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Wilson's privateers : 1917-1926

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**WILSON'S PRIVATEERS
1917-1926**

A Thesis

Presented to

The Faculty of the Department of History

San Jose State University

In Partial Fulfillment

Of the Requirements for the Degree of

Master of Arts

by

Jann Perez

August 2007

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ABSTRACT

WILSON'S PRIVATEERS 1917 – 1926

By Jann Perez

This thesis addresses the actions taken by five individuals and their minions during and after America's participation in the Great War. It briefly describes the climate of American society as it moved towards the war, and it reviews some of the war financing methods used on behalf of the United States Secretary of the Treasury, William Gibbs McAdoo. As the Custodian of Alien Property, and later the United States Attorney General, Alexander Mitchell Palmer initiated a propaganda campaign designed to intimidate the American population. His goal was to convince a majority of American citizens to agree with the Wilson Administration that German property in the United States and its possession rightfully belonged to the US Government and its people. Francis Patrick Garvan, Joseph Patrick Guffey, and Francis Burton Harrison aided Palmer in his effort. By 1926, *Wilson's Privateers* were responsible for transferring \$8 billion of German material and intellectual property into American hands.

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The Historian needs an imagination quite as much as he needs scholarship and consummate literary art as much as candor and common honesty. Histories are written in order that the bulk of students may read and realize; and it is as bad to bungle the telling of the story as to lack knowledge.

Woodrow Wilson
The Truth of the Matter: Essays

CONTENTS

ACKNOWLEDMENTS	v
Chapter	
PROLOGUE	1
ONE: PRIVATEERING AND THE SON-IN-LAW	9
TWO: THE NEFARIOUS M.P.	19
THREE: LEIMOTIEF FOR PRIVATEERING	24
FOUR: LET THE FREEBOOTING BEGIN	34
FIVE: PALMER AND HIS BAND OF PRIVATEERS	51
SIX: PALMER, GARVAN, AND THE CHEMICAL FOUNDATION	60
SEVEN: UNITED STATES V. CHEMICAL FOUNDATION, INC.,	67
CONCLUSION	84
Appendix	
1. EXECUTIVE ORDER No. 2651	90
2. HAMBERG-AMERICAN LINE VS. UNITED STATES	93
3. TRADING WITH THE ENEMY ACT AMMENDED	96
4. U.S. V. CHEMICAL FOUNDATION 272 U.S. 1 (1926)	119
BIBLIOGRAPHY	130

Prologue

The xenophobia of the Great War led three departments within the Wilson Administration to manipulate the nation's patriotism for the purposes of political gain and personal enrichment. The Secretary of the United States Treasury Department (USDT), William Gibbs McAdoo, used his position and influence to confiscate enemy property and assist American industrialists and financiers in reaping gross monetary rewards. Alexander Mitchell Palmer, Francis Patrick Garvan, Francis Burton Harrison, and Joseph Patrick Guffey used the Office of Alien Property (OAP) and the Department of Justice (DOJ) to eviscerate German economic interests within the US and to commandeer the German chemical industry. McAdoo and Palmer each hoped that his actions would anoint him as heir apparent to Woodrow Wilson, and thus propel him to the presidency. In order to understand fully how these men committed such overt larcenies in the name of the United States Government, it is important to be familiar with American attitudes before the outbreak of the European War.

On August 7, 1914, after months of simmering tension, culminating in the assassination of Archduke Ferdinand of Austria, Europe erupted into all out war. The family feuds and imperialist designs that had pervaded Europe throughout the nineteenth century finally exploded with dire repercussions: Austria and Germany declared war on Russia, which was allied with France, that in turn declared war on Germany and Austria. Only days later, Great Britain joined the effort on the side of Russia and France to form the Triple Entente while Turkey aligned with Germany and Austria to become the Triple Alliance. In his seminal history of World War I, L.C.F. Turner wrote, "Whatever aims

they proclaimed during the conflict, none of the rulers of the Great Powers really knew what they were fighting about in August 1914.”¹ In reference to the lull after the Franco-Prussian War, magazine editor, George Harvey, wrote in an editorial published in September 1914, “Europe has long been sick – perhaps sick unto death. The forty years’ peace has been no peace, only a feverish truce wherein national rivalries and racial hatreds have intensified and deepened until the day of reckoning was bound to come.”²

At some point during August 1914, the British cut the German trans-Atlantic cable lines between Europe and the US, making the British the single war news outlet for the American media. From the moment of the opening salvos, the British government funneled the “personal testimonies” of war refugees into their international news services creating propaganda in support of the righteous and moral cause of the Entente. Great Britain promptly turned Germany’s “Invasion of Belgium” into a chronicle of murder, rape, pillage, arson, and wanton destruction. To the Americans, the jack booted and steel-helmeted immoral Germans became the ancient Huns, leaving behind a trail of death and devastation.³

Just after Wilhelm II, Kaiser of Germany, declared unrestricted submarine warfare, a German U-boat sank the British liner, *Lusitania*, on May 7, 1915; a thousand

¹ Robert K. Massie, Dreadnought: Britain, Germany, and the Coming of the Great War (New York: Ballantine Books, 1991), 715- 43.

² George Harvey, “The Verdict of the People,” The North American Review, 733 (December 1916): 815-23.

³ On July 27, 1901, during China’s Boxer Rebellion, Kaiser Wilhelm II gave an order to “make the name ‘German’ remembered in China for a thousand years, so that no Chinaman will ever again dare to even squint at a German.” It was in this speech that the Kaiser invoked the memory of the 5th Century Huns, bedecked with the Pickelhaube or spiked helmets worn by German forces until 1916. This comment gave rise to the term “Hun” when referencing German forces during the Great War.

one hundred and ninety-eight people, including one hundred children, died in the attack. The weekly American magazine, the *Nation*, declared that Germany was now, “branded with a mark of infamy such as in our time has not been stamped upon the face of any people.”⁴ The *Lusitania* became the cause célèbre for America’s unbridled disgust toward Germany and her allies.

Historically, England and France had been the America’s longest economic and military allies, even though Germany had provided the US with more immigrants and industry than any other country except Great Britain. By 1914, 2.3 million German immigrants and their 6 million descendants accounted for 20% of the 45 million inhabitants of the United States and German manufactures provided jobs and income to approximately 25% of the US population.⁵ German Americans had fiercely clung to their language and heritage, and this fact caused the issue of Americanism to become a major theme during the 1916 presidential election. While canvassing for Republican candidate, Charles Evans Hughes, Theodore Roosevelt pronounced, “That something sinister lay in identifying with any nationality other than American.” Woodrow Wilson campaigned on a non-intervention and neutrality platform while his supporters touted the slogan, “Wilson, he kept us out of war!”

The seemingly endless conflict in Europe created a deep political and social divide: Americans were torn by two ideologies: pacifist-isolationist and interventionist.

⁴ *The Nation*, 20 May 1915, 54-55.

⁵ Walter Nugent, *Crossings: The Great Transatlantic Migrations, 1870-1914* (Bloomington: Indiana University Press, 1992), 63-83.

The interventionists were able to raise a groundswell of support after a July 30, 1916, explosion that rocked New York Harbor.⁶ Black Tom Island, a major munitions depot, was detonated in a tremendous blast that left a property loss of \$22 million (\$189 million).⁷ This was the first of many terrorist disasters throughout the summer and fall of 1916 that was attributed to German sabotage.⁸

Just before the November balloting of 1916, Wilson proposed and the Sixty-fourth Congress passed the Keating-Owen Act that prohibited child labor, and the Adamson Act that established an eight-hour workday for the nation's railroad workers.⁹ With strong voter turnout on both sides of the national war controversy, Wilson's Progressive and labor friendly legislation helped him to narrowly best Hughes in both the popular and Electoral College votes.¹⁰

On January 11, 1917, an explosion and fire at the Canadian Car and Foundry plant in Kingsland, New Jersey, implicated Austrian ambassador Dr. Constantin Dumba, and German military attaches, captains Franz von Papen and Karl Boy-Ed, as saboteurs. As a result, the three diplomats were declared persona-non-grata by the US government. Boy-Ed was expelled from the US, while the German government recalled Von Papen and

⁶ "Big Munitions Explosion at Black Tom; 50 Believed Dead; 21 Hurt in City Hospital; Damage \$75,000,000," The Jersey Journal (31 July 1916): 1.

⁷ Based upon the 1919 vs. 2002 PMI Index, \$1.00 in 1919 is equal to \$9.00 in 2007; "German Saboteurs Blow-up Black Tom!" New York Times, 30 July 1916: 1.

⁸ New York Times, 15 August 1916: 1; 12 September 1916: 1; 4 October 1916: 1.

⁹ Stephen B. Wood, Constitutional Politics in the Progressive Era: Child Labor and the Law (Chicago: The University of Chicago Press, 1968), vii, 45, 47-80.

¹⁰ *Ibid.*

Dumba.¹¹ George Creel's Committee for Public Information (CPI) propagandized the terrorist bombings and spying allegations to erase any remaining doubts that Americans might harbor about Germany's malicious intent.¹² Economists predicted that a victory by the Triple Alliance would do significant damage to the US economy and America's anti-German sentiment superseded the opposition of the non-interventionists.¹³ As a result, just one month after his second inauguration, Wilson concluded that America could no longer maintain its neutral position. On April 2, 1917, he appeared before a Joint Session of Congress to request a declaration of war against the Triple Alliance.

