400, 19 July 45, at which time the additional number required will be furnished to him.

1715

- h. Col. McLendon and those accompanying him left the Patent Office, after inspecting the U.S. Military Guard Detachment of 13 men stationed in the building.

/s/ Ernest L. McLendon
/t/ ERNEST L. MCLENDON
Colonel GSC



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(GERMANY)
LEGAL DIVISION
JUSTICE MINISTRY BRANCH
APO 742

16 July 1945

INSTRUCTIONS FOR THE REICHSPATENTAMT

TO: Dr. Klauer

NO. 1

1. You are hereby designated as the Senior Acting German Official at the Reich Patent Office (Reichspatentamt) for the purpose of carrying out such orders as you receive from Military Government.
2. As senior Acting German Official you will exercise no executive authority or perform any function except such as is necessary in carrying out the orders of Military Government.
3. You will direct that all German personnel now on duty at the Patent Office remain at their posts for the performance of such duties as may be ordered by proper authority, pending further decisions regarding them.
4. The work now in progress, of placing the records of the Patent Office in readiness for future use and for proper protection, will be continued. You will be held responsible for the proper handling of the records by the German personnel under your charge. At the earliest practicable date you will have prepared a list of the records in the Patent Office in Berlin in sufficient detail to present an overall picture of the records of various categories, and a list of missing records. These lists and all other reports called for will be furnished in five copies.
5. Military Government Fragebogen will be distributed to all German personnel, will be completed promptly, checked by personnel designated by you for completeness and accuracy, separated according to grades formerly held, and be held for delivery on call by 1400, 19 July 1945.
6. English is the official language and orders and instructions to you will be transmitted in English.

By Order of Military Government:



/s/ Ernest L. McLendon
/t/ ERNEST L. MCLENDON
Colonel GSC
Chief, Justice
Ministry Branch

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CONFIDENTIAL Enclosure No. 1 to Despatch
No. 48, dated May 9, 1945,
From Ambassador Murphy.

**SUMMARY OF REPORT ON THE INSPECTION OF THE PERSONNEL
AND RECORDS OF THE GERMAN PATENT OFFICE AT
HERLINGEN, GERMANY, DATED MAY 1, 1945.**

1. At "Liberty" (Frankfurt) we found some 30,000 volumes of German, French and Swiss patent records, together with some examination material and some technical books. Of this only the German Patentschriften from 1939 on is of any interest.

2. At Herlingen, the entire Patentamt Library, or what is left of it, was found at the bottom of a mine shaft approximately 1,500 feet underground. An attempt to destroy all personal files and all secret patents was made on the Friday before Easter. The explosion caused by the use of liquid air and explosive charge brought rock down on the papers and to some extent smothered the flames. Some can be salvaged but are brittle and must be handled carefully. One of the first examined had to do with Rocket Bombs. Approximately 225,000 volumes of the Patentamt Library remain in the mine.

3. Some 35 or 40 officials and employees of the Patentamt remain in Herlingen. Herr Grunler was put in charge to replace Herr Schramm who had made some kind of contribution to the SS in 1933. A United States officer has been placed in charge of the mine and the officials. The examiners at Herlingen are experts whose special fields range from bullets to Rocket Bombs and gases to atom smashing.

4. Part of the Patentamt was moved to Jauer and Stregau in Silesia early in 1944, then to Eger in Czechoslovakia after the Russian invasion. Some part was destroyed in Stregau but other secret papers were brought to the mine at Herlingen. Some books were sent to Sondenberg near Kustrin and some American and British patent records were sent to Reichenstein and Wunchenburg in lower Silesia.

5. A number of American and British patent experts are now required to examine the papers and to question the personnel, also to salvage what remains of the partially burned secret documents.

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Frankfurt, July 30, 1945.

Restricted

No. 721

SUBJECT: REGISTER OF GERMAN SECRET PATENTS

The Political Adviser transmits herewith for the information of the Department a copy of a report prepared by the Legal Division of the Control Council relating to the register of German secret patents.

McChman
857
Patents

Enclosure

1. Report on register of German secret patents, prepared by Legal Division of the Control Council.

Copy to CE - Mr. Riddleberger.

PinB
File No. 854
PWB/srd *[initials]*

Where is the enclosure?

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The French specification ends with a 'resume' of the invention which is a help in determining the scope of the protection to be afforded by the grant but is not, by itself, decisive on the point.

The German System

In Germany the date of the invention is taken, as in England, as the date of application to the Patent Office; there are no State awards for ordinary inventions and a high standard of invention is required before the grant of a full patent is made. The Germans attempt to make a world wide search and the work is done systematically and well. They require not merely novelty but that the invention shall show a new technical effect, the production of which needed something more than the skill of the average expert in the particular industry involved.

Both in England and in America there is a general feeling that the applicant ought to get his patent if the case is near the borderling and the standard of patentability in the two countries is not unduly high. It is perhaps higher in America than in England but in neither case does it come near the standard necessary in Germany.

In Germany the onus of showing that a grant ought to be made can be said to be on the inventor; in England and the United States it is not unfair to say that the onus of showing positively that a grant should not be made rests with the Patent Office.

By setting an exceptionally high standard of invention before grant, Germany has made room for Petty Patents which have no counterpart in the U.K. or the U.S.

Conclusion

The people concerned in framing a policy for the German Patent Office have different backgrounds and the German Patent Office itself another.

2. THE SCOPE OF THE GERMAN PATENT OFFICE

(REICHSPATENTAMT; R.P.A.)

Prior to 1877 protection was afforded to inventors by the individual States of Germany. Unification of the Patent and similar "protective" laws followed on the formation of the German Empire and the Reichspatentamt was set up.

The protection of new ideas by the State for the benefit of industry or of commerce is common to all modern States.

The Reichspatentamt, as the instrument of Government for this purpose, concerns itself with: -

- (a) Erfindungs Patents (Full Patents)
- (b) Gebrauchsmuster (D.R.G.M.) (Petty Patents)

and (c) Warenzeichen (Trade Marks)

but is referred to simply as the Patent Office.

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The standard of invention and novelty required for the grant of a full Patent in Germany is high. The difference between German and British standards is discussed elsewhere.

Full Patents

To be patentable in Germany an industrial improvement must produce a new technical effect, resulting from a sufficiency of invention (Erfindungshöhe).

These requirements, rigorously applied, as they are not either in the US or in England, soon led Germany to an appreciation of the need for some lesser measure of protection to be afforded for industrial improvements, meritorious in themselves, but involving no new principle of constructive or high inventive powers.

Petty Patents

As a consequence in 1891 the first Gebrauchsmustergesetz was passed. Applications for Gebrauchsmuster (Petty Patent) protection undergo no examination for novelty. Protection, if granted, lasts for 3 years, but can be extended for a further three years on payment of the requisite fee.

There is no counterpart of this in the US or in England.

Trade Marks

Trade Mark protection is of very great interest to Traders, but is not discussed here. It will form the subject of a separate study.

Designs

Designs suitable for protection under English and German Laws are not models of construction, but must in England "appeal to and be judged solely by the eye"; in Germany the conceptions of beauty (Schönheit) and appeal to the eye are similarly involved. They will be of no practical interest to the Control Commission.

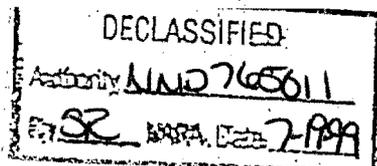
3. FULL PATENTS IN GERMANY AND THE WORK THEY ENTAIL

The great bulk of the work of any Government Patent Office derives from the applications made for full patents and the consequent examinations and proceedings up to grant. This study is restricted to a consideration of full patents.

Examination work is particularly heavy in Germany, not merely because a very high standard of patentability is maintained, but because the German Patent Office sets itself out to make a world-wide investigation into novelty.

The Patent Office in England is discouraged from concerning itself with quantum of invention and has a limited field of investigation.

These considerations should be borne in mind when examining the staffing, set-up and general approach to Patents of the Reichspatentamt.



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The functions of the various open courts that can deal with patent matters are discussed later; it is sufficient to note here that in Germany the competent courts can call upon experts from the Patentamt to give evidence when the experts before them are at variance. Indeed the Patent Office official may be required to assist a judge in coming to his decision.

With such reliance on the technical expert at high levels, the authority given to him at the application stage in the office will clearly be recognized. This authority must however be justified. There must be at his service the greatest possible accumulation of scientific records of all kinds, from all countries. (27 are given in the book published in 1927 to celebrate the jubilee of the R.P.A.) Before it can be used this material must be carefully examined, classified and incorporated into appropriate files or records. This work is of the highest importance for search purposes. It cannot be performed efficiently without heavy concentration and much expenditure of time. Again the office must not only be staffed with experts, both technical and legal, but work at the initial stage must be done speedily and satisfactorily and there must be an adequate and satisfactory appeals procedure.

It is against such a background that we can begin to consider the physical structure of the Patentamt itself.

4. THE STRUCTURAL AND STAFF EXPANSION OF THE R.P.A.

Reichspatentamt as a building

Starting in a small way in 1877, larger and better premises were continually found necessary. Finally in 1903 an island site 97/103, Gitschiner Strasse, occupied by private premises and the Barracks of the Garde-Curassier, was secured for a new office, to be built from plans selected from many submitted in open competition.

The buildings themselves cover 5.83 acres - rather more than both our own Houses of Parliament - and contain working rooms, 12 large interviewing or committee rooms, 11 rooms containing built-in fire and burglar-proof safes for valuables (Wert) - these are probably the normal depositories for all papers dealing with secret patents - and official residences for the President and fifteen of the staff. There are in addition, 3 large rooms for clerks, a large library on six floors and a big hall open to the public where the papers connected with pending applications can be examined.

Staff

The President, Klauer, (whose salary is 17,000 RM per annum) is the head of a large staff of whom in May 1943, 818 were Hoehere Beamte. The taschenbuch für Verwaltungsbeamter gives the names of 454 of these, but makes no mention of the necessary ancillary staff.

There are also 17 Senate Presidents, 77 Senatäräte, members of the Disputes (Beschwerde) and Nullity (Nichtigkeit) Senates. In the sections for patents, Trade Marks and

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DRAFT
3-5-42Treasury Department,
Office of the Secretary

March , 1942.

REGULATIONS FOR LICENSING OF PATENTS, TRADEMARKS, PRINTS,
LABELS, AND COPYRIGHTS PURSUANT TO SECTION 5(b) OF
THE TRADING WITH THE ENEMY ACT, AS AMENDED

Section . Authority for Regulations.

These regulations are prescribed and issued under authority of Section 5(b) of the Trading with the Enemy Act, as amended, by Section 301 of the First War Powers Act, 1941, and the Order of the President of February 12, 1942.