Palmer and the Red Scare

After sixteen months of America's participation in the Great War, an international armistice was negotiated for November 11, 1918. By January 1919, the worldwide post war economic slow down caused rampant inflation and the stagnation of personal income. Workers in the United States retaliated with widespread and sometimes violent labor unrest.¹⁴ America's frustrations, once constrained by the war, were vulnerable to

¹¹ New York Times, 16 March 1917: 1.

¹² Peter Buitenhuis, The Great War of Words: British, American and Canadian Propaganda and Fiction, 1914-1933 (Vancouver, B.C. Canada: University of British Columbia Press, 1987), 122; In 1914, Wilson appointed George Creel to manage the Committee for Public Information, the administration's propaganda network. The CPI was most famous for its nationwide speeches given by the "Four Minute Men," and the production of Great War collateral propaganda.

¹³ E. L. Bogart, War Costs And Their Financing (New York, Harpers, 1921), 1-76; Ron Chernow, The House of Morgan: An American Banking Dynasty and the Rise of Modern Finance (New York: Simon and Schuster, 1990), 163-205.

¹⁴ During the year 1919, labor strikes and riots broke out across the nation including Boston, Pittsburgh, Detroit, Chicago, Oklahoma City, Missoula, Los Angeles, and Seattle.

the communist and socialist ideologies that swept across war devastated Europe. This state of affairs lead Wilson's second United States Attorney General (USAG), Thomas Gregory, to voice grave concern that agents, acting as union agitators, were plotting to import a Bolshevik-style revolution within America.¹⁵

Gregory resigned in April 1919, and A. Mitchell Palmer, a former Pennsylvania member of United States House of Representatives (USHR) accepted a recess appointment to replace place him. He was a sensible and ambitious politician, and entered the Wilson Cabinet with the 1920 presidential election never far from his mind. However, he found himself standing in the breach when Americans panicked a string of terrorist attacks, known as the Gimble's Bombs, plagued America from April through June 1919.¹⁶ The threat of a revolution became personal for Palmer when on June 2, 1919, a bomb blew out the front door and windows of his private residence in Washington D.C.

Palmer's reaction was to pronounce all labor activists as unpatriotic communist agitators and subversives. Then, methodically and purposefully, he directed the nation's

¹⁵ Stanley Coben, The Development of an American Culture (Edgewood Cliffs, NJ: Prentice-Hall, 1970), 211.

¹⁶ On April 30, 1919, the first of the mail bombs, known as the Gimbel's Bombs because they were packaged in boxes from Gimbel's Department Store, exploded at the homes of prominent officials across the United States. One bomb destroyed the home of the Mayor of Cleveland, and another damaged the house of a Massachusetts legislator. In Pittsburgh, three bombs exploded on May 2; one more destroyed the home of a judge in New York City; a bomb blew a hole in a rectory in Philadelphia; and an explosion severely damaged the home of a silk manufacturer in Patterson, New Jersey. More carnage would have ensued had it not been for the quick reaction of a New York City postal clerk, who remembered that he had set aside additional Gimbel's packages to be marked, "returned to sender," for insufficient postage. A bomber was killed in one of the explosions, and although no arrests were ever made, Federal Bureau of Investigation files indicated that the Washington, D.C. terrorist was identified and linked to the Italian and Serbian anarchists groups, the Galleanis and the Black Hand.

fear and frustration toward the parochial society of Eastern European immigrants. As part of his campaign, Palmer proclaimed the immigrants as communist sympathizers and coined the term the *Red Menace*. He issued a torrent of press releases and declared in one public speech after another that there was an eminent threat of ideological revolution in America: the *Red Scare*.

The *Red Menace* campaign hindered Palmer's talks with labor negotiators and he could not quell the rising tide of unrest.¹⁷ By the end of 1919, the unions had called for 3600 strikes across the country, many punctuated with rioting, bloodshed, and police brutality.¹⁸ The infamous 1920 Palmer Raids, in which arrests and property seizures were conducted without warrants, due process, or *habeas corpus*, were the climax of the labor uprisings and mass public hysteria. During the Congressional investigation of the unlawful raids, Palmer's ineffective defense was Article I, Section 9 of the United States Constitution: "*The privilege of Writ of Habeas Corpus shall not be suspended, unless, when in Cases of Rebellion or Invasion, the public Safety may require it.*"¹⁹

¹⁷ Palmer was moderately successful in his mediations with striking union coal and railroad workers. However, the negotiations were protracted and painful. For every one of his positive outcomes, Palmer suffered 100 failures.

¹⁸ Melvyn Dubofsky, *We Shall Be All: A History of the IWW, The Industrial Workers of the World* (Chicago: Quadrangle Books, 1969), 454-56.

¹⁹ In 1920, the Justice Department's explanation for the suspension of *habeas corpus* was the same argument made by President Abraham Lincoln in 1862: In 1861, Lincoln, without the approval of Congress, suspended civil law in territories where there was strong resistance to US military power. Democrats began criticizing Lincoln's abuse of the Constitution, so in 1862, he suspended *habeas corpus* throughout the nation and many opposition democrats were arrested under martial law authority. Among the 13,000 people in custody was a Maryland Secessionist, John Merryman. Chief Justice of the Supreme Court, Roger B. Taney, issued a *writ of habeas corpus* command to the military, which was refused. In *Ex parte Merryman, 1863*, a battle between the judicial and executive branches of government, the Taney Court ruled that the suspension of *habeas corpus* was unconstitutional. The ruling clarified the precedence that only an Act of Congress can suspend *habeas corpus*.

What began as propaganda to foster American support for the war effort evolved into a hatred of all things that were German. The Wilson administration promoted a dogma of guilt by accusation, innuendo, and association. McAdoo, under the guise of the USDT, assisted industrialists and bankers in lucrative financial schemes, while Palmer, Garvan, Harrison, and Guffey used the OAP and the DOJ to manipulate the president and Congress into eviscerating German industry.²⁰ As a result, through the exploitation of America's fears and prejudices, *Wilson's Privateers* perpetrated some of the greatest profiteering ruses in modern times.

²⁰ The total of amount of enemy assets confiscated by the OAP was approximately, \$825 million (\$8 billion).

ONE

PRIVATEERING AND THE SON-IN-LAW

Discussed taking over Hamburg American Line wharf. Owners would sell two large ships interned, one at Tampico & one in Columbia if they could have control of all other property. W.W. wished the ships, but wished to make no agreement that might embarrass getting control of dock at Hoboken greatly needed. Decided to see Palmer.

Josephus Daniels
The Cabinet Diaries of Josephus Daniels

On August 4, 1914, Germany violated Belgian neutrality and Americans greeted the news with distain and the determination not to become involved. Americans wanted to believe that they were insulated from world affairs and impervious to world problems. The native lands of America's immigrant population were suspect because the *old country* kings and ministers used any event such as nationalism, territorial disputes, competing religions, and colonialism, as pretexts to declare war.²¹ However, two great oceans that historically performed as barriers to overseas threats, along with the comparative weakness of its bordering neighbors, could not prevent the largest neutral commercial power in the world, the United States, from being trapped in the middle of the economic warfare of the belligerents.²²

²¹ Seton-Watson, *Nations and States*, 15-238; Ronald Robinson, John Gallagher, and Alice Denny, *Africa and the Victorians: The Official Mind of Imperialism* (London: MacMillan & Co. LTD., 1961), 462-78; Franz Ansprenger, *The Dissolution of the Colonial Empires* (New York: Routledge, 1989), 27-125; Thomas Pakenham, *The Scramble for Africa: The White Man's Conquest of the Dark Continent from 1876 to 1912* (New York: Random House, 1991), 257-602.

²² Ibid; Robert E. Quirk, *An Affair of Honor: Woodrow Wilson and the Occupation of Veracruz* (New York: W. W. Norton & Company, 1962), 114-120.

During the earliest years of the 20th Century, the United States had worldwide economic interests and a modest colonial empire. However, America's financial prosperity rested on commercial ties with Europe. By 1914, US trade with the Great Britain and France exceeded \$800 million (\$72 billion), while exchange with Germany stood at approximately \$170 million (\$1.23 billion). During the late 19th Century, the expansion of German owned and operated chemical plants in America created a dependence on German patents for coal tar based compounds and organic chemical dyes in order to complete domestic production.²³ The German owned firms filed patents in the US, but produced the compounds in Germany and then shipped them to America for resale or final production.

On August 7, 1914, when headlines of a full-blown European War splashed across the news services, forty million tons of merchant ships, approximately fifteen percent of the global ocean transport system, was under British flag while Germany maintained thirteen percent of the high seas transit lanes. Conversely, American flagged ships amounted to only about one million tons or approximately two percent of the world's ocean cargo capacity.²⁴ Additionally, the British navy's worldwide military dominance completely overshadowed the under-equipped and out classed German navy.²⁵ As Roger Chickering recounted:

²³ Simon Garfield, Mauve: How One Man Invented a Color That Changed the World (London: W. W. Norton & Company, 2001), 174.

²⁴ Robert Ferrell, Woodrow Wilson and World War I, 1917-1921 (New York: Harper Row Publishers, 1985), 195.

From the perspective of the German naval leadership, the war broke out too soon. In 1914, the core of the German High Seas Fleet consisted of sixteen state-of-the-art battleships. The British had twenty-five ultra modern, fast, and heavily armed *Dreadnoughts*. Given this ratio of force, the British appeared to enjoy a prohibitive advantage for any concentrated showdown.²⁶

On the morning of August 8, 1914, both the Triple Entente and Triple Alliance recalled their vessels to homeports; however, through swift maneuvers, approximately six million tons of German and Austrian ships remained interned in neutral harbors around the globe.²⁷ In the United States, New York's Collector of the Ports, Dudley Field Malone, backed by a detachment of the 22nd Infantry from Governors Island, took formal possession of the German vessels berthed at the Hoboken, New Jersey, piers. The seized liners were such well-known ships as the *Vaterland* of the Hamberg-American Line, her sister ship, *Amerika*, and the two of the president liners, the *Grant* and *Lincoln*.²⁸ Also commandeered were four ships known as *four-pipe-flyers*, the *Kaiser Wilhelm II* and the *George Washington*, owned by the North German Lloyd (NGL). Forces at Norfolk, Virginia, interred the NGL *Kronprinz Wilhelm* while the *Kronprinzessin Cecilie* was confiscated in Boston. In all, the United States government detained 104 German ships.²⁹

²⁵ Robert K. Massie, *Dreadnought: Britain, Germany, and the Coming of the Great War* (New York: Ballantine Books, 1991), 851-53.

²⁶ Roger Chickering, *Imperial Germany and the Great War, 1914-1918* (Cambridge: Cambridge University Press, 1998), 88.

²⁷ About five hundred thousand tons of German vessels were idled in U.S. ports on 8 August 1914.

²⁸ The power plant of the *Vaterland* was sabotaged by the crew, however, within a year, it was sailing under the Stars and Stripes as the *Leviathan*. All of the German ships crews were detained and sent to internment camps within the United States and its territories.

²⁹ Appendix 1.

McAdoo Finances the War

William Gibbs McAdoo, one of Wilson's most trusted advisors, was born on a farm near Marietta, Georgia, October 31, 1863. He attended rural elementary and secondary public schools and attended law school at the University of Tennessee - Knoxville. Upon graduation, he was admitted to the Tennessee bar in 1885, and seven years later, he relocated to New York City (NYC), where he took up the practice of corporate law. From 1902 to 1913, McAdoo was the president of Interborough Rapid Transit Subway (IRT), the company that developed, constructed, and operated the system of rapid-transit tunnels between NYC and New Jersey. In 1912, as vice chair of the Democratic National Committee (DNC), McAdoo had the opportunity to acquaint himself with Woodrow Wilson and his family: he fell in love with, and later married, the much younger Eleanor Randolph Wilson on May 7, 1913.³⁰ After his first inauguration on March 4, 1913, President Wilson nominated McAdoo to the cabinet post of Secretary of the Treasury. During his tenure on the cabinet, McAdoo served concurrently as Director General of Railways, Chair of the Federal Reserve, as well as chair of the Federal Farm Loan and the War Finance Corporation Boards.

On August 14, 1914, one week after the war erupted, McAdoo hosted and chaired a USDT conference on foreign exchange and shipping. With the European War seriously jeopardizing US domestic manufacturing and foreign trade, the delegates to the

³⁰ The William and Ellen Axson Wilson McAdoo relocated to New York City in 1919, and then to California in 1921. They divorced in 1934.

conference adopted a resolution that urged Congress to do something to ameliorate the immediate need for a US merchant marine.³¹

In the years leading up to the war, ship owning and operating had become remarkably profitable. Based upon lure of war profits, the opportunity to increase capacity should have attracted domestic expansion. However, as McAdoo stated in his memoirs, Crowded Years, “As a result of the war, people were completely engrossed in problems of their own. Ship owners were making so much money, owing to the unprecedented demand for cargo space, that they were satisfied with the existing conditions.”³²

Faced with an almost certain domestic recession, McAdoo conceived an alternate plan for transporting goods overseas: a government owned shipping corporation. Concept was conduct the company like the Panama Steam Ship line, which former President Theodore Roosevelt purchased and operated through the War Department during the building of the Panama Canal.³³

McAdoo submitted a draft of his shipping plan to Wilson, who referred to it as “socialistic” and voiced concerns about opposition from Congress and Washington

³¹ William McAdoo, Crowded Years: The Reminiscences of William G. McAdoo (Cambridge: The Cambridge Press, 1931), 86.

³² Ibid, 296.

³³ The Panama Railroad Steamship Company was established in 1889 to support the construction efforts of the French Isthmian Canal Company, was purchased by Roosevelt after the company went bankrupt and the US took over the canal project. The canal was completed in 1914, and the line continued to support canal maintenance. The Panama Line was so efficient, that it managed to stave off calls for privatization until the country of Panama took over responsibility for maintaining the canal in 1981.

special interest groups.³⁴ After several private meetings, McAdoo was able to convince Wilson that the format was a necessity for American economic interests. Once the president endorsed the scheme, McAdoo sent the Shipping Bill to Congress where it met with allegations of cronyism and partisanship. Charles R. Miller, editor of the *New York Times*, wrote, “There are signs that someone knows what ships are to be bought and who is to buy them for the government . . . the president has set out deliberately to debauch the American people, to destroy legitimate commerce, and this shipping plan is the first step on the road to national ruin.”³⁵

During the Senate hearings, Senator Theodore E. Burton of Ohio asked McAdoo:

- 1) Does the Secretary of the Treasury have any knowledge that any person or corporation, acting in a private capacity or as agent for the government, holds any option upon the vessels of a belligerent nation interned in our ports?
- 2) Has the Secretary of the Treasury any knowledge that the government of the United States, or any official thereof, has employed anyone to make inquiries as to the possibility of purchasing any such ships?³⁶

In an interview with *Metropolitan Magazine*, Roosevelt stated that Wilson and Secretary of State William Jennings Bryan “had endeavored, in the interest of certain foreign business firms, to secure for the United States the power to purchase the interned ships of one of the belligerents.”³⁷ At that time, Roosevelt claimed, “that the administration’s support of the Shipping Purchase Bill came largely from the personal

³⁴ McAdoo, *Crowded Years*, 294-98.

³⁵ *New York Times*, 18 February 1915.

³⁶ *Congressional Record* 65th Congress, Session 1, 2 September 1916: 4608.

³⁷ *Metropolitan Magazine*, February 1915.

interest of Wilson's cadre of officials." The concept for a government owned shipping line was so controversial that the bill was passed by a minimum majority in the House and successfully filibustered in the Senate.³⁸

After an eighteen-month hiatus, Senator Thomas J. Walsh of Montana resubmitted the Shipping Purchase Bill to the Senate on January 30, 1916.³⁹ Through White House pressure, an excellent public relations campaign, and coercion from agriculture and manufacturing lobbyists, the Shipping Purchase Bill passed by a 38 to 21 Senate vote, and a 211 to 161 ballot in the USHR. Along with the immediate appropriation of the 104 German ships impounded in August 1914, McAdoo and the Office of Alien Property moved swiftly to confiscate the twelve German-owned wharfs in New Jersey.⁴⁰

During the twenty-month saga of the Shipping Purchase Bill, the cost of building or buying ocean going vessels increased by almost three hundred percent while the cost of shipyard building skyrocketed by nine hundred percent. The original 1914 estimate for construction of the shipyard at Hog Island, New York, was \$27 million (\$243 million). Finally completed in 1916, its actual cost was \$66 million (\$540 million). By

³⁸ Ibid.

³⁹ Thomas J. Walsh, was most notable for exposing the Teapot Dome scandal, which shook the Republican administration of President Warren G. Harding. McAdoo took a payment of \$25,000 from oil executive Edward Doheny, a key figure in the scheme, but, he returned it once he discovered Doheny's links with Secretary of the Interior Albert B. Fall.

⁴⁰ The US also commandeered entire German owned ship lines which included the Union Ferry Company, Union Barge Line, Union Harve Line, Union Oil Company of California, Union Sulfur Company, United America Lines, United Fruit Company, United States Lines, United States Transportation Company, the HAPAG Lloyd Line, and the Hamburg Nord Line. At the time of confiscation, the value of the lines and the piers was approximately \$160 million (\$1.44 billion); Appendix 2.

1918, twelve million tons of steamships were constructed, and the US Government had appropriated \$2.65 billion (\$23 billion) for payment to the private suppliers of material and labor.⁴¹

Despite the United States neutrality, the British navy applied the rule of *board and confiscate* to American flagged merchant ships, which drew cries of outrage from both the ship owners and the Wilson Administration. So many claims were filed for the loss of pirated US goods, that McAdoo could not overcome the refusal of private insurance companies to undertake the risk for the cargo, ships, and crew. To resolve the issue, McAdoo created the War Risk Insurance Bureau (WRIB), which he supervised via the USDT.⁴² As general manager, he appointed his long time friend, William C. Delanoy, who made the WRIB into a financial success by securing a federal assessment against private ship owners for the cost of the WRIB.⁴³ From 1914 through 1918, premiums on the WRIB marine risk policies amounted to \$47 million (\$423 million) with a net profit of about \$17 million (\$153 million).⁴⁴

⁴¹ Bogart, War Costs and Their Financing.

⁴² Many of the privately held insurance companies, such as The Hartford, were congregated in Connecticut and under investigation by the OAP. Germany had significant investments in the US insurance business and many German aliens and US citizens owned policies issued by these companies.

⁴³ Records of the War Risk Bureau, Washington, D.C.; Record Group 131; National Archives II, College Park, MD.

⁴⁴ Ibid.