Section . Filing and Disposition of Applications for Licenses.

The following procedure is hereby established for the filing and disposition of applications for licenses to use any patent, application for patent, trademark, print, label, or copyright in which any national of a country designated in Executive Order No. 8389, as amended, has any interests:

(a) Any person within the United States desiring to manufacture, use, or sell any material, article, product, or matter covered by any patent, application for patent, trademark, print, label, or copyright in which any blocked national has any interest may apply on Form TFFH-1 to the Secretary of the Treasury for a license.

(b) If the Secretary of the Treasury shall find that the manufacture, use, or sale by the applicant of

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Authority: NNJ 968103
By: AW NARA Date: 7/8/99

any material, article, product, or matter under any patent, application for patent, trademark, print, label, or copyright in which a blocked national has any interest would be in the public interest, and that the applicant intends, in good faith, to make use thereof, the Secretary of the Treasury shall grant a license, exclusive or non-exclusive as may be appropriate, prescribing the conditions of use, including the royalty fees to be paid therefor. All royalty fees shall be periodically deposited in an appropriate blocked account as directed by the Secretary of the Treasury. Payment so made shall constitute a full acquittance and discharge to the licensee for all purposes.

(c) Appropriate notice of the granting of all licenses shall be given by publication in the Federal Register.

(d) Any person not a national of a foreign country designated in Executive Order No. 8389, as amended, asserting any interest in the subject matter of a license or any party asserting any claim as a result thereof, either to royalties or otherwise, may file with the Secretary of the Treasury a notice of his claim, together with a request for a hearing thereon on Form TPPL-2 within one year from the date

March 1944

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Alien Property Division

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the license is granted or within such further time as may be allowed by the Secretary of the Treasury.

(e) The Secretary of the Treasury shall hold hearings on all claims filed. Such hearings shall be conducted in accordance with rules and procedures formulated by the Secretary of the Treasury. Witnesses may be called, and the production of documents, records, contracts, books of account, memoranda, and other papers may be compelled as required.

(f) Appropriate notice of hearing shall be given at least ten days before the time set for hearing. This requirement of notice may be waived by any party.

(g) All interested parties shall be entitled to representation by counsel at any hearing.

(h) A complete record, including a transcript of the testimony, shall be made of each hearing.

(i) The Secretary of the Treasury, after examination of the record, will issue a decision with respect to all claims made and will give appropriate notice of the decision rendered. The Secretary of the Treasury will take appropriate action to effectuate any decision so rendered.

Secretary of the Treasury

Approved:

March , 1942.

EXECUTIVE ORDER 9095

ESTABLISHING THE OFFICE OF ALIEN PROPERTY CUSTODIAN AND DEFINING ITS FUNCTIONS AND DUTIES

By virtue of the authority vested in me by the Constitution, by the Trading with the Enemy Act of October 6, 1917, as amended, by the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Order.

2. All power and authority conferred on the President by Sections 3 (a) and 5 (b) of the Trading with the Enemy Act of October 6, 1917, as amended, and by Sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941, except such powers and authority as were delegated to the Secretary of the Treasury by Executive Orders issued prior to February 12, 1942, and to the Board of Governors of the Federal Reserve System by Executive Order No. 8843 of August 9, 1941 (which powers and authority shall continue to be vested in and exercised by the Secretary of the Treasury and the Board of Governors respectively), are hereby delegated to and vested in the Alien Property Custodian. The memorandum of February 12, 1942, delegating to the Secretary of the Treasury certain powers and authority under said sections, is hereby revoked and canceled. Any and all action heretofore taken by the Board of Governors of the Federal Reserve System after February 11, 1942, in pursuance of Executive Order No. 8843 of August 9, 1941, is hereby confirmed and ratified. In the exercise of the authority herein delegated, the Alien

Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

3. Any property, or interest therein, of any foreign country or a national thereof shall vest in the Alien Property Custodian whenever the Alien Property Custodian shall so direct; and, in the case of any property, or interest therein, subject to the control of the Secretary of the Treasury, when the Alien Property Custodian shall notify the Secretary of the Treasury in writing that he has so directed, the Secretary of the Treasury shall release all control of any such property, or interest therein, to the Alien Property Custodian.

4. Any outstanding order, proclamation, regulation, ruling, license, or instruction issued pursuant to, or relating to the administration of, any power or authority vested in the Alien Property Custodian by this Order shall remain in effect unless and until amended or revoked by the Alien Property Custodian.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

March 11, 1942.

EXECUTIVE ORDER 9096

REORGANIZATION OF THE NAVY DEPARTMENT AND THE NAVAL SERVICE AFFECTING THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS AND THE COMMANDER IN CHIEF, UNITED STATES FLEET

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941, approved December 18, 1941 (Public Law 354, 77th Congress), and other applicable statutes, and as Commander in Chief of the Army and Navy and as President of the United States, it is hereby ordered as follows:

1. The duties of the Commander in Chief, United States Fleet, and the duties of the Chief of Naval Operations, may be combined and devolve upon one officer who shall have the title "Commander in Chief, United States Fleet, and Chief of Naval Operations", and who shall be the principal naval adviser to the President on the conduct of the War, and the principal naval adviser and executive to the Secretary of the Navy on the conduct of the activities of the Naval Establishment.

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TITLE 3 OF FEDERAL REGULATIONS, *Tit. 3, Comp., 1938-1943*



TITLE 3—THE PRESIDENT 1938-1943 Compilation

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TREASURY DEPARTMENT

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Amended Executive Order Establishing
Alien Property Custodian

11

E. O. 9191

Title 3—The President

ployee is assigned; the period of the assignment; a description of the duties to be performed; the amount of the monthly allowance, and the amount of additional compensation if any, which has been authorized; and such additional instructions as the Secretary of State may deem appropriate. The Secretary of State shall also transmit to the department or agency concerned the information set forth in the letter of instruction.

15. The Secretary of State may prescribe such additional regulations not inconsistent herewith as he may deem necessary or desirable for carrying out the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

July 2, 1942.

EXECUTIVE ORDER 9191

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U.S.C. 132), section VI-1 (a) of the Foreign Service Regulations of the United States is hereby amended by renumbering subparagraphs (2), (3), (4), (5), (6), and (7) thereof as subparagraphs (4), (5), (6), (7), (8), and (9), respectively, and including therein new subparagraphs (2) and (3) reading as follows:

- (2) The Department of War.
- (3) The Department of the Navy.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

July 3, 1942.

EXECUTIVE ORDER 9192

AMENDING EXECUTIVE ORDER No. 9140 OF APRIL 20, 1942, ESTABLISHING THE SAFFORD NATIONAL WILDLIFE REFUGE

ARIZONA

By virtue of the authority vested in me by the National Industrial Recovery Act (48 Stat. 195), and as President of the United States, it is ordered as follows:

The first paragraph of Executive Order No. 9140 of April 20, 1942, establishing the Safford National Wildlife Refuge, in Arizona, is hereby amended to read:

"WHEREAS certain hereinafter-described lands in the State of Arizona, together with the improvements thereon, have been acquired by the United States in connection with the Safford Arizona Nursery of the Department of Agriculture under the authority of Title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195, 200); and"

The third paragraph of the said Executive Order is hereby amended to read:

"NOW, THEREFORE, by virtue of the authority vested in me under the aforesaid National Industrial Recovery Act, and as President of the United States, it is ordered that, subject to valid existing rights, jurisdiction over the acquired lands, together with improvements thereon within the following-described area, comprising 240 acres, more or less, in Graham County, Arizona, be, and it is hereby, transferred to the Department of the Interior, together with such equipment in use in connection with said lands as may be designated by the Secretary of Agriculture; and the said lands are hereby reserved as a refuge and breeding ground for native birds and other wildlife:"

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

July 3, 1942.

EXECUTIVE ORDER 9193

AMENDING EXECUTIVE ORDER No. 9095 ESTABLISHING THE OFFICE OF ALIEN PROPERTY CUSTODIAN AND DEFINING ITS FUNCTIONS AND DUTIES AND RELATED MATTERS

By virtue of the authority vested in me by the Constitution, by the First War Powers Act, 1941, by the Trading with the Enemy Act of October 6, 1917, as amended, and as President of the United States, it is hereby ordered as follows:

Executive Order No. 9095 of March 11, 1942, is amended to read as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual

and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action as he deems necessary in the national interest, including, but not limited to, the power to direct, manage, supervise, control or vest, with respect to:

(a) any business enterprise within the United States which is a national of a designated enemy country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by an enemy country or national thereof;

(b) any other business enterprise within the United States which is a national of a foreign country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by a foreign country or national thereof, when it is determined by the Custodian and he has certified to the Secretary of the Treasury that it is necessary in the national interest, with respect to such business enterprise, either (i) to provide for the protection of the property, (ii) to change personnel or supervise the employment policies, (iii) to liquidate, reorganize, or sell, (iv) to direct the management in respect to operations, or (v) to vest;

(c) any other property within the United States owned or controlled by a designated enemy country or national thereof, not including in such other property, however, cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, de-

posits, credits, credit instruments, foreign exchange and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;

(d) any patent, patent application, design patent, design patent application, copyright, copyright application, trademark or trademark application or right related thereto in which any foreign country or national thereof has any interest and any property of any nature whatsoever (including, without limitation, royalties and license fees) payable or held with respect thereto, and any interest of any nature whatsoever held therein by any foreign country or national thereof;

(e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest; and

(f) any property of any nature whatsoever which is in the process of administration by any person acting under judicial supervision or which is in partition, libel, condemnation or other similar proceedings and which is payable or deliverable to, or claimed by, a designated enemy country or national thereof. When the Alien Property Custodian determines to exercise any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. Subject to the provisions of this Executive Order, all powers and authority conferred upon me by sections 3 (a) and 5 (b) of the Trading with the Enemy Act, as amended, are hereby delegated to the Secretary of the Treasury or any person, agency, or instrumentality designated by him; *provided, however*, that when any property or interest, not belonging to a foreign government or central bank, shall be vested by the Secretary of the Treasury, such property or interest shall be vested in, and dealt with by, the Alien Property Custodian upon the terms directed by the Secretary of the Treasury. Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended, or the President's

Proclamation of July 17, 1941, or Executive Order No. 8839, as amended, or the regulations, rulings, licenses and other action taken thereunder, or in connection therewith.

4. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Alien Property Custodian under any other provision of this Executive Order, the Secretary of the Treasury and the Alien Property Custodian are authorized and empowered, either jointly or severally, to prescribe from time to time, regulations, rulings, and instructions to carry out the purposes of this Executive Order. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in his files to enable the other to discharge his functions, and shall keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

5. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any designated enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States. The Alien Property Custodian also is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property (including money judgments), such property, less an amount equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding, shall be subject to the provisions of Executive Order No. 8389, as amended, *provided, however*, that this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this Order; and *provided further*, that the Alien Property Custodian may vest an amount of such property equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding.

6. To enable the Alien Property Custodian to carry out his functions under this Executive Order, there are hereby delegated to the Alien Property Custodian or any person, agency, or instrumen-

tality designated by him all powers and authority conferred upon me by section 5 (b) of the Trading with the enemy Act, as amended, including, but not limited to, the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive Order. The powers and authority conferred upon the Alien Property Custodian by Executive Order No. 9142 shall be administered by him in conformity with the provisions of this Executive Order.

7. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

8. All records and other property (including office equipment) of the Treasury Department which are used primarily in the administration of powers and duties to be exercised by the Alien Property Custodian, and such personnel as is used primarily in the administration of such powers and duties and which was hired by the Treasury Department after September 1, 1941 (including officers whose chief duties relate to the administration of such powers and duties), as the Secretary of the Treasury and the Alien Property Custodian shall jointly certify for transfer, shall be transferred to the Office of the Alien Property Custodian. In the event of disagreement concerning the transfer of any personnel, records, or property, the determination shall be made by the Director of the Bureau of the Budget, pursuant to the formula here prescribed. Any personnel transferred pursuant to this Executive Order shall be transferred without loss of such Civil Service status or eligibility therefor as they may have.

9. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941, and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency, or instrumentality designated by either of them, pursuant to sections 3 (a) and 5 (b) of the Trading with the enemy Act, as amended, or pursuant to prior Executive Orders, and any and all action heretofore taken by the Board of Governors of

the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

10. For the purpose of this Executive Order:

(a) The term "designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future. The term "national" shall have the meaning prescribed in section 5 of Executive Order No. 8389, as amended, *provided, however*, that persons not within designated enemy countries (even though they may be within enemy-occupied countries or areas) shall not be deemed to be nationals of a designated enemy country unless the Alien Property Custodian determines: (i) that such person is controlled by or acting for or on behalf of (including cloaks for) a designated enemy country or a person within such country; or (ii) that such person is a citizen or subject of a designated enemy country and within an enemy-occupied country or area; or (iii) that the national interest of the United States requires that such person be treated as a national of a designated enemy country. For the purpose of this Executive Order any determination by the Alien Property Custodian that any property or interest of any foreign country or national thereof is the property or interest of a designated enemy country or national thereof shall be final and conclusive as to the power of the Alien Property Custodian to exercise any of the power or authority conferred upon me by section 5 (b) of the Trading with the enemy Act, as amended.

(b) The term "business enterprise within the United States" shall mean any individual proprietorship, partnership, corporation or other organization primarily engaged in the conduct of a business within the United States, and any other individual proprietorship, partnership, corporation or other organization to the extent that it has an established office within the United States engaged in the conduct of business within the United States.

11. The Secretary of the Treasury or the Alien Property Custodian, as the case may be, shall, except as otherwise agreed to by the Secretary of State, consult with the Secretary of State before vesting any property or interest pursuant

to this Executive Order, and the Secretary of the Treasury shall consult with the Secretary of State before issuing any Order adding any additional foreign countries to section 3 of Executive Order No. 8389, as amended.

12. Any orders, regulations, rulings, instructions, licenses or other actions issued or taken by any person, agency or instrumentality referred to in this Executive Order, shall be final and conclusive as to the power of such person, agency or instrumentality to exercise any of the power or authority conferred upon me by sections 3 (a) and 5 (b) of the Trading with the enemy Act, as amended; and to the extent necessary and appropriate to enable them to perform their duties and functions hereunder, the Secretary of the Treasury and the Alien Property Custodian shall be deemed to be authorized to exercise severally any and all authority, rights, privileges and powers conferred on the President by sections 3 (a) and 5 (b) of the Trading with the enemy Act of October 6, 1917, as amended, and by sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Secretary of the Treasury or the Alien Property Custodian shall be entitled to challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive Order, such order, regulation, ruling, instruction, license or other action was within the jurisdiction of the Alien Property Custodian rather than the Secretary of the Treasury or vice versa.

13. Any regulations, rulings, instructions, licenses, determinations or other actions issued, made or taken by any agency or person referred to in this Executive Order, purporting to be under the provisions of this Executive Order or any other proclamation, order or regulation, issued under sections 3 (a) or 5 (b) of the Trading with the enemy Act, as amended, shall be conclusively presumed to have been issued, made or taken after appropriate consultation as herein required and after appropriate certification in any case in which a certification is required pursuant to the provisions of this Executive Order.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,

July 6, 1942.

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TITLE 3 OF FEDERAL REGULATIONS, *Tit.3, Comp. 1938-1943*



TITLE 3—THE PRESIDENT 1938—1943 Compilation

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TREASURY DEPARTMENT

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30. *Office of Alien Property Custodian*

ing the World War. It was rather a much simpler matter than it is today, on the question of moving ships.

And the difficulty has been that since the World War the matériel situation has become, especially in the last two years, of such very great importance that additional duties have been saddled on the Chief of Operations.

And it has been very difficult to draw the line between Operations in the sense of movement of ships and Operations in the sense of getting the ships ready to move, or supplying them at some distant place. So it seems better to merge the movement of ships, which was put under Admiral King a few months ago — merge it with the general duties of Operations, and give to the one person several subdivisions under him, that would handle the different component parts of putting ships to a task, and at the same time providing them with the necessary things to keep them going in any part of the world.

Well, it is a thing that we have been, I suppose, working toward for the last six or eight years. And it seems a logical thing to do. Also centralizes responsibility — could be called somewhat akin to the recent so-called "streamlining" of the War Department. . . .

NOTE: See Item 32 and note, this volume, for the Executive Order re-organizing the Navy Department, and further discussion of the background and results of this Order which the President referred in the foregoing press conference.

30 ¶ Establishment of the Office of Alien Property Custodian. Executive Order No. 9095. March 11, 1942

BY VIRTUE of the authority vested in me by the Constitution, by the Trading with the Enemy Act of October 6, 1917, as amended, by the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

30. *Office of Alien Property Custodian*

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Order.

2. All power and authority conferred on the President by Sections 3(a) and 5(b) of the Trading with the Enemy Act of October 6, 1917, as amended, and by Sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941, except such powers and authority as were delegated to the Secretary of the Treasury by Executive Orders issued prior to February 12, 1942, and to the Board of Governors of the Federal Reserve System by Executive Order No. 8843 of August 9, 1941 (which powers and authority shall continue to be vested in and exercised by the Secretary of the Treasury and the Board of Governors respectively), are hereby delegated to and vested in the Alien Property Custodian. The memorandum of February 12, 1942, delegating to the Secretary of the Treasury certain powers and authority under said sections, is hereby revoked and canceled. Any and all action heretofore taken by the Board of Governors of the Federal Reserve System after February 11, 1942, in pursuance of Executive Order No. 8843 of August 9, 1941, is hereby confirmed and ratified. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with Section 6 thereof.

3. Any property, or interest therein, of any foreign country or a national thereof shall vest in the Alien Property Custodian

30. *Office of Alien Property Custodian*

whenever the Alien Property Custodian shall so direct; and, in the case of any property, or interest therein, subject to the control of the Secretary of the Treasury, when the Alien Property Custodian shall notify the Secretary of the Treasury in writing that he has so directed, the Secretary of the Treasury shall release all control of any such property, or interest therein, to the Alien Property Custodian.

4. Any outstanding order, proclamation, regulation, ruling, license, or instruction issued pursuant to, or relating to the administration of, any power or authority vested in the Alien Property Custodian by this Order shall remain in effect unless and until amended or revoked by the Alien Property Custodian.

NOTE: Before Pearl Harbor, a series of Executive Orders empowered the Secretary of the Treasury to freeze American assets of belligerent countries. (See Item 27-A and note, 1940 volume, for a discussion of the background of these freezing orders and a list of the countries to which they were applied before America entered the war.)

The purposes of the freezing orders were to prevent the use of these assets by the Axis, and to protect the assets of nationals in friendly occupied countries. Although these orders enabled the Treasury Department to prohibit almost any transaction involving foreign property, the freezing of assets could not compel the affirmative use of such property in the best interests of the United States. After America entered the war, this important power was added, and assets in the United States belonging to enemy nationals were thereafter used for the benefit of the United States.

At the time the foregoing Executive Order was issued, there were still remnants of alien property which had been seized in the first World War and which were being administered by the Alien Property Division of the Department of Justice. Since April, 1940, the Foreign Funds Control Unit of the Treasury Department had been administering the freezing orders.

The President could, of course, have assigned expanded alien property control functions to either of these agencies. Instead, however, he decided to establish a new and independent Office of Alien Property Custodian.

The function of the Alien Property Custodian was to take over all productive enemy assets in the United States and its territories and affirmatively to use these assets to the fullest possible extent in the prosecution of the war. By the middle of 1943, the Office had practically completed the job of seizing

30. Office of Alien Property Custodian

these facilities and property. Thereafter, it was mainly concerned with means of using the seized property to further the war effort.

In April, 1942, the President directed that the Custodian seize all enemy-controlled patents and make them available to American industry. Information about these seized patents was distributed widely by means of catalogues of such patents in the chemical, electrical, and mechanical fields. A liberal licensing policy was adopted which allowed thousands of industrial concerns to utilize foreign inventions at a nominal cost for the prosecution of the war. In addition, these patents made possible the development of important strategic materials.

In the four and a half years of its operation, the Alien Property Custodian controlled property valued at \$500,000,000, in addition to more than 46,000 patents and inventions and almost 500,000 copyrights and other valuable interests. The Office seized enemy-owned interests in 414 business enterprises, of which approximately 100 were continued in operation under management approved by the Custodian. These enterprises produced \$600,000,000 worth of such vital war products as chemicals, dyestuffs, photographic equipment, plastics, airplane parts, and scientific instruments.

The Custodian also controlled 425 trade-marks, 29 ships, about 1,500 mortgages and real-estate parcels valued at \$5,860,000, stocks, bonds, bank balances, notes, cur-

rency, claims, credits, life-insurance policies and other personal property amounting to \$22,590,000, and interests in estates and trusts valued at \$50,520,000 at the time of seizure.

Soon after the Alien Property Custodian began operations, uncertainties arose concerning the respective jurisdictions between the Office and the Treasury Department. A more explicit allocation of functions was needed. In addition, it became desirable for the Custodian to seize additional assets which were subject to Treasury freezing powers but which were necessary to the successful operation of a seized enterprise already under the Custodian's control.