After the successful launch of the federally owned merchant marine and insurance company, McAdoo initiated his most famous and successful scheme. The four issues of Liberty Bonds raised \$21 billion (\$189 billion) by the end of the war.⁴⁵

The first release of the bonds was acquired almost exclusively by preferred banks that received favorable financial incentives from McAdoo. These institutions were designated as repositories of the Treasury, which allowed them to retain the funds in “trust,” for the USDT. This method of entitlement provided the banks with a *triple dip* by providing them with three and a half percent interest on the bonds, the use of the trust monies for private loan customers, and interest on USDT loans to the Allies.⁴⁶ Additionally, the bonds were completely exempt from all taxes including inheritance tax. The First Liberty Bonds, issued on May 14, 1917, brought in \$3.4 billion (\$25 billion).

The Second Liberty Bonds were issued on October 1, 1917, at a four percent interest rate, with only an estate or inheritance tax applied. Additionally, the USDT guaranteed that the bonds were exchangeable if additional higher earning rounds were issued. The total subscription for the second campaign was \$4.6 billion (\$42.3 billion). In the spring of 1918, the Third Liberty Bond campaign sold at four and a quarter percent interest, with a final value of \$4.2 billion (\$33 billion). This third issue brought the total

⁴⁵ McAdoo established an administration policy that required the Allies to apply for loans through the USDT Inter-Allied Purchasing Commission for Procurement of Wartime Supplies. Wall Street speculator and friend of Wilson, Barnard Baruch, chaired this government body along with Robert S. Lovett and Robert S. Brookings. Under Baruch’s leadership, within ninety days, the US government loaned a total of \$1.1 billion (\$10 billion) to qualified Allied member nations. Baruch garnered so much favor for his management of sales that Wilson named him as chairman of War Industries Board.

⁴⁶ Robert H. Ferrell, Woodrow Wilson and World War I, 1917-1921 (New York: Harper Row, Publishers, 1985), 86; Crowder, E. H., First Report Of The Provost Marshall General To The Secretary Of War (Washington Government Printing Office), 1918; William G. McAdoo, War Savings Stamps, (Washington, D.C.: Government Printing Office), 1917.

number of bonds for the combined campaigns to 18,376,815.⁴⁷ The fourth and final Liberty Bond promotion opened on September 28, 1918, with a four and a quarter percent interest rate and complete tax exemption on the first \$30,000. That sale yielded a staggering \$7 billion (\$63 billion), with the banks and trusts acquiring the majority of the certificates.⁴⁸

Once the Armistice was signed in November 1918, with the finances of Great Britain and France in shambles and revolution in Russia, the Wilson Administration faced the dilemma of how to continue paying the interest and begin to repay the principal as the bonds matured. The situation prompted the opportunists within the administration to develop a scheme to assist in retiring the nation's war debt through the OAP, while enriching the friends and associates of the Democratic Party and Woodrow Wilson.

⁴⁷ E.H. Crowder, Final Report To The Secretary Of War, (Washington, D.C., Government Printing Office 1920), 1-50.

⁴⁸ Ibid.; Ninety percent of the bond purchases made were in amounts of between \$10,000 to \$50,000 dollars.

TWO

THE NEFARIOUS M.P.

. . . And they shook down your rich and wealthy allies, laying accusations against them, saying, 'This fellow has pro-Brasidas leanings' of hounds. For the sitting ill and fearful, greedily ate up any slander anyone offered to her . . . and without your perceiving it, Greece was left desolate and ruined.

Aristophanes

In a democracy, hysteria has always been a double-edged sword that presented a serious danger to the democratic process. The effect of aberrant emotionalism unhinged public sanity, while the absence of rational thought destroyed intelligent action by the government. In 1917, when the United States finally entered the global conflict, the insidious tentacles of suspicion and loathing had already eaten away at American civil liberties and the nation was gripped in an atmosphere of distrust and hatred.⁴⁹ A. Mitchell Palmer was one of the architects of the country's suspicions and fears.

Raised as a Quaker, Palmer, who became a devout Democrat, was born in Moosehead, Pennsylvania, on May 4, 1872. He received his law degree from Swarthmore College, and was admitted to the Pennsylvania bar in 1893. After settling in Stroudsburg, Pennsylvania, he opened a law partnership, became a director of various local banks and public-service corporations, and served as a member of the Pennsylvania State Democratic Executive Committee. Palmer, the consummate politician, developed

⁴⁹ Edwin P. Hoyt, The Palmer Raids 1919-1920: An Attempt to Suppress Dissent (New York, The Seabury Press, 1969), 1-2; Charles McCormick, Seeing Reds: Federal Surveillance of Radicals in The Pittsburgh Mill District, 1917-1921 (Pittsburgh, PA: University of Pittsburgh Press, 1997) 9-25; Robert K. Murray, Red Scare: A Study in National Hysteria, 1919-1920 (New York: McGraw, 1955), 3-17.

into an adroit political boss, and was elected to the Sixty-first, Sixty-second and Sixty-third US Congresses and served from March 1909 through March 1915.⁵⁰ In 1912, Palmer played a pivotal role in Wilson's presidential nomination through his service as chairperson of the Pennsylvania Delegation to the Democratic National Convention and vice-chairman of the DNC. He frequently acted as the president's point-person during the 1913 Congressional debate on the New Freedom legislation.⁵¹ Labor leaders and social reformers thought of Palmer as indispensable in the House of Representatives, and union officials gave their enthusiastic support to his re-election campaigns. In 1914, he fought a bitter campaign against a powerful Pennsylvania Republican politician, Boies Penrose, for a US Senate seat, but was defeated.⁵²

After the *Lusitania* incident and Germany's persistent submarine attacks, the New York *World* printed a story August 23, 1915, about "M.P.," an American with important government connections, who was rumored to be serving the interests of German government agents.⁵³ According to the interpretation of some purloined German language documents, "M.P." met with both President Wilson and Secretary of State

⁵⁰ Donald Johnson, "The Political Career of A. Mitchell Palmer," *Pennsylvania History*, 25 (October 1958): 345-90.

⁵¹ Woodrow Wilson, *The New Freedom: A Call for the Emancipation of the Generous Energies of a People* (New York: Doubleday, 1913).

⁵² Without Palmer's control over the Pennsylvania State delegates, Frank Clark would have likely become the 1912 Democratic Presidential Nominee.

⁵³ *New York World*, 23 August 1915; *New York Times*, 24 August 1915, Palmer stated, "The story printed in the World this morning, which indicates, though it does not say, that I am the mysterious 'M.P.' referred to in somebody's report of and alleged conversation with the President, is all a fairy-tale as far as I am concerned."

Robert Lansing, to disclose to them that a Southern syndicate was planning to ship large quantities of American cotton to Germany. The syndicate had requested the administration's point of view, and "M.P." reportedly advised his clients that Wilson's view was favorable.⁵⁴ The sensational story implicated Palmer as "M.P.", and added to the ever-growing shadow of doubt over Wilson's public position of neutrality. The "M.P. Affair" led Secretary of State William Jennings Bryan to contend that Wilson was a facilitator for American industrialists and bankers.⁵⁵

Palmer was adept at deciphering the language of pundits and media outlets. The warmongers, spearheaded by the outspoken former President Roosevelt, had successfully made the case for war, and anyone who wanted to survive politically as well as flourish economically had to "jump onto the red fire wagon."⁵⁶ Early 1917, as the debate regarding America's position in the Great War became more acrimonious, Palmer underwent a startling metamorphosis: he turned his back on his pacifist Quaker upbringing and became a warmonger.⁵⁷ The *Literary Digest* reported that Palmer told a

⁵⁴ The New York World, 23 August, 1915: 1: Jules Backman, Wages and Prices (Irvington-on-Hudson, NY: Foundation for Economic Education, 1947), 3-97: Though the atrocities were horrible, the war was a financial boon for the United States. America, which had been gripped by a severe economic depression, finally felt relief in the form of orders for food, staples, and armaments from both the Triple Entente and Triple Alliance. Farms and factories pulsated with activity and thousands of the unemployed went back to work. From 1914 until America entered into the war in 1917, the US sent more than \$3 billion in goods to Britain, \$1 billion to France and more than \$383 million to Germany.

⁵⁵ Woodrow Wilson, The Public Papers of Woodrow Wilson. 6 v., ed. by Ray Standard Baker and William E. Dodd, New York: Harpers, 1925-1926): W. J. Bryan to Woodrow Wilson, 17 May 1915; During 1915, and then in earnest after the sinking of the *Lusitania*, Bryan lobbied Wilson to maintain his strength of conviction for neutrality between the warring factions in Europe. On May 17, 1915, he wrote a letter to Wilson that marked an inevitable ideological break, and Bryan resigned as Secretary of State on 8 June 8, 1915.

⁵⁶ Joseph F. Guffey, Seventy Years on the Red Fire Wagon (Privately printed, 1954).

friend, “I made up my mind that I just must get into it some how, even if I had to carry a gun as a private.”⁵⁸ Palmer visited the White House on April 6, 1917, and offered his services to Wilson “in any capacity, without compensation.”⁵⁹ When Wilson signed the Trading with the Enemy Act (TEA): Public Law No. 65-91, (40 Stat. L. 411), on October 6, 1917, he was able to accommodate Palmer’s desire for a political appointment by naming him to the post of Alien Property Custodian (APC), the overseer of the Office of Alien Property (OAP).⁶⁰

Wilson submitted Palmer’s nomination for approval by the Senate, which was in the preliminary stages of investigating Palmer’s role in the “M.P. Affair.” The media and the public speculated as to why Palmer, a man suspected of being the nefarious “M.P.” should be entrusted with managing German owned property in the United States and its possessions. Palmer, familiar with the inner workings and *old boys’ club* style of Washington, D.C., worked the backrooms and corridors of Congress, where the urgent

⁵⁷ Quakers, a religious group, refer to themselves as “friends” and maintain that within humankind, a divine presence is held which enlightens the inner soul. They practice pacifism as a main tenant of their observance of the Supreme Being. When Wilson first took office in 1913, Palmer had refused a War Department position declaring that the work would be in conflict with his religious tenets.

⁵⁸ Memorandum, Tumulty to Wilson, 8 August 1917; Wilson, Woodrow Personal Papers, Washington, D.C., Arthur Link, Editor, November 1919 to January 1920, Volume 22; Manuscript Room, Library of Congress, Washington, D.C.

⁵⁹ Ibid.

⁶⁰ Appendix 3: The Office of Alien Property Custodian established by EO 2729-A, 12 October 1917, under authority of the Trading with the Enemy Act (40 Stat. 411), October 6, 1917, to assume control and dispose of enemy-owned property in the United States and its possessions. The purpose of the TEA was to cut off funds that could be used by enemy countries in a war against the United States. Enemy properties were to be assigned to trusts and managed by the government until a peace was negotiated. Invoking such an act was a common tool used by most belligerents.

matters of war prevailed. There was no debate in the Senate and Palmer received unanimous approval.⁶¹

⁶¹ *Records of the 65th Congress of the United States*, Government Printing Office, August 1918: 511-28; Senate Committee on the Judiciary, *Hearing on Nomination of A. Mitchell Palmer*, 7-9, Congressional Record, 65th Congress, Session 1, September 2, 1919, 4608: In a 1919 special Senate subcommittee closed session, Palmer admitted that he in fact was "M.P.", however, he stated that he had obtained the information for a former candidate for governor of New York, John Stanchfield, who was a leading supporter of the Wilson Administration. Although Palmer declared that he received no fee for the work done for Stanchfield, his patriotism was remained in doubt until he conducted his infamous Palmer Raids; Records of the Alien Property Custodian, Record Group 131; National Archives II, College Park, MD.

THREE

LEIMOTIEF FOR PRIVATEERING

“The luck of the Irish!” said the envious, coveting the fat opportunities for nest-feathering in this political job, with its possibilities for mismanaging the precious enemy properties which the people of the United States would confiscate from the German cartel.

Christy Broth
Pioneers of Plenty: The Story of Chemurgy

With America's entry into the Great War, the Triple Entente became the Allied Nations. Although cognizant of the US investments that had sustained the Allies from 1914-1917, the Wilson Administration had not recognized the considerable holdings of German commercial and private property in the United States.⁶² Unaware of the extraordinary task confronting the OAP, Palmer recalled, “I was shoved off into a little back room behind a tailor shop with nothing to begin work with except a lead pencil and a colored messenger boy at the door.”⁶³ Once investigations began to uncover the vast German capital investments in the US, Palmer advised Wilson of the urgent need to supplement his staff with experienced executives and attorneys who were capable of managing foreign owned corporations and property. By mid-November 1917, the rapid expansion of OAP had dispersed it over sections of four capitol buildings. Early in January 1918, the APC took over an apartment building and converted it into offices for

⁶² The Americas During the Great War, Records of the Alien Property Custodian, RG 131; National Archives II, College Park, MD; After preliminary research by the Bureau of Investigation, Palmer predicted that the German holdings in the United States were in excess of \$800 million (\$8.1 billion).

⁶³ New York Times, 29 June 1923.

three hundred of his Washington D.C. employees. Within another month, a second OAP branch office opened in NYC.⁶⁴

In order to facilitate the ever increasing responsibilities of the OAP, Palmer needed a loyal lieutenant. His choice was Francis Patrick Garvan. Garvan, a first generation American of Irish decent, was born on June 13, 1875. He attended Yale University for undergraduate school and obtained his law degree from the New York School of Law. Garvan practiced law in Manhattan and ended his brief private tenure when he accepted a position as a NYC assistant district attorney.⁶⁵ Garvan gained prominence during the heavily publicized trial of Henry Kendall Thaw when he served as a forensic lawyer for William Travers Jerome, NYC District Attorney.⁶⁶

As Assistant APC, Garvan was assigned to manage the OAP legal staff of NYC office and direct the operations of the OAP Bureau of Investigation Division (BID).⁶⁷ In that capacity, he worked with Director William Flynn of the DOJ Bureau of Investigation (BI), and twenty-four year old BI agent, J. Edgar Hoover.⁶⁸

⁶⁴ A. Mitchell Palmer, "How Seized German Millions Will Fight Germany," *New York Times Magazine*, New York Times, 27 January 1918.

⁶⁵ Francis P. Garvan Papers, Record Group 47; Smithsonian Museum of American Art: In 1906, Garvan's sister, Genevieve, married Nicolas Frederick Brady, the son of Manhattan utility magnet, Anthony Nicolas Brady.⁶⁵ In 1910, Garvan married Nicolas' sister, Mabel Brady.

⁶⁶ Harry K. Thaw shot and killed White at the Madison Square Roof Garden because of White's love affair with Thaw's wife, Evelyn Nesbit Thaw.

⁶⁷ New York Times, 31 October 31, and 2, 7 & 28 November 1917.

⁶⁸ President Theodore Roosevelt developed the Bureau of Investigation in 1909, and, in 1929, through an Act of Congress, the name changed to the Federal Bureau of Investigation.

From his first weeks on the job, Garvan was indispensable to Palmer and became his closest confidant. Together they shared a powerful devotion to Palmer's political career.⁶⁹ Palmer also hired two long time and intimate business associates as his personal assistants. He appointed his private secretary of twenty years, Norman Dreher, as Director of the Bureau of Administration, and his law partner from Stroudsburg, Allan R. Bensinger, as the APC executive assistant.⁷⁰

Palmer was heavily dependent upon informants to reveal suspected and concealed enemy assets, thus he applied a variety of methods for encouraging the public to spy on their neighbors and employers.⁷¹ Through the aid of 56,000 postmasters, Palmer's onslaught of OAP correspondence reached over one hundred thousand influential Americans, including thousands of lawyers and bankers, and every probate judge in the country.⁷² Within his flood daily press releases, he promoted the successes of the OAP, and issued verbal attacks against the *enemies of freedom*. No one was spared and no

⁶⁹ Records of the Alien Property Custodian and Other Records of Francis P. Garvan, New York and Washington, D.C., Record Group 131, Boxes 1-7, National Archives II, College Park, MD: Garvan to Kresel, July 29, 1918: Garvan had a pronounced tendency to exaggerate the strength of his enemies and the extent of their plots. In a memo to Kresel, he wrote, "I know that all the brains of the German world are at work twenty-four hours a day to circumvent our endeavors."

⁷⁰ New York Times, 28 November 1917.

⁷¹ Records of the Alien Property Custodian and Other Records of Francis P. Garvan, New York and Washington, D.C., Record Group 131, Boxes 1-7, National Archives II, College Park, MD

⁷² Albert Burleson Papers, Washington, D.C., April 1918 through November 1919, Record Group 258; Library of Congress, Washington, D.C.

venue was exempt from Palmer promoting a citizen network of moles.⁷³

So inexorable was the APC's effort at notoriety and publicity that Wilson insisted Palmer submit his marketing campaign to the CPI, where Palmer and Creel produced and disseminated materials that warned the public of German undercover plots to obtain world economic and political domination.⁷⁴ The proliferation campaign included images of hordes of insidious German secret agents, disguised as businesspersons, infiltrating America.⁷⁵ The CPI was so successful in its campaign that it created a national public and political hysteria, which resulted in the frenzied hatred of everything German.⁷⁶

As the BID successfully identified German-owned properties, Palmer moved to commandeer them. His zeal for property confiscation was astonishing. Without Congressional oversight, the APC proceeded to place suspect businesses within OAP commercial trust holding companies. Everyday, representatives of impounded enemy alien properties marshaled in the OAP lobby waiting to petition against the APC removals. Eventually, the complexion of the anteroom queue was transformed into

⁷³ Palmer, *Diary*, Records of the Alien Property Custodian, Record Group 131; National Archives II, College Park, MD; Palmer's publicity campaign created tension between him and publishing giant, William Randolph Hearst. Palmer's vitriolic statements against anything and anyone German caused him to be plagued from 1917 through 1926 by a "curse" issued by the attorney for the Guggenheim Family, Samuel Untermyer, who was also publisher of the newspaper *Yiddish Wahrheit*.

⁷⁴ George Creel Papers, The Hoover Institute, Stanford University, 1919; George Creel, *The War, The World and Wilson* (New York: Harper Brothers, 1920), 119-32; George Creel, *How We Advertised America* (New York: Harper Brothers, 1923), 3-167.

⁷⁵ Creel, *How We Advertised America*, 59-74.