Frequent negotiations between Treasury and Alien Property Custodian representatives were necessary to determine which of the two agencies had jurisdiction in certain specific cases. The President recognized that divided responsibility would lead to continuing controversy. This is one of the many instances in which he asked me to confer with conflicting agencies and try to get them to agree on limits of jurisdiction. I had many conferences with representatives of the Treasury and of the Alien Property Custodian and agreement was reached on a formula which was approved by the President. The formula was that the Alien Property Custodian have responsibility for enemy property which required active administration as distinguished from property which could

31. Report on First Year of Lend-Lease

be administered by the passive freezing regulations exercised by the Secretary of the Treasury. This formula was embodied in Executive Order No. 9193, issued July 6, 1942.

In broad terms, the amendatory Executive Order continued the Treasury Department's control over potential enemy purchasing power in the form of bullion, cash, bank deposits, and securities. The Custodian was given control over patents, copyrights, trade-marks, foreign ships, business enterprises, certain property involved in judicial and administrative proceed-

ings, and other property needed for administering seized enterprises.

On completing its major administrative tasks, the Office of Alien Property Custodian was terminated on October 14, 1946, by Executive Order No. 9788, and its property and personnel were transferred to the Department of Justice. At that time, a number of substantial business enterprises and assets still remained; and the Department of Justice continued to administer them. In addition, of course, the Department of Justice continued to handle the many legal problems arising out of the seizure and administration of alien property.

31 (The President Transmits to the Congress a Report on the First Year of Lend-Lease Operations. March 11, 1942

The President of the Senate,

The Speaker of the House of Representatives:

I AM TRANSMITTING herewith to the Congress a report on the first year of lend-lease operations.

One year ago, in passing the Lend-Lease Act, the American people dedicated their material resources to the defeat of the Axis. We knew then that to strengthen those who were fighting the Axis was to strengthen the United States. We recognized then the lesson that has since been hammered home to us by Axis treachery and Axis arms — that the rulers of Germany and Japan would never stop until they were thrown from power or America was forced to its knees.

Now that we have had to dedicate our manpower as well as

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TREASURY DEPARTMENT

1942 Volume

HUMANITY ON THE DEFENSIVE

HARPER & BROTHERS PUBLISHERS
NEW YORK

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232°27'30" 629.83 feet along the South side of said right-of-way;

2°54'30" 28.30 feet along the Northwest side of the right-of-way of the proposed Airport Road, along Territorial land;

Thence along same on a curve to the right with a radius of 1402.43 feet, along Territorial land and remaining portion of Port Allen Airport (Governor's Executive Order 330, dated April 14, 1928), the chord azimuth and distance being 24°03'45" 1012.21 feet;

45°13'00" 157.31 feet along the Northwest side of the right-of-way of the proposed Airport Road along remaining portion of Port Allen Airport (Governor's Executive Orders 330, dated April 14, 1928, and 431, dated September 18, 1930);

40°39'00" 126.18 feet along the Northwest side of the right-of-way of the proposed Airport Road along the remaining portion of Port Allen Airport (Governor's Executive Order 431, dated September 18, 1930) to a point on the northeast boundary of the United States Military Reservation (Presidential Executive Order No. 5405, dated July 25, 1930);

23°32'30" 170.07 feet;

57°08'00" 98.36 feet;

147°08'00" 70.00 feet;

57°08'00" 200.00 feet to a point on the southwest boundary of the United States Military Reservation (Presidential Executive Order No. 5405, dated July 25, 1930);

147°08'00" 130.00 feet along the line between the United States Military Reservation (Presidential Executive Order No. 5405, dated July 25, 1930) and the remaining portion of Port Allen Airport (Governor's Executive Order 431, dated September 18, 1930);

161°41'00" 754.87 feet along the remaining portion of Port Allen Airport (Governor's Executive Order 330, dated April 14, 1928) and Territorial land to the point of beginning.

The tract as described contains an area of 17.82 acres, more or less, 1.546 acres of which are included within the boundary of the military reservation set aside by the said Presidential Executive Order 5405, dated July 25, 1930, and is shown on

map C. S. F. No. 8933, entitled "Proposed U. S. Military Reservation, Hanapepe, Kona, Kauai," dated January 16, 1939, and prepared by the Survey Department of the Territory of Hawaii, a copy of which is on file in the Office of the Quartermaster General, War Department, Washington, D. C.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,

April 5, 1940.

EXECUTIVE ORDER 8389

AMENDMENT OF EXECUTIVE ORDER No. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1), and by virtue of all other authority vested in me, I, FRANKLIN D. ROOSEVELT, PRESIDENT of the UNITED STATES OF AMERICA, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

"SECTION 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this Order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this Order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect:

"A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United

States, of a banking institution within the United States);

"B. All payments by any banking institution within the United States;

"C. All transactions in foreign exchange by any person within the United States;

"D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States; and

"E. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

"SECTION 10. *Additional Reports.* "A. Reports under oath shall be filed, on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway or Denmark or any national thereof is or was the owner, or in which Norway or Denmark or any national thereof has or had an interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this Section.

"SECTION 11. *Additional Definitions.* In addition to the definitions contained in Section 7, the following definitions are prescribed:

"A. The terms 'Norway' and 'Denmark', respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, and any political subdivisions, agencies and instrumentalities thereof, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing. The terms 'Norway' and 'Denmark', respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities

thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise de jure or de facto sovereignty over the area which, on April 8, 1940, constituted Norway or Denmark.

"B. The term 'national' of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term 'banking institution' as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate 'banking institution'.

"SECTION 12. *Additional Regulations.* The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and

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REGULATIONS, *Tit.3, Comp., 1938-1943*



TITLE 3—THE PRESIDENT
1938—1943 Compilation

CONTAINING THE FULL TEXT OF PRESIDENTIAL DOCUMENTS
PUBLISHED IN THE FEDERAL REGISTER DURING THE
PERIOD JUNE 2, 1938—JUNE 1, 1943
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TREASURY DEPARTMENT

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27A. Freezing of Foreign Funds in U.S.

27A. (The War Spreads; the Funds in the United States of Victims of Aggression Are Protected. Executive Order 8389, April 10, 1940

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1), and by virtue of all other authority vested in me, I, FRANKLIN D. ROOSEVELT, PRESIDENT OF THE UNITED STATES OF AMERICA, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

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“B. All payments by any banking institution within the United States;

“C. All transactions in foreign exchange by any person within the United States;

“D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States; and

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27A. Freezing of Foreign Funds in U.S.

"E. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

"Section 10. *Additional Reports.*

"A. Reports under oath shall be filed, on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway or Denmark or any national thereof is or was the owner, or in which Norway or Denmark or any national thereof has or had an interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filled under this Section.

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"B. The term 'national' of Norway or Denmark shall include any person who has been or whom there is reasonable cause to

27A. Freezing of Foreign Funds in U.S.

believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term 'banking institution' as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate 'banking institution.'

"Section 12. *Additional Regulations.* The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate."

27A. Freezing of Foreign Funds in U.S.

NOTE: The foregoing executive order was issued immediately following the invasion by Germany of Norway and Denmark. At that time there were approximately \$267,000,000 of Norwegian and Danish credits and other assets in the United States. The executive order prohibited transactions in them, except pursuant to licenses authorized by the Secretary of the Treasury.

This executive order was followed by similar executive orders after other nations were invaded or subjected to the domination of the aggressor nations.

On May 10, 1940, similar control was placed over \$1,619,000,000 of the Dutch assets, \$760,000,000 of Belgian assets, and \$48,000,000 of Luxembourg assets. On later occasions the same control has been applied to \$1,593,000,000 of French assets, \$29,000,000 of the assets of the Baltic countries, \$53,000,000 of Rumanian assets, as well as to the assets of Bulgaria, Hungary, Yugoslavia, and Greece. By October 10, 1940, this "freezing control" had been extended to more than \$4,000,000,000 of foreign assets.

In June, 1941, the assets of Germany and Italy were also frozen.

In July, 1941, the assets of Japan were frozen; and also at the specific request of China, the freezing order was extended to Chinese assets in this country.

These exchange controls were somewhat similar to the exchange controls exercised by our Govern-

ment during the first World War in 1917, and also during the banking crisis of 1933.

The purpose of using this power of government in 1940 was primarily to prevent the aggressor nations from using, for their own purposes, these billions of dollars of assets in the United States which really belonged to their victims. This vast sum of money would unquestionably have been used by the aggressors to carry on their program of world conquest and destruction of democratic nations and democratic principles. It would not only have been great weakness, but absolute foolishness, to permit these billions of dollars under our control, to be grabbed by the aggressor nations and used against our own national interest. Besides, as a matter of ordinary justice, it would have been a betrayal of the confidence which had been placed in the integrity and free institutions of our country. For these assets had been deposited by their owners in our establishments in order to protect them from confiscation by invading conquerors.

It would, furthermore, have been difficult, if not impossible, at all times to tell who owned this property. An invasion of a country invariably disrupts its political and economic life, and brings about conflicting claims of ownership. American banks and other business institutions would have been subjected to these conflicting claims, and, without this freezing control,

28. Views on Pending Sugar Legislation

might have been subject to great liabilities. For all these reasons, it is not only proper, but absolutely essential, to prevent these huge reserves of dollar balances from falling into the hands of those who might use them to hamper our defense, and to destroy the peace and security of this hemisphere.

As soon as the first freezing order was issued, definite rules and regulations were established, under which licenses could be issued to

avoid individual cases of injustice. Certain types of standardized transactions were covered by general license provisions which imposed only a minimum burden on business men. Indeed, the Federal Reserve Banks were authorized to act upon half the cases without even referring the applications to Washington; and many thousands of transactions per day are carried out under general licenses without application of any type.

28 ☪ The President Expresses His Views with Respect to Pending Sugar Legislation.

April 11, 1940

Dear Mr. Chairman:

REFERENCE is made to your recent letters to the Departments of State, Interior, and Agriculture, requesting comments on the various bills with respect to sugar which were introduced in the 76th Congress and are now pending before the House Committee on Agriculture. In accordance with your request, and since your Committee is now holding public hearings on these measures, it is believed that you may wish to have at this time a summary of our views on the basic issues of public policy which are involved in this group of bills.