⁷⁶ Ibid; Peter Buitenhuis, *The Great War of Words: British, American and Canadian Propaganda and Fiction, 1914-1933* (Vancouver, B.C. Canada: University of British Columbia Press, 1987), 68-78; The details of the complaints filed by citizens who suspected un-American activities by their German-American neighbors and employers fills 256 record boxes within the National Archives II.

supplicants, all seeking the lucrative directorships, legal positions, or lease options for the confiscated German-owned factories and real estate.⁷⁷

The scope of Palmer's authority coincided with that of his ambition. Palmer looked forward to out maneuvering McAdoo, his most challenging opponent, for the upcoming 1920 Democratic presidential nomination. Palmer's scheme was to use the OAP to guarantee future convention delegates, thus many of Palmer's appointments were not based on job competency; seventeen of the fifty-one OAP litigators he selected had been state representatives to the Democratic National Convention of 1916.⁷⁸ Additionally, a review of pertinent documents contained within the National Archives II, the Archives of the Smithsonian Museum of Art, and the Seely G. Mudd Manuscript Library at Princeton, provide strong evidence that Palmer systematically appointed Wilson's Princeton disciples in an attempt to garner Administration support for Palmer's presidential aspirations.⁷⁹

⁷⁷ Dean Caldwell memos to Palmer and Garvan, May 1918 through June 1918, regarding insurance coverage for all of the OAP trust properties; Records of the Alien Property Custodian, Record Group 131; Washington, D.C.; National Archives II, College Park, MD. *Alien Property Custodian Report for 1917-1922*; Records of the Division of Corporate Management, Sales Docket, New York, NY; 1918-1919; Record Group 131; National Archives II, College Park, MD: The American partner in the Gera Mills, Co. of Passaic, NJ, convinced the APC to allow him to manage the company and then value it at half of its true worth so he could buy out his German partners with a loan from Harriman Bank.

⁷⁸ Alien Property Custodian, Bulletin of Information, 63-65: List of delegates and national committeemen in *Proceedings, Democratic National Convention*,; *Records of the Alien Property Custodian 1917-22*, Record Group 131, National Archives II, College Park, MD; 50, 55-78; and *Ibid.*, 43-71, 457-58.

⁷⁹ During the eight years from 1896 to 1903, the Princeton student body seniors elected Wilson "Favorite Professor" seven times. Throughout Wilson's political career, his faithful entourage would be his buttress against criticisms or failings.

Palmer began his endeavor by appointing J. Lionberger Davis, a member of the Princeton Class of 1900, as Managing Director of the OAP.⁸⁰ Davis was a well-credentialed and nationally respected banker, who served as the vice president of the St. Louis, Missouri, Chamber of Commerce.⁸¹

Members of the Pennsylvania Democratic Party also received OAP appointments. They included Fred N. Berry, Samuel Graham, James I. Blakeslee, and George W. Guthrie.⁸² Other patronage appointments went to DNC Committeepersons E.D. Smith, Alabama; Isidor B. Dockweiler, California; Arthur F. Mullen, Nebraska; Joseph E. Davies, Wisconsin; Angus W. McLean, North Carolina; Boetius H. Sullivan, son of Illinois Democratic boss Roger Sullivan; Daniel J. McGillicuddy, Maine; J. Bruce Kremer; J. Henry Goeke, Ohio; and J. Harry Covington, Maryland.⁸³

Palmer also installed many of his OAP appointees as paid board members or attorneys for the enemy alien companies held within the OAP trusts.⁸⁴ Covington, who

⁸⁰ Wilson Papers, Seeley G. Mudd Library, Princeton University, Princeton, NJ, Letter to Colonel House from J. Lionberger Davis, 25 November 1932: "You knew Woodrow Wilson when he became a public servant and later a world-wide figure. I knew him intimately at Princeton, where my father was a trustee for ten years and of which I was a trustee for five years. I had, on many occasions, the almost irresistible impulse to break through the barriers in Washington when I was there as Managing Director for the Alien Property Custodian"

⁸¹ Alien Property Report for 1917-22, Record Group 131; National Archives II, College Park, MD.

⁸² Ibid.; Additional Princeton alumni appointees were: Douglas I. McKay, 1880; Francis Fisher Kane, Class of 1890, Jeremiah S. Black, 1891; Barnaby Conrad and John K. Hutchinson, 1897; Andrew S. Duvall, 1899; William W. Roper and William H. Green, 1902; Roland Morris, 1904; James A. Delehanty, 1904; Charles A. Perkins, 1912; Frederick B. Lynch and J. Kemp Bartlett, 1913.

⁸³ Alien Property Custodian Report for 1917-1922, Record Group 131, Boxes 3-8 14, 15, 93, 205, 248, 260, 336, 423, 434, 446, 460, 474, 581, 603, 617, National Archives II, College Park, MD.

later helped manage Palmer's campaign for the 1920 Democratic presidential nomination, received about \$17,500 (\$156,975) in legal service fees from Bayer Chemical Company, \$3,000 (\$26,910) from the Berlin Aniline Works and \$26,000 (\$233,220) from the Bosch Magneto Company.⁸⁵

Palmer appointed DNC Chairman, Homer Cummings of Connecticut, as counsel for the International Textile Company of Bridgeport and as a director and counsel for Stollwerck Brothers of Stamford, Connecticut. He named DNC committeeperson, Frederick B. Lynch of Minnesota, as president of Botany Mills and vice president of American Trans-Atlantic Shipping Line. On December 13, 1917, Secretary McAdoo lamented in a letter to Carter Glass, "there are universal complaints" being directed against Wilson's insistence on allowing Palmer to appoint "irregular party men." McAdoo insisted that Wilson's cavalier handling of patronage had "enormously weakened the Democratic Party."⁸⁶

A leading New Jersey Democratic, Mark Sullivan, served as a director for several of the OAP trust companies, as did influential New Jersey politicians such as William E. Tuttle, a former congressperson; Edward Grosscup, a former state treasurer; and James F.

⁸⁴ This additional benefit provided them with a block of undervalued stock. Some instances of companies bargain securities were Bayer, Gera Mills, Botany Mills, Bosch Magneto, and H. J. Henkel Cutlery.

⁸⁵ Jules Backman, *Wages and Prices* (Irvington-on-Hudson, NY: Foundation for Economic Education, 1947), 34; Steven R. Weisman, *The Great Tax Wars: Lincoln to Wilson: The Fierce Battles Over Money and Power That Transformed the Nation* (New York: Simon and Schuster, 2002), 96: The average white collar income during the year 1919 was approximately \$3,500 to \$5000, while the average white collar income in 2002 was \$56,500 for women and \$100,000 for men.

⁸⁶ William G. McAdoo, *Crowded Years: The Reminiscences of William G. McAdoo* (Cambridge: The Cambridge Press, 1931), 243.

Fiedler, New Jersey's former governor. In addition, Palmer assigned positions to New York politicians Robert F. Wagner, Alfred E. Smith, Dudley Field Malone, and Martin J. Glynn. United States Senator-elect from Georgia, William J. Harris, was named supervisor and liquidator of a number of German firms, and two of Wilson's biggest financial contributors to his presidential campaigns, Henry Morgenthau, Sr. and Abram I. Elkus of New York, were also named as trust directors.

The former congressperson and leader of the Tammany delegation in Congress, John J. Fitzgerald, received \$37,000 (\$331,890) in payments from three companies under Palmer's control.⁸⁷ Palmer appointed former congressperson Arsene P. Pujo of Louisiana, as a director of H. Koppers and Company, a large Pittsburgh based chemical firm, and James C. MacCloskey, Jr., son of a Democratic leader in Pittsburgh, received \$20,324 (\$182,306) from the Orenstein and Koppel Corporation.⁸⁸ Additionally, the Passaic Worsted Spinning Company, Garfield Woolen Mills, and Gera Mills, each paid MacCloskey \$1,059 (\$9,499).⁸⁹ Harris and Davies earned \$5,000 (\$44,850) each for their brief tenures of service, and, with Palmer's full knowledge, Garvan also drew

⁸⁷ Democratic Party and the Society of St. Tammany were a weave of city politics through the triangulation of the Mayor's office, the Democratic Party and a social club organization. During the Civil War era, the Society of St. Tammany became the Democratic Party equivalent to the Republicans Union League Club. The Democrats controlled New York City and it was, perhaps, the most important government structure in the United States for more than seventy years.

⁸⁸ In 1920, Pujo authored a damning report of Palmer's unconstitutional actions during the Palmer Raids.

⁸⁹ Alien Property Report for 1917-22, Records of the Division of Compensation, Alien Property Custodian Office, Washington, D.C.; 1917-1921; Record Group 131, Box 1, 3-8, 15, 93, 205, 248, 258, 260, 336, 423, 434, 446, 460, 474, 581, 603, 617.

salaries of \$1,100.00 (\$18,000) per annum each, as a member of both of the boards of directors Gera and Botany Mills companies.⁹⁰

The most coveted and lucrative appointments went to four New York City attorneys: James A Delehanty, Princeton 1904, Isidor J. Kresel, John L. Crocker, and John Quinn. They each received fees totaling over \$100,000 (\$900,000) for work on behalf of the OAP.⁹¹ Delehanty had been an independent, highly respected elected judge to the New York Court of General Sessions, however, he lost re-election bid in 1916 to a Tammany-backed candidate.⁹² Kresel was Garvan's former associate from the NYCDA office, and Crocker, a graduate of Harvard Law School and corporate attorney, was a supporter of William Church Osborne, opposition leader to Tammany's Boss Murphy.⁹³ The fourth lawyer, Quinn, enjoyed a close relationship with Tammany organization leaders, which was an important asset for any politically motivated syndicate in New York State. He received \$174,000 (\$1.56 million) in fees, far more than was paid any other attorney.⁹⁴ As the lawyer for the APC, Quinn won the 1926 U.S. Supreme Court

⁹⁰ Records of the Division of Corporation Management, Alien Property Custodian Office; 1917-1921; Record Group 131; National Archives II, College Park, MD; Records of the Chemical Foundation, Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131; National Archives II, College Park, MD: Garvan served as a director on the boards of Botany Worsted Mills from March 1918 to May 1920.

⁹¹ Ibid.

⁹² New York Times, 1 January, 15 October, 9 November 1916.