In reviewing the present sugar situation I have been gratified to note the great improvement in conditions that has taken place since the adoption of the sugar program six years ago. Domestic sugar producers are fortunately receiving incomes at approximately the parity level, and they are enjoying a large volume of production. The losses of sugar processors in the years preceding the program have been converted into profits; child labor has been greatly reduced; wages and working conditions for labor

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THE PUBLIC PAPERS
AND ADDRESSES OF
FRANKLIN D.
ROOSEVELT

WITH A SPECIAL INTRODUCTION
AND EXPLANATORY NOTES BY
PRESIDENT ROOSEVELT



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TREASURY DEPARTMENT

1940 Volume

WAR-AND AID TO DEMOCRACIES

THE MACMILLAN COMPANY · NEW YORK · 1941

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Part of
a press
conference

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46. *Eight Hundred and Twentieth Press Conference*

Lieutenant Edward H. ("Butch") O'Hare of St. Louis, Missouri, was a naval aviator attached to the aircraft carrier *Lexington*. On February 20, 1942, several waves of twin-motored Mitsubishi-96 heavy Japanese bombers bore down on the *Lexington*. Lieutenant O'Hare had never before seen combat action. He went out with other of the carrier's aircraft to check the Japanese attack. Because of the successive waves of attacking bombers, at one point Lieutenant O'Hare's plane was alone against nine Japanese bombers. Facing these heavy planes singlehanded, Lieutenant O'Hare shot down five and damaged a sixth in less than five minutes. His heroic action unquestionably saved the *Lexington*.

46 (The Eight Hundred and Twentieth Press Conference (Excerpts). April 21, 1942

(*Enemy-owned patents — Postwar use of enemy patents — Bombing of Tokyo — Shangri-La.*)

Q. Do we get all those? (*Indicating the large pile of papers in front of the President*)

THE PRESIDENT: You may need them — those are pardons! (*Laughter*) You stepped right into it. (*More laughter*) . . .

I have one that I talked to Leo Crowley about yesterday, in regard to alien enemy-owned patents. And the Alien Property Custodian says that already a great many of them have come into his possession, especially in the chemical and the pharmaceutical field, and several thousand more will be acquired by them in the course of the next few months.

We talked it over, and I asked him to take the necessary steps to make available for war production and national needs all patents that are controlled either directly or indirectly by our enemies, and that these patents should be made freely available for war purposes and national needs, and that there should be a continuation or new research started in connection with their maintenance and expansion. So he is starting in to do that, and to make an exhaustive survey of every known kind of enemy-controlled patent. We think that a

46. *Eight Hundred and Twentieth Press Conference*

great many of them, actually owned or controlled by enemies, are ostensibly in the hands of neutrals, or allies, or American citizens. . . .

Q. In that same situation there has been brought out before one of the Senate committees — indicating that some of these patent agreements between German and American firms have clauses which would provide for their resumption after the war and it seems to be a moot question as to whether action by the Alien Property Custodian now will affect postwar use. Do you intend to take them and keep them for us?

THE PRESIDENT: I think so, in view of the past experience of this Government. During the World War we took over alien enemy-owned patents, and after the war was over we took no steps to keep them from sliding back one way or the other into alien hands. And I think that a recurrence of that should be prevented at the end of this war.

Q. Mr. President, what about bona fide American patents that are pooled with enemy alien patents, and are needed for the production of the materials?

THE PRESIDENT: Well, my idea is we take everything we need, no matter what the technicalities are. The first thing to do is to win the war. . . .

Q. Mr. President, have you any comment on Pierre Laval?

THE PRESIDENT: I think I had better not.

Q. One of his complaints is that the British are bombing French territory. Is he likely to have any complaint of that sort against the United States?

THE PRESIDENT: I don't know.

Q. How about the story about the bombing of Tokyo?

THE PRESIDENT: Well, the only thing I can think of on that is this: you know occasionally I have a few people in to dinner, and generally in the middle of dinner some — it isn't an individual, it's just a generic term — some "sweet young thing" says, "Mr. President, couldn't you tell us about so and so?"

Well, the other night this "sweet young thing" in the middle of supper said, "Mr. President, couldn't you tell us about

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U.S. Treasury Dept.
1945.

ANNUAL REPORT OF THE SECRETARY OF THE TREASURY

ON

THE STATE OF THE FINANCES

FOR THE FISCAL YEAR
ENDED JUNE 30

1945



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TREASURY DEPARTMENT

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1946

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Price \$1.25 (paper cover)

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This military yen currency has been issued in seven denominations, namely, 10 and 50 sen and 1, 5, 10, 20, and 100 yen. There are 100 sen to the yen. The notes in denominations of 10 sen, 50 sen, and 1 yen are one-half the size of the United States dollar currency. The 5 yen and 10 yen denominations are somewhat larger than the sen notes, and 20 yen and 100 yen notes are the size of the United States dollar note.

The notes bear on their face the words "Military Currency" in English and in Japanese and on the reverse side the legend "Issued Pursuant to Military Proclamation" in both languages.

Military yen will supplement the local currency; not replace it. This supplemental military yen, other legal tender local currency and notes of the Bank of Taiwan and of the Bank of Chosen are interchangeable within the area without distinction at one for one. However, Japanese military yen scrip is not, of course, accepted by United States forces. Supplemental military yen currency notes were produced in the United States for the military commander who in the areas occupied by the forces under his command has all the powers necessary for carrying out governmental functions, including the right to establish and maintain an adequate and effective circulating medium. This is in accordance with International Law, the Hague Conventions, and decisions of the Supreme Court of the United States.

No general rate of exchange between the yen and the dollar has been established. For pay of troops and military accounting purposes, however, a provisional basis of 1 yen to 10 cents is being used. This provisional rate was determined in the light of prevailing conditions in the Ryukyu Islands and does not prejudice the determination of the rate for other Japanese areas yet to be invaded.

Arrangements have been made whereby United States military and naval personnel may remit in dollars to the United States at the above rate all or any portion of their pay which they received in yen. United States soldiers and sailors leaving the area may exchange yen currency held by them for dollar currency. When United States forces use yen for military expenditures, the relevant Army and Navy appropriations will be charged for the dollar equivalent thereof. In this manner the control of the Congress over the expenditures of the United States forces is maintained.

REPORT TO CONGRESS BY SECRETARY MORGENTHAU

Exhibit 51

Summary report of Secretary Morgenthau to the Congress

TREASURY DEPARTMENT,
Washington, D. C., July 21, 1945.

Sirs: I have the honor to make the following report.

Normally, issuance of the annual report on the finances of the Federal Government is delayed several months following the end of the fiscal year which it covers, in order to include comprehensive statistical material requiring much time for compilation.

However, since I am about to retire as Secretary of the Treasury, and since the more important data dealing with the operations of the Treasury Department are already available, it seems fitting that I should give an accounting of the last fiscal year under my stewardship. Actually, most operations of the Department are not rigidly partitioned into fiscal years, but are affected by developing conditions and policies. Therefore, this accounting deals broadly with the period since January 1934, the date on which I assumed the Secretaryship. And since we should utilize whatever light the past and present can throw toward the future, I am noting certain matters in which further action seems desirable.

The following report is submitted in the expectation that my successor as Secretary of the Treasury will present, at a later date, the additional statistics which ordinarily are included in an annual report, together with such comment, analyses and recommendations as he may desire to submit.

Treasury tax policy in the past twelve years has been guided by the rapidly changing needs of the Nation in depression, recovery, defense, and war. The important repercussions of taxes throughout our social and economic structure make it vital that our tax policy and our tax system be responsive to social and

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The outstanding instance of direct financial assistance to our Allies was the \$500 million financial aid extended to China in March 1942. Japanese military victories had made imports of military and civilian supplies very difficult. Financial aid, however, was still possible, and it was given without stint, reflecting the keen desire of the American people and the Government that China's resistance against Japan should be strengthened to the fullest extent possible.

By the terms of the agreement entered into between the Foreign Minister of China and the Secretary of the Treasury with the unanimous authorization of Congress, the Chinese were given a credit of \$500 million on the books of the Treasury on which they could draw at such times and in such amounts as they wished. Most of these funds have been used as backing for issuance of United States dollar savings certificates and United States dollar bonds and for the purchase of gold from the United States for sale in China. These measures have been part of the Chinese Government's effort to reduce the inflationary price increases, which have hindered the Chinese war effort.

D. FOREIGN FUNDS CONTROL

DEVELOPMENT OF THE CONTROL

For several years before the war we were at work on measures designed to limit the benefits which aggressor powers could obtain from seizing the foreign exchange assets of invaded countries. During the same period we closely studied the financial activities of the Axis powers in the United States and drafted preventive measures. Long before it was decided to freeze foreign funds in the United States, we had prepared and carefully considered the plans for establishing a bureau of Foreign Funds Control and the purposes and policies it was to follow.

Freezing control was initiated on April 10, 1940, when Germany invaded Norway and Denmark. On that day the President, by Executive Order No. 8389 pursuant to section 5 (b) of the Trading With the Enemy Act, prohibited transactions involving Norwegian and Danish property within the United States except as authorized by the Secretary of the Treasury. During the summer and fall of 1940, as other countries were invaded or dominated by the Axis, the control was successively extended to the assets of the Netherlands, Belgium, France, the Baltic and Balkan States. These extensions were largely due to the initiative of the Treasury Department.

Foreign funds control had as its primary purpose the protection of the assets within the United States of invaded countries. It was designed to prevent the control of these assets from falling into the hands of the invaders and to protect American institutions from possible adverse claims. As the international crisis deepened, and as the scope of the control was widened to include other countries, it soon became apparent that the control was a sharp and valuable weapon of economic warfare which could strike telling blows at the Axis powers.

In June 1941, the control was extended to Germany and Italy and to the rest of the continent of Europe. On July 26, 1941, the control was initiated against Japan. At the same time, the freezing control was extended to China at China's request. Freezing of Chinese assets was part of an over-all program of aid to China. (See section on financial aid.) It also prevented Japan from using the occupied areas in China as a loophole for evading our freezing controls.

Through the bureau of Foreign Funds Control, we have also carried out all the Presidential powers under section 5 (b) of the Trading With the Enemy Act, as amended. The freezing control covers the current financial transactions of more than thirty-five countries. The frozen assets consist not only of bank deposits, gold and securities, but also of 4,000 business enterprises, as well as merchandise, patents and other forms of property. These assets are administered through an orderly licensing procedure whereby permission is granted to effect transactions not inimical to the interests of the United States.

As licensing problems unfolded and we became familiar with their nature and pattern, we were able to carve out certain areas wherein, under specified conditions, the restrictions could be safely relaxed through the means of general licenses. Other more complex transactions were kept subject to specific license. The volume of applications for such licenses, which are now being received at the rate of about 6,000 per month, was at one time as high as 40,000 per month. From January 1942 through March 1945, transactions in assets totalling over \$10 billion have been authorized under specific licenses.

At the outbreak of war on December 7, 1941, it was indicated that a separate agency might be created by the President to exercise managerial functions with respect to enemy property. In anticipation of the creation of such an agency, I

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refrained from actions on those matters which would be exercised by an Alien Property Custodian. On March 11, 1942, Executive Order No. 9095, was issued establishing the Office of Alien Property Custodian. It was amended on July 6, 1943, by Executive Order No. 9193. The latter order divided the authority between Treasury and the Alien Property Custodian as follows: The Custodian was given the responsibility of (1) vesting or supervising of business enterprises owned by, or on behalf of, persons living in the six countries which have declared war against the United States; (2) handling of enemy-owned real estate and foreign owned patents, trademarks and copyrights and ships; and (3) dealing with enemy interests in litigation. The Treasury retained control of dollar balances, securities and other liquid assets of enemy countries, pending clarification of this Government's policy with regard to the ultimate treatment of the assets of enemy countries.