⁹³ Charles F. Murphy was a Tammany Hall machine boss from 1902 to 1924; Records of the Alien Property Custodian and Other Records of Francis P. Garvan, New York and Washington, D.C.; Record Group 131; National Archives II, College Park, MD: Kresel was an investigator of extraordinary ability who was keen, ruthless, and persevering. He became a close friend and associate of Garvan's and the two exchanged personal memos with the salutation Dear "Jew" or "Mick", and ended with the reverse.

decision, which established the constitutionality of Palmer's seizures under the Trading with the Enemy Act.⁹⁵

The APC did not discriminate with regard to the pursuit of enemy property. With an unfettered grasp, Palmer swallowed German businesses while concurrently managing his national public relations campaign, which promoted the fact that the companies under his supervision produced consumer goods and services for loyal Americans and the armed forces. Palmer controlled lumber and shipbuilding industries; raised sugar, cotton, tobacco, and chicory; published newspapers; mined and smelted lead, zinc, copper, silver, and tungsten; manufactured iron and steel products; brewed beer; produced chocolate; and provided the Allies with machinery, and munitions.⁹⁶ In December 1918, during a speech to the NYC Bar Association, Palmer stated that his office was administering 29,753 trusts with a value of \$506.4 million (\$4.5 billion), and that another 9,000 trusts, estimated at \$300 million (\$1.8 billion), were yet to be officially evaluated. He proclaimed it his duty to "eviscerate the Kaiser on American soil."⁹⁷

⁹⁴ Quinn was a delegate to the 1912 Democratic national convention and a member of the platform committee in the NY State Democratic Conventions of 1908 and 1910. Before accepting Palmer's appointment, Quinn published a treatise on the significant role of the banking industry in the new Trading with the Enemy Act, giving special attention to the problem of alien property.

⁹⁵ *United States v. The Chemical Foundation, Inc.* 272 U.S. 1 (1926); Appendix 4.

⁹⁶ *Ibid.*; Literary Digest, 27 March 1920: 53.

⁹⁷ A. Mitchell Palmer, "The Great Work of the Alien Property Custodian," *American Law Review*, 53, April, 1920, 45: These extraordinary holdings included many of America's most profitable industries including Hartford Insurance, Merck Pharmaceuticals, Pabst Brewing, Grumbacher Faber, Passaic Mills, Bridgeport Brass, Bridgeport Machine Gun and Munitions, Portland Cement, and Botany Worsted Mills.

FOUR

LET THE FREEBOOTING BEGIN

Call it what you will, the biggest trust company, auction shop, or bargain counter sale: Uncle Sam has it among his war activities. The Office of Alien Property is an auction shop because the great industries here in the United States, owned and controlled by German trade barons, which are seized under the Trading with the Enemy Act, will be sold outright to loyal citizens of this country and Americanized, so that German control of commerce and industry in the United States of America is stamped out forever. It is a bargain counter sale because many times, in odd collections of German owned property, there are small pieces that have to be quickly converted to cash to prevent loss, either to the individual owner or to Uncle Sam. As such, they are passed across the counter in spot sales and the money turned into Uncle Sam's Treasury.⁹⁸

A. Mitchell Palmer

As the administrator for enemy properties held and sold under the TEA, Palmer moved to protect himself against the potential charges of corruption and nepotism. He established an Advisory Sales Committee (ASC), composed of five men who were five stalwarts of American capitalism. They were: Otto T. Bannard, Chairman of the Board of Directors of the New York Trust Company; George L. Ingraham, former presiding judge of the Appellate Division of the New York State Supreme Court; Cleveland H. Dodge, Vice President of Phelps Dodge Corporation, Director of the National City Bank, one of Woodrow Wilson's Princeton classmates, and his trusted friend; Benjamin H.

⁹⁸ Palmer, *Diary*, 40, 45: Additionally, in his press release dated 15 April 1918, Palmer stated: "If it should be sold at public auction, the expense of advertisement and sale and the storage charges and other cost for protecting the property caused by the delay of sale would consume much of the proceeds. In interest, therefore of getting a better price, saving money for the Government and the ultimate owners of the property, and seeing that the property goes to purchasers who can make the best use of it, private sales of this property will be negotiated as heretofore under the Executive order issued by the President on April 2, 1918. All checks deposited as a qualification for bidding, or for the purpose of securing the right of inspection, or as payment of or upon the purchase price for property sold, shall be made payable to 'Joseph Guffey, Director of Sales,' 110 West 42nd Street, Manhattan Borough, New York City, and must be certified by some bank or trust company acceptable to the Alien Property Custodian or to said Director of Sales".

Griswold, Jr., head of the banking firm of Alexander Brown and Sons, Baltimore; and Ralph Stone, President of Detroit Trust Company.⁹⁹

Once the ASC was in place, the APC issued a press release stating that no sale was to be finalized until Palmer's prestigious board approved the terms, method of sale, and the integrity of the buyer:

Every precaution will be taken to enable the properties to be sold fairly and for a proper price. The purchasers must be American citizens, and no person connected with the Alien Property Custodian's Office will be permitted to be interested directly or indirectly in any such purchase.¹⁰⁰

On July 18, 1918, Joseph F. Guffey, an opportunist who was deeply involved in oil speculation as Director of Sales for the OAP assets. If Palmer had been looking for honest disposal of confiscated German assets, Guffey was not the man to trust for selling hundreds of millions of dollars worth of enemy trust properties.¹⁰¹ Born in 1870, Guffey attended public schools in Greensburg, Pennsylvania, and preparatory school in New Jersey. As a Princeton University student, he idolized Wilson, and although he left college before receiving an undergraduate degree, he remained in touch with Wilson and

⁹⁹ The five member ASC and Garvan became the governing board for the Chemical Foundation, Inc. Palmer, *Diary*, 18 July 1918; 63, 89; Cleveland Dodge was particularly onerous in the history of labor accidents. On Oct. 22, 1913, an explosion at the Phelps Dodge mine in Dawson, N.M., killed 263 men. On Feb. 8, 1923, a second explosion at the same mine killed 120 workers.

¹⁰⁰ New York Times and New York World, 19 July 1919; Palmer, *Diary*, 77, 89.

¹⁰¹ Joseph F. Guffey, Princeton University, 1920-1936, Undergraduate Records, Box 1, Seeley G. Mudd Manuscript Library, Princeton, NJ; Joseph Guffey, Seventy Years on the Red Fire Wagon, (Private, 1952), 10-61.

he was an ardent Wilson supporter during the Princeton Quadrangle Plan controversy.¹⁰²

Guffey owned Guffey Oil Company in partnership with his two sisters, Ida and Pauletta, and had financial interests in West Virginia coal production.¹⁰³ On May 1, 1894, he received his first patronage appointment as the Superintendent of City Delivery for the United States Postal Service in Pittsburgh.¹⁰⁴ Concurrently, he was employed from 1894 to 1918, as secretary of the public utility, the Philadelphia Company, where he later advanced to the position of general manager. In 1918, he served as president of the National Gas Association, an industry lobbying organization.

Guffey was able to foster his admiration for Wilson by becoming a *lieutenant* in the Pennsylvania Democratic Committee (PDC). During Wilson's 1912 nomination campaign, Guffey was invaluable to Palmer as he kept track of Democrats who did not observe strict allegiance to the PDC boss.¹⁰⁵

¹⁰² Henry Wilkinson Bragdon, Woodrow Wilson: The Academic Years (Cambridge, Belknap Press of Harvard, 1967), 86-87; Wilson's Quadrangle Plan, "Report on the Social Co-ordination of the University," proposed that undergraduates spend all four years within one residential college. The colleges would provide eating facilities, libraries, and other amenities to better enhance undergraduate education rather than the traditional Princeton "Eating Clubs." When Wilson presented the details to the Princeton Trustees, he stated that it was "the most important matter he would ever bring before them." It was Wilson's belief that the eating clubs promoted an anti-intellectual environment.

¹⁰³ Guffey, Seventy Years, 60.

¹⁰⁴ *Ibid.*, 20.

¹⁰⁵ *Ibid.*, 46-9; "The President had offered me \$25,000 a year as sales director for the Alien Property Custodian. I told him I would not consider it except on my own terms – one dollar a year, and when A. Mitchell Palmer became Alien Property Custodian, I took the assignment as a dollar-a-year man. In addition to the War Industries board, I also served on the Council of Defense and the Petroleum War Service Committee . . . Although I had followed Woodrow Wilson's fortunes from the time that I first encountered him as a teacher at Princeton, and worked closely with him during the war, I considered my most memorable association with him that which came at the end of his career;" Joseph F. Guffey, Princeton University, 1920-1936; Undergraduate Records; Seeley G. Mudd Manuscript Library, Princeton, NJ.

Once Guffey settled into his new position as OAP Director of Sales, he discovered that his predecessor, Joseph A. Bower, had used the proceeds from the sales of confiscated properties to benefit his personal banking connections.¹⁰⁶ According to the TEA requirements, monies derived from the disposal of enemy properties were to be transferred immediately to the USDT for conversion into government bonds.¹⁰⁷ However, Bower first deposited sales proceeds into private banks for up to four weeks to enable them to increase their capacity for commercial loans.¹⁰⁸ For this service, Bower received bank shares and kickbacks.¹⁰⁹

Bower's methods of exploitation permitted Guffey to pursue the same tactic. Immediately after assuming office, Guffey deposited the proceeds from all OAP sales into various trust accounts established with New York banks owned or administered by his friends and political associates.¹¹⁰ Eventually, the majority of the money that Guffey controlled, about \$42 million (\$378 million), was deposited with the Guaranty Trust

¹⁰⁶ Joseph A. Bower, a former Detroit, Michigan, native, left the Office of Alien Property to head a New York financial syndicate. Historically, he known best for his success in building the privately owned *Ambassador Bridge*, which links Detroit, Michigan, with Windsor, Ontario, Canada.