On June 8, 1945, Executive Order No. 9193 was further amended on the basis of an agreement between the Alien Property Custodian and myself, which gave the Custodian power to vest all German and Japanese dollar balances, securities, and other liquid assets heretofore administered by the Treasury. This was effected in line with the agreed policy to eliminate completely all existing German and Japanese interests in the United States with the object of reducing the ability of Germany and Japan to rebuild their war potential.

SCOPE OF ECONOMIC WARFARE PROGRAM

Enemy deprived of financial means in the United States.—One of the primary objectives of the freezing control was to prevent the enemy from making use of the financial facilities of the United States. This objective was accomplished by (1) sterilizing and vesting the assets openly held in German, Japanese or other enemy accounts, (2) placing a "protective blocking" over the assets of countries occupied by the enemy, and (3) freezing the assets of persons located in the European neutral countries as a defense to forestall their being used for the benefit of the enemy.

In the early stages of the war when American territory, such as the Philippines and Hawaii, was being invaded or threatened by the enemy, some action was required to protect the hundreds of millions of dollars worth of currency, checks, bonds, and other securities held in these areas from possible seizure by the enemy. Since it was physically impossible to remove these assets, we initiated, supported and helped carry out the application of the "scorched earth" policy to these assets. For example, in the Philippines, many such liquid assets were destroyed and re-issued to their owners in the United States.

We prevented the use of United States financial facilities by the enemy even in cases wherein no frozen funds were involved. Because the dollar is the strongest currency in the world, it is the medium of exchange most widely used in international transactions. Through cooperation received from our banks, we were able to examine hundreds of financial transactions handled through United States facilities for persons in countries which were not blocked, thus preventing the enemy from using channels such as South America for effecting transactions inimical to us.

To prevent the enemy from disposing of dollar securities and currency, which they seized from their victims, I instituted a program prohibiting the importation of securities and currency into this country unless the titles were demonstrably free from Axis taint. Probably the most telling demonstration of the effectiveness of these controls to frustrate enemy looting has been the recent discovery within Germany of huge caches of securities, currency, gold, etc., which the Nazis were unable to convert into foreign exchange.

Elimination of enemy influences and activity in the United States and abroad.—In the business enterprise field, wide authority has been exercised in eliminating dangerous Axis influences. Since a number of business enterprises in the United States were used as a base of operations to carry out Axis plans to influence and to distort production; to hold markets in this hemisphere; to support fifth-column movements, and to lay the basis for post-war influence, stringent forms of control were exercised (even before the establishment of the Office of the Alien Property Custodian) by subjecting approximately 140 enterprises to rigid supervision, involving the dismissal of a number of executives and employees; by compelling the liquidation of approximately 300 enterprises, and by vesting the capital stock in large enterprises owned or controlled by Axis nationals.

Throughout the war I have striven to enforce a general policy of severing and eliminating all financial and commercial intercourse, direct and indirect, between the United States and the Axis and Axis-dominated countries. Pursuant to

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HR 4784

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except that, as to their duties as such clerks, the commanding officer at the base, post, or reservation at which they are stationed shall require them to be governed by the Postal Laws and Regulations of the United States. Whenever necessity arises therefor any assistant mail clerk may be required by such commanding officer to perform the duties of mail clerk. Compensation for services shall be paid by the War Department in addition to that paid them in the grade to which they are assigned, such sum in the case of mail clerks not to exceed \$500 per annum, and in the case of assistant mail clerks not to exceed \$300 per annum, as may be determined and allowed by the War Department.

Compensation.

Approved, August 21, 1941.

[CHAPTER 393]

AN ACT

To amend the Act relating to preventing the publication of inventions in the national interest, and for other purposes.

August 21, 1941.
[H. R. 4784]
[Public Law 239]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of Congress approved July 1, 1940 (Public, Numbered 700, Seventy-sixth Congress, third session, ch. 501), be amended by adding the following sections:

Publication of inventions.
Prevention of, in national interest.
54 Stat. 710.
35 U. S. C. § 42 and note.
Application for patent, etc., abroad.
License requirement.

no filing of patents abroad

"Sec. 3. No person shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, except when authorized in each case by a license obtained from the Commissioner of Patents under such rules and regulations as he shall prescribe.

Effect of noncompliance.

"Sec. 4. Notwithstanding the provisions of sections 4886 and 4887 of the Revised Statutes (35 U. S. C., secs. 31 and 32), any person and the successors, assigns, or legal representatives of any such person shall be debarred from receiving a United States patent for an invention if such person, or such successors, assigns, or legal representatives shall, without procuring the authorization prescribed in section 3 hereof, have made or consented to or assisted another's making application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of such invention where authorization for such application is required by the provisions of section 3, and any such United States patent actually issued to any such person, successors, assigns, or legal representatives so debarred or becoming debarred shall be invalid.

Penalties.

"Sec. 5. Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to the Act approved July 1, 1940 (Public, Numbered 700, Seventy-sixth Congress, third session, ch. 501), shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed such invention, or any material information with respect thereto, or whoever, in violation of the provisions of section 3 hereof, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than two years, or both.

54 Stat. 710.
35 U. S. C. § 42 and note.

"Sec. 6. If any provision of this Act or of any section thereof or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and of such section and application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Separability of provisions.

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"Person."	"SEC. 7. As used in this Act— "The term 'person' includes any individual, trustee, corporation, partnership, association, firm, or any other combination of individuals.
"Application."	"The term 'application' includes applications, and any modifications, amendments, or supplements thereto or continuances thereof.
Nonapplicability.	"SEC. 8. The prohibitions and penalties of this Act shall not apply to any officer or agent of the United States acting within the scope of his authority."
Effective date.	SEC. 2. This Act shall take effect thirty days after its approval. Approved, August 21, 1941.

[CHAPTER 394]

AN ACT

August 21, 1941
[H. R. 4813]
[Public Law 240]

To amend section 73 of an Act entitled "An Act to provide a government for the Territory of Hawaii", approved April 30, 1900, as amended.

Hawaii, public lands.
36 Stat. 444, 447; 42 Stat. 119.
48 U. S. C. § 677.

Management, disposition, etc.

Status of exchanged lands.

Forest, etc., reservations.

Application to lands set aside for U. S. purposes.

Authority of commissioner.

Lands under Hawaiian Homes Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (q) of section 73 of the Act entitled "An Act to provide a government for the Territory of Hawaii", approved April 30, 1900, as amended, is hereby further amended to read as follows:

"(q) All lands in the possession, use, and control of the Territory shall hereafter be managed by the commissioner, except such as shall be set aside for public purposes as hereinafter provided; all sales and other dispositions of such land shall be made by the commissioner or under his direction, for which purpose, if necessary, the land may be transferred to his department from any other department by direction of the Governor, and all patents and deeds of such land shall issue from the office of the commissioner, who shall countersign the same and keep a record thereof. Lands conveyed to the Territory in exchange for other lands that are subject to the land laws of Hawaii, as amended by this Act, shall, except as otherwise provided, have the same status and be subject to such laws as if they had previously been public lands of Hawaii. All orders setting aside lands for forest or other public purposes, or withdrawing the same, shall be made by the Governor, and lands while so set aside for such purposes may be managed as may be provided by the laws of the Territory; the provisions of this paragraph may also be applied where the 'public purposes' are the uses and purposes of the United States, and lands while so set aside may be managed as may be provided by the laws of the United States. The commissioner is hereby authorized to perform any and all acts, prescribe forms of oaths, and, with the approval of the Governor and said board, make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this section and the land laws of Hawaii into full force and effect."

SEC. 2. Nothing in this Act shall apply to any lands which are now under, or which may hereafter be placed under, the jurisdiction of the Hawaiian Homes Commission.

Approved, August 21, 1941.

[CHAPTER 395]

AN ACT

August 21, 1941
[H. R. 5312]
[Public Law 241]

To authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes.

Navy. Public works projects.
Ante, pp. 47, 49, 163; *post*, p. 672.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized to establish or develop the following shore activities by the construction of the following public works, with which shall be included the authority to acquire the necessary

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UNITED STATES STATUTES AT LARGE *v. 55, pt. 1*

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE FIRST SESSION OF THE
SEVENTY-SEVENTH CONGRESS
OF THE UNITED STATES OF AMERICA

1941-1942

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER
THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, INDEXED, AND PUBLISHED BY AUTHORITY OF LAW
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 55

IN TWO PARTS

PART 1

PUBLIC LAWS



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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1942

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Limitation on re-
duction of basis.

Regulations.

52 Stat. 929.
11 U. S. C., Supp.
V, § 922.

Real property ar-
rangements by per-
sons other than cor-
porations.
Determination of
basis of property for
income-tax purposes.

Limitation on re-
duction of basis.

Regulations.

required to use the debtor's basis in whole or in part shall be decreased by an amount equal to the amount by which the indebtedness of the debtor, not including accrued interest unpaid and not resulting in a tax benefit on any income-tax return, has been canceled or reduced in a proceeding under this chapter, but the basis of any particular property shall not be decreased to an amount less than the fair market value of such property as of the date of entry of the order confirming the arrangement. Any determination of value in a proceeding under this chapter shall not be deemed a determination of fair market value for the purposes of this section. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as he may deem necessary in order to reflect such decrease in basis for Federal income-tax purposes and otherwise carry into effect the purposes of this section."

SEC. 3. Effective as of June 22, 1938, section 522 of such Act, as amended, is amended to read as follows:

"SEC. 522. In determining the basis of property for any purposes of any law of the United States or of a State imposing a tax upon income, the basis of the debtor's property (other than money) or of such property (other than money) as is transferred to any person required to use the debtor's basis in whole or in part shall be decreased by an amount equal to the amount by which the indebtedness of the debtor, not including accrued interest unpaid and not resulting in a tax benefit on any income-tax return, has been canceled or reduced in a proceeding under this chapter, but the basis of any particular property shall not be decreased to an amount less than the fair market value of such property as of the date of entry of the order confirming the arrangement. Any determination of value in a proceeding under this chapter shall not be deemed a determination of fair market value for the purposes of this section. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as he may deem necessary in order to reflect such decrease in basis for Federal income-tax purposes and otherwise carry into effect the purposes of this section."

Approved, July 1, 1940.

[CHAPTER 501]

AN ACT

July 1, 1940
[H. R. 10958]
[Public, No. 700]

To amend the Act relating to preventing the publication of inventions in the national interest, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of Congress approved October 6, 1917 (40 Stat. 394, ch. 95, U. S. C., title 35, sec. 42), be amended to read as follows:

Withholding of pat-
ents in national inter-
est.

Proviso.
Deemed abandoned
if published, etc.

"Whenever the publication or disclosure of an invention by the granting of a patent might, in the opinion of the Commissioner of Patents, be detrimental to the public safety or defense he may order that the invention be kept secret and withhold the grant of a patent for such period or periods as in his opinion the national interest requires: *Provided,* That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner that in violation of said order said invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor or his assigns or legal representatives, without the consent or approval of the Commissioner of Patents.

"When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the Commissioner of Patents above referred to shall tender his invention to the Government of the United States for its use, he shall, if and when he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government: *Provided*, That the Secretary of War or the Secretary of the Navy or the chief officer of any established defense agency of the United States, as the case may be, is authorized to enter into an agreement with the said applicant in full settlement and compromise for the damage accruing to him by reason of the order of secrecy, and for the use of the invention by the Government."

Right of patentee to sue for compensation.

Proviso.
Settlement with applicant for damage, etc.

SEC. 2. This Act shall take effect on approval and shall remain in force for a period of two years from such date.

Effective date; period in force.

Approved, July 1, 1940.

[CHAPTER 502]

AN ACT

To amend the Immigration Act of 1924 to require aliens admitted into the United States as officials of foreign governments either to maintain their status or to depart from the United States, with the approval of the Secretary of State.

July 1, 1940.
[H. R. 10112]
[Public, No. 701]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first subdivision of section 3 of the Immigration Act approved May 26, 1924 (43 Stat. 153; U. S. C. Annotated, title 8, sec. 203) is hereby amended to read as follows: "(1) an accredited official of a foreign government recognized by the Government of the United States, his family, attendants, servants, and employees."

Immigration Act of 1924, amendments.
Persons not deemed immigrants.

Officials of recognized foreign governments.

SEC. 2. That the first parenthetical clause in section 15 of the Immigration Act approved May 26, 1924 (U. S. C. Annotated, title 8, sec. 215), which reads "(except a Government official and his family)", is hereby repealed, and section 15 is hereby amended to read as follows: "The admission to the United States of an alien excepted from the class of immigrants by clause (1), (2), (3), (4), (5), or (6) of section 3, or declared to be a nonquota immigrant by subdivision (e) of section 4, shall be for such time and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3 and subdivision (e) of section 4, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States: *Provided*, That no alien who has been, or who may hereafter be, admitted into the United States under clause (1) of section 3, as an official of a foreign government, or as a member of the family of such official, shall be required to depart from the United States without the approval of the Secretary of State."

Departure from U. S. of aliens losing exempt status.
43 Stat. 162.

43 Stat. 155.
8 U. S. C. § 204 (e).

Proviso.
Approval of Secretary of State.

Approved, July 1, 1940.

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UNITED STATES
STATUTES AT LARGE, *V. 54, pt. 1, 7*

CONTAINING THE
LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND AND THIRD SESSIONS OF
THE SEVENTY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1939-1941

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER
THAN TREATIES, PROCLAMATIONS, AND
REORGANIZATION PLANS

COMPILED, EDITED, INDEXED, AND PUBLISHED BY AUTHORITY OF LAW
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 54

IN TWO PARTS

PART 1

PUBLIC LAWS
AND
REORGANIZATION PLANS



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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1941

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Provisos.
Laws repealed.

Naval Volunteers.
Service of officers on
courts martial.
Vol. 39, p. 597, re-
pealed.

Naval Militia.

Service of officers on
courts martial.
Vol. 38, p. 285, re-
pealed.

Conflicting laws re-
pealed.

Coast Guard, Lighthouse Service, Coast and Geodetic Survey, and Public Health Service are hereby empowered to serve on naval courts-martial and deck courts under such regulations necessary for the proper administration of justice and in the interests of the services involved, as may be prescribed by the Secretary of the Navy: *Provided*, That so much of the Act approved August twenty-ninth, nineteen hundred and sixteen (Thirty-ninth Statutes, page five hundred and fifty-six), as reads as follows:

"That when serving under the call of the President, officers of said Volunteers may serve on courts-martial for the trial of officers and men of the United States Naval or Naval Militia service, or of said Volunteers, but in the cases of courts-martial convened for the trial of officers or enlisted men of the United States Navy or Marine Corps, the majority of the members shall be officers of the Regular Naval service, and officers and enlisted men of the said Volunteers may be tried by courts-martial, the members of which are members of the Regular Naval service, or of said Volunteers, or any or all of the same," is hereby repealed.

Provided further, That so much of the Naval Militia Act of February sixteenth, nineteen hundred and fourteen (Thirty-eighth Statutes, page two hundred and eighty-three), as reads as follows:

"That when in the service of the United States officers of the Naval Militia may serve on courts-martial for the trial of officers and men of the Regular or Naval Militia service, but in the cases of courts-martial convened for the trial of officers of the Regular service, the majority of the members shall be officers of the Regular service; and officers and men of the Naval Militia may be tried by courts-martial the members of which are officers of the Regular or Naval Militia service, or both," is hereby repealed.

And provided further, That any Act or parts of Acts in conflict with the provisions hereof are hereby repealed.

Approved, October 6, 1917.

October 6, 1917.
[S. 2527.]

[Public, No. 79.]

Army.
Chaplains at large.
Number increased
during the war.
Vol. 39, p. 176.

Proviso.
Only citizens eligible.

CHAP. 94.—An Act Authorizing appointment of chaplains at large for the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may appoint for service during the present emergency not exceeding twenty chaplains at large for the United States Army representing religious sects not recognized in the apportionment of chaplains now recognized by law: *Provided*, That no person shall be eligible to such appointment unless he be at the time of his appointment a citizen of the United States.

Approved, October 6, 1917.

October 6, 1917.
[S. 2531.]

[Public, No. 80.]

Patents.
Withheld during war
if disclosure of inven-
tion detrimental, etc.
Post, p. 422.

Proviso.
Held to be aban-
doned if published, etc.

CHAP. 95.—An Act To prevent the publication of inventions by the grant of patents that might be detrimental to the public safety or convey useful information to the enemy, to stimulate invention, and provide adequate protection to owners of patents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever during a time when the United States is at war the publication of an invention by the granting of a patent might, in the opinion of the Commissioner of Patents, be detrimental to the public safety or defense or might assist the enemy or endanger the successful prosecution of the war he may order that the invention be kept secret and withhold the grant of a patent until the termination of the war: *Provided*, That the invention disclosed in the application for said patent may be

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held abandoned upon it being established before or by the commissioner that in violation of said order said invention has been published or that an application for a patent therefor has been filed in a foreign country by the inventor or his assigns or legal representatives, without the consent or approval of the Commissioner of Patents, or under a license of the Secretary of Commerce as provided by law.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the Commissioner of Patents above referred to shall tender his invention to the Government of the United States for its use, he shall, if and when he ultimately received a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government.

Approved, October 6, 1917.

Compensation if invention tendered to the Government by patentee.

Suit authorized.

CHAP. 96.—An Act Granting the consent of Congress to the Wolf Creek Lumber Company to maintain a bridge already constructed across Tug River.

October 6, 1917.
[S. 2663.]

[Public, No. 81.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Wolf Creek Lumber Company, and its successors and assigns, to maintain and operate, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March twenty-third, nineteen hundred and six, a bridge and approaches thereto already constructed across the Tug River at or near Wolf Creek near Kermit, West Virginia, in the county of Mingo, in the State of West Virginia, which bridge is hereby declared to have been constructed in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March twenty-third, nineteen hundred and six.

Tug River. Wolf Creek Lumber Company may operate, etc., bridge across, Kermit, W. Va.

Construction approved.

Vol. 34, p. 84.

Amendment.

SEC. 2. That the right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, October 6, 1917.

CHAP. 97.—An Act To amend sections twenty-four and two hundred and fifty-six of the Judicial Code, relating to the jurisdiction of the district courts, so as to save to claimants the rights and remedies under the workmen's compensation law of any State.

October 6, 1917.
[S. 2916.]

[Public, No. 82.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause three of section twenty-four of the Judicial Code is hereby amended to read as follows:

Judicial Code. Vol. 36, p. 1091, amended. District courts. Jurisdiction in admiralty and maritime causes. Extended to State workmen's compensation laws.

"Third. Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it, and to claimants the rights and remedies under the workmen's compensation law of any State; of all seizures on land or waters not within admiralty and maritime jurisdiction; of all prizes brought into the United States; and of all proceedings for the condemnation of property taken as prize."

SEC. 2. That clause three of section two hundred and fifty-six of the Judicial Code is hereby amended to read as follows:

Exclusive jurisdiction of United States courts. Vol. 36, p. 1161, amended. Admiralty and maritime causes. State workmen's compensation laws added.

"Third. Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it, and to claimants the rights and remedies under the workmen's compensation law of any State."

Approved, October 6, 1917.

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THE
United States
STATUTES AT LARGE

1/43, pt. 1

OF THE
UNITED STATES OF AMERICA

FROM

Treasury Department

APRIL, 1917, TO MARCH, 1919

CONCURRENT RESOLUTIONS OF THE TWO HOUSES OF CONGRESS
AND
RECENT TREATIES, CONVENTIONS, AND EXECUTIVE
PROCLAMATIONS
AMENDMENT TO THE CONSTITUTION

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOL. XL

IN TWO PARTS

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TREASURY DEPARTMENT

PART 1—Public Acts and Resolutions
PART 2—Private Acts and Resolutions, Concurrent Resolutions,
Treaties, Proclamations, and Amendment to the
Constitution

PART 1

WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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Similar provisions were contained in the following prior authorization act:

Pub. L. 99-607, § 3(b), Nov. 6, 1986, 100 Stat. 3471.

Section 404 of Pub. L. 98-622 provided that:

"(a) Notwithstanding section 41 of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317) [Aug. 27, 1982], no fee shall be collected for maintaining a plant patent in force.

"(b) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317) [Aug. 27, 1982], the Commissioner of Patents and Trademarks may accept, after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982."

CROSS REFERENCES

Payment of final fee, see section 151 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 302 of this title.

§ 42. Patent and Trademark Office funding.

(a) All fees for services performed by or materials furnished by the Patent and Trademark Office will be payable to the Commissioner.

(b) All fees paid to the Commissioner and all appropriations for defraying the costs of the activities of the Patent and Trademark Office will be credited to the Patent and Trademark Office Appropriation Account in the Treasury of the United States.

(c) Revenues from fees will be available to the Commissioner of Patents to carry out, to the extent provided for in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks.

(d) The Commissioner may refund any fee paid by mistake or any amount paid in excess of that required.