¹⁰⁷ Trading with the Enemy Act; Records of the Division of Corporate Management, Sales Docket, New York, NY; 1918-1919, Record Group 131; National Archives II, College Park, MD.

¹⁰⁸ The war time economy produce a period of large scale industrial expansion and high demand for capital lending.

¹⁰⁹ Palmer to S.B. Philson, 6 May 1918: Palmer informed a correspondent who was seeking APC funds for the Harriman National Bank, "Under the law we are compelled to deposit all money forthwith into the Treasury of the United States. We only use banks as depositories for securities and other property;" Documents within the files of the National Archives II indicate that McAdoo was aware of Bower's flagrant violations of policy; however, Bower's only consequence was a written reprimand from McAdoo's office; Records of the Division of Corporation Management, Alien Property Custodian Office, Washington, D.C., 1917-1921, Record Group 131; National Archives II, College Park, MD.

¹¹⁰ Records of the Division of Corporation Management, Record Group 131; National Archives II, College Park, MD.

Company.¹¹¹ He consigned another \$1.6 million (\$14.4 million) into the American Trust Company, and \$2.2 million (\$19.8 million) with the Harriman National Bank.¹¹² This money usually remained on deposit for several months while Guffey made large withdrawals to pay his personal debts or to speculate on stocks and oil.¹¹³ He pledged the high risk common stock of his company as collateral for personal bank loans totaling \$2.1 million (\$18.9 million).¹¹⁴

Guffey neither reported nor remitted to the USDT the earned interest of the *on deposit* funds, and Palmer, who served as chairman of the board of American Trust Company and a director of Harriman National Bank knew that Guffey was withholding the sales proceeds.¹¹⁵ In mid-1920, Guffey and the USDT Accounting Division exchanged correspondence on the matter; however, it was not until March 1921, that Thomas Miller, appointed by Warren G. Harding as APC, insisted that Guffey return the

¹¹¹ Ibid.

¹¹² In January 1919, George Herbert Walker formed W.A.Harriman & Co. Bank with Averill Harriman, of Edward Henry Harriman Investments. In 1920, after the German owned Hamburg-Amerika Shipping Line was confiscated by the APC, Harriman and Walker gained control of the company through negotiations with the ship line's owners, William Cuno, & Max Warburg. The Harriman and Walker formed an American holding company known as the American Ship & Commerce Corp. (ASCC) and proceeded to secure numerous commercial piers at the Port of New York.

¹¹³ Records of the Division of Corporation Management, RG 131; National Archives II, College Park, MD; Guffey, Seventy Years, 43-57.

¹¹⁴ Ray Springle, "Lord Guffey of Pennsylvania," American Mercury, 39 November 1936: 273-84; Guffey deposited \$275,000 (\$2.475 million) of OAP revenue as security for a personal loan into an account in his own name at the American Trust Company. Additionally, while serving within the OAP, Guffey remained as an employee with the Philadelphia Company which prided itself in creating monopolies; Guffey, Seventy Years, 43-62; Guffey used the personal loans from the banks to speculate utility and mining takeovers based on insider tips.

¹¹⁵ Bishop, "Judicial Construction of the Trading with the Enemy Act," 721-59; Johnson, "The Political Career of A. Mitchell Palmer," 345-70; Springle, "Lord Guffey of Pennsylvania", 273-84.

accumulated revenue from the New York deposits. By that time, the illegal accounts had amassed \$400,000 (\$3.6 million) interest.¹¹⁶

On December 11, 1922, a federal grand jury indicted Guffey on twelve counts of embezzlement and fraud against the United States. Surprisingly, Palmer, McAdoo, and Garvan were not implicated in any of the federal indictments.¹¹⁷ During 1926, as the federal courts labored over dispensing verdicts for the perpetrators of the Harding Administration Teapot Dome lease scandal, all charges against Guffey were dropped.¹¹⁸

While Guffey conducted domestic freebooting, Francis Burton Harrison, Governor-General of the Philippine Islands, was Palmer's choice for OAP privateering in

¹¹⁶ New York Times and New York World, 10 April 1924: Colonel Thomas W. Miller, appointed as head of the Office of Alien Property by President Warren G. Harding, was convicted of fraud after it was discovered that he continued Palmer's and Garvan's practice of selling valuable German patents seized in the Great War for far below market price. Miller illegally transferred a German-owned American company to a business syndicate in exchange for \$274,000 (\$2.5 million) of which \$50,000 (\$450,000) surfaced in an account belonging to Harry M. Daugherty. Miller's conviction concluded that he had taken bribes and he was sentenced to federal prison.

¹¹⁷ New York Times, 29 December 1922. Guffey's indictment was quashed under suspicious circumstances. Guffey's fortunes failed in the mid-1920s, and he *watered* his stocks to fend off bankruptcy.

¹¹⁸ Burl Noggle, Teapot Dome: Oil and Politics in the 1920's (New York, W.W. Norton and Company, 1962): In 1921, by executive order of the President, control of naval oil reserves at Teapot Dome, Wyoming, and at Elk Hills, California, was transferred from the Navy Department to the Department of the Interior. The oil reserves had been set-aside for the Navy Department by Wilson as a strategic reserve during the Great War. In 1922, Albert B. Fall, US Secretary of the Interior, leased, without competitive bidding, the Teapot Dome fields to Harry F. Sinclair, an oil operator, and the field at Elk Hills, to Edward L. Doheny. These transactions became the subject of a Senate investigation conducted by Montana Senator Thomas J. Walsh. Walsh provided background information that Fall's Three River Ranch in New Mexico suddenly began to prosper in 1922, when Fall paid off back taxes and purchased an adjoining property that enhanced his water rights. A financially strapped Fall had become flush, and Walsh wanted to know why. It was found that in 1921, Doheny had lent Fall \$100,000, interest-free, and that upon Fall's retirement as Secretary of the Interior, Sinclair also loaned him a large sum of cash. Walsh conducted Senate hearings that exploded into front-page stories named "The Teapot Dome Scandal." The investigation led to criminal prosecutions and Fall was indicted for conspiracy and accepting bribes. Convicted of the latter charge, he was sentenced to a year in prison and fined \$100,000. In another trial for bribery, Doheny and Sinclair were acquitted, although Sinclair was subsequently sentenced to prison for contempt.

Asia.¹¹⁹ Harrison, an 1895 graduate of Yale and a classmate of Garvan, received a law degree from the New York Law School in 1897.¹²⁰ He served first as a US Army captain and later as an assistant during the Spanish-American War. His political career began when he was elected as a Democrat to represent the 13th District of New York in the USHR. After serving one term from 1903-05, Harrison ran unsuccessfully for lieutenant governor of New York, but was returned to the USHR in 1907, from New York's 16th District. He resigned his USHR seat when Wilson appointed him as Governor-General of the Philippines on September 1, 1913.¹²¹

At the outbreak of the Great War, the Philippines were a key component of America's economic strength in Asia. Between 1894 and 1914, almost fifty percent of the US/Asian trade was secured by a German business cartel, which operated through a network of German owned companies within the United States. By January 1918, the cartel's trade through the Philippines amounted to over \$20 million (\$170 million),

¹¹⁹ The impropriety of managing funds of enemy sales by a member of the Wilson Administration Department of State was a blatantly corrupt; Alien Property Management of the Philippine Islands, Record Group 131; National Archives II, College Park, MD; Mrs. Burton Harrison, Recollections Grave and Gay: 1843-1920 (New York: Scribner's and Sons, 1911), 396 pages.

¹²⁰ There is no birth date for Harrison in the public records.

¹²¹ Harrison's Congress record is notable for the Harrison Narcotics Tax Act of 17 December 1917, and the 1916 Jones Act, which paved the way for Filipino independence.

making the confiscation of the cartel's property a prime target for the OAP.¹²²

Although Harrison was the APC's official representative, he delegated most of his OAP duties to his brother, Archibald, who was Secretary of the Philippine National Bank in Manila (PNB).¹²³ The Harrison brothers moved the most valuable OAP assets to the management of their friends and business associates, and after extracting exorbitant administration fees, these cronies bought the OAP trust companies through commercial loans from the PNB.¹²⁴ Adding to the impropriety, the properties were sold through a series of non-published short notice sealed bids.¹²⁵

When Palmer was advised about the questionable OAP practices of the Harrisons, he telegraphed a series of urgent warnings that demanded Harrison immediately discontinue the sales of confiscated property and cancel completed contracts, even if the property had already been transferred.¹²⁶ Governor-General Harrison responded by dispatching his personal secretary, Fred N. Berry, to Washington to secure a deferment from the APC. Concerned about the looming public and Congressional repercussions, Palmer cabled his reply to Harrison: "My decision disapproving sales is final, nothing

¹²² Records of the Division of Corporate Management, Sales Docket, New York, NY; 1918-1919; Record Group 131; National Archives II, College Park, MD: The sequestrating of German property in the Philippines and Hawaii and their disposal to Americans will give to the American people the entree into the commercial trade in the Orient. They have never had the opportunity to secure before the firm establishment of foreign trade. After the war, if the United States government or the manufacturers of America have this trade in their hands, they will be able to have at least their expenses of their bottoms paid and any surplus will go towards profit. If they do not get in on the ground floor now, the opportunity will be forever gone."

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ New York World, 17 April 1924.

¹²⁶ Ibid