(July 19, 1952, ch. 950, 66 Stat. 796; Nov. 14, 1975, Pub. L. 94-131, § 4, 89 Stat. 690; Dec. 12, 1980, Pub. L. 96-517, § 3, 94 Stat. 3018; Aug. 27, 1982, Pub. L. 97-247, § 3(g), 96 Stat. 319; Sept. 13, 1982, Pub. L. 97-258, § 3(i), 96 Stat. 1065.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 79 (Mar. 6, 1920, ch. 94, § 1 (part), 41 Stat. 503, 512).

Language has been changed.

AMENDMENTS

1982—Subsec. (b). Pub. L. 97-258 struck out “, the provisions of section 725e of title 31, United States Code, notwithstanding” after “United States”.

Subsec. (c). Pub. L. 97-247 inserted provision that fees available to the Commissioner under section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks.

1980—Pub. L. 96-517 designated existing provision relating to payment of patent fees as subsec. (a) and

struck out provision that, except as provided in sections 361(b) and 376(b) of this title, the Commissioner deposit fees paid in the Treasury of the United States in such manner as directed by the Secretary of the Treasury, designated existing provision relating to return of excess amounts paid as subsec. (d), and added subsecs. (b) and (c).

1975—Pub. L. 94-131 inserted “, except as provided in sections 361(b) and 376(b) of this title.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-247 effective Oct. 1, 1982, see section 17(a) of Pub. L. 97-247, set out as a note under section 41 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-517 effective on first day of first fiscal year beginning on or after one calendar year after Dec. 12, 1980, subject to authorization of appropriation account credits from collected reexamination fees prior to the effective date, made available for payment of reexamination proceedings costs, see section 8(c) of Pub. L. 96-517, set out as a note under section 41 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-131 effective Jan. 24, 1978, and applicable on and after that date to patent applications filed in the United States and to international applications, where applicable, see section 11 of Pub. L. 94-131, set out as an Effective Date note under section 351 of this title.

APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER

Pub. L. 100-703, title I, § 102, Nov. 19, 1988, 102 Stat. 4674, provided that: “Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.”

Similar provisions were contained in the following prior authorization act:

Pub. L. 99-607, § 2, Nov. 6, 1986, 100 Stat. 3470.

PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

Table with 2 columns: Chap. and Sec. containing chapter and section numbers for Patentability of Inventions, Application for Patent, Examination of Applications, Review of Patent and Trademark Office Decisions, Issue of Patent, Plant Patents, Designs, Secrecy of Certain Inventions and Filing Applications Abroad, and Patent Rights in Inventions Made with Federal Assistance.

AMENDMENTS

1982—Pub. L. 97-256, title I, § 101(6), Sept. 8, 1982, 96 Stat. 816, added item for chapter 18.

1975—Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949, substituted “Patent and Trademark Office” for “Patent Office” in heading of chapter 13.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 282 of this title.

1 So in original. Does not conform to chapter heading.

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102. Pat. ears. der. for gre. ous eter. oner. sec.

TITLE 35—PATENTS

This title was enacted by act July 19, 1952, ch. 950, § 1, 66 Stat. 792

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1984—Pub. L. 98-622, title IV, § 403(b), Nov. 8, 1984,
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CITATION

Section 1 of act July 19, 1952, ch. 950, 66 Stat. 792, provided in part that this title may be cited as "Title 35, United States Code, section —."

SEPARABILITY OF PROVISIONS

Section 3 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that: "If any provision of Title 35, as enacted by section 1 hereof, is declared unconstitutional or is held invalid, the validity of the remainder of this title shall not be affected."

EFFECTIVE DATE; SAVINGS PROVISIONS

Section 4 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that:

"(a) This Act [enacting this title] shall take effect on January 1, 1953 and shall apply to all applications for patent filed on or after such date and to all patents granted on such applications. It shall apply to further proceedings on applications pending on such date and to patents granted on such applications except as otherwise provided. It shall apply to unexpired patents granted prior to such date except as otherwise provided.

"(b) Section 102(d) of Title 35, as enacted by section 1 hereof, shall not apply to existing patents and pending applications, but the law previously in effect, namely the first paragraph of R. S. 4887 [first paragraph of section 32 of former Title 35], shall apply to such patents and applications.

"(c) Section 119, second paragraph, of Title 35 as enacted by section 1 hereof shall not apply to existing patents.

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C.2

UNITED STATES CODE

1988 EDITION

CONTAINING THE GENERAL AND PERMANENT LAWS
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PART 1

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(JANUARY 3, 1935)

THROUGH

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**INVENTIONS AND PATENTS
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77th Cong., 1st Sess.

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U.S. Senate

Committee on Patents

Hearings February 20- April 23, 1941

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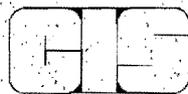
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S3460 Declaratory judgment. Brief by Edwin M. Borchard, Professor of Law, Yale University, relating to the bill (S. 5304), to authorize the federal courts of the U.S. to render declaratory judgments
59 p. 1919. (65/3/19) Y4.J89/2:J89/3.
Senate Committee on Judiciary
Judgments, civil procedure; Federal district courts; Federal circuit courts; Supreme Court; Judicial reform; Borchard, Edwin M.; (65) S. 5304

**S3461-
S3468** [not used]

S3469 To regulate interstate commerce in intoxicating liquors, etc. Report from the Committee on the Judiciary, with hearings held by a subcommittee of said committee, on bills to limit the effect of the regulations of commerce between the several states in certain cases
xlviii+277 p. 1909. (61/1/09) Y4.J89/2:L66.
Senate Committee on Judiciary
Liquor industry; Alcohol and alcoholic beverages; Interstate commerce; Congressional committee hearings texts and summaries; (60) S. 749; (60) S. 2926; (60) S. 3069; (60) S. 3634; (60) S. 4087; (60) S. 5745

S3470 [not used]

S3471 Price discrimination. Extracts from hearings before a subcommittee of the Committee on S. 4171, a bill making it unlawful for any person engaged in commerce to discriminate in price or terms of sale between purchasers of commodities of like grade, quality, and quantity and for other purposes. Statement of Charles G. Daughters, research associate, Institute of Distribution, Inc.
75-84+i p. Mar. 25, 1936. (74/2/36)
Y4.J89/2:P93/3/extract.
Senate Committee on Judiciary
Price discrimination; Congressional committee hearings texts and summaries; Antitrust law; Daughters, Charles G.; (74) S. 4171

S3472 Enforcement of the Eighteenth Amendment to the Constitution of the U.S. Statement on search and seizure in reference to the bills S. 3713, by Mr. Ernst, to establish a Bureau of Prohibition; and S. 3781, by Mr. Willis, making it unlawful to forge or counterfeit permits or other papers used in connection with the enforcement of the National Prohibition Act and providing penalties for the violation thereof
ii+17 p. 1923. (67/4/23) Y4.J89/2:P94/7.
Senate Committee on Judiciary
Searches and seizures; Constitutional amendments; National Prohibition Act; Prohibition; Bureau of Prohibition; Forgeries; Evidence; Court documents; (67) S. 3713; (67) S. 3781

S3473 National Prohibition Act. Minority views [To accompany H.R. 6645]
11 p. Feb. 1925. (68/2/25) Y4.J89/2:P94/11.
Senate Committee on Judiciary
National Prohibition Act; Prohibition; Bureau of Prohibition; (68) H.R. 6645

S3474 National prohibition law. Statement of Henry W. Farnam, professor (emeritus) of economics, Yale University. Extract from hearings
1032-1040 p. 1926. (69/1/26) Y4.J89/2:P94/13.
Senate Committee on Judiciary
National Prohibition Act; Prohibition; Administrative law and procedure; Statistical data: law enforcement; Congressional committee hearings texts and summaries; Farnam, Henry W.

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S3475 Soldiers' and sailors' civil rights bill. Memoranda on S. 2859. A bill to extend protection to the civil rights of members of the military and naval establishments of the U.S. engaged in the present war [identical to H2208].
72 p. Sept. 14, 1917. (65/1/17) Y4.J89/2:So4.
Senate Committee on Judiciary;
Senate Subcommittee on S. 2859
Soldiers' and Sailors' Civil Rights Act; Civil liberties; Due process of law; Privileges and immunities; Military personnel; (65) S. 2859

S3476 Review of the opinions of the Supreme Court of the U.S. in the Standard Oil and tobacco cases. By Albert H. Walker
12 p. 1911. (62/1/11) Y4.J89/2:St2/5.
Senate Committee on Judiciary
Sherman Antitrust Act; Supreme Court; Standard Oil Co.; American Tobacco Co.; Judgments, civil procedure; Court documents; Walker, Albert H.

S3477 Argument and brief of Norris Brown in support of the bill S. 3186, a bill denying to federal courts jurisdiction to enjoin the assessment or collection of state taxes
14 p. 1908. (60/1/08) Y4.J89/2:T19.
Senate Committee on Judiciary
State and local taxes; Federal district courts; Injunctions; Judicial powers; Federal-State relations; Brown, Norris; (60) S. 3186

S3478 Federal courts and state taxes. Argument and brief of Norris Brown in support of S. 2371, a bill denying to federal courts jurisdiction to enjoin the assessment or collection of state taxes
15 p. 1912. (62/2/12) Y4.J89/2:T19/2.
Senate Committee on Judiciary
State and local taxes; Federal district courts; Injunctions; Judicial powers; Federal-State relations; Brown, Norris; (62) S. 2371

S3479 Veto of items in appropriation bills. Memorandum relative to S.J. Res. 36, a joint resolution proposing an amendment to the Constitution of the U.S. so as to authorize the President to veto an item or items in an appropriation bill and approve the residue. Presented by Mr. Nelson [contains list of states in which the governor may approve or disapprove any item or items of any appropriation bill embracing distinct items]
4 p. 1913. (63/1/13) Y4.J89/2:V29.
Senate Committee on Judiciary
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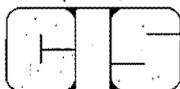
S3480 Power of the federal government over development and use of water power. Report
28 p.+1 foldout 1912. (62/2/12) Y4.J89/2:W29.
Senate Committee on Judiciary;
Senate Subcommittee on S. Res. 44
Water power; Water rights; Electric power; Rivers and waterways; U.S. statutes; State statutes; Judgments, civil procedure

S3481 Alien property custodian: A legislative chronological history and bibliography of the Trading with the Enemy Act, 50 U.S. Code app. of 1-40, and the operations of the Office of Alien Property Custodian, 1917-1952. Report by Freeman W. Sharp, of the American law section, Legislative Reference Service, Library of Congress, and Raymond S. Cox, of counsel, subcommittee staff
vii+50 p. 1953. (82/2/52) Y4.J89/2:A14/4.
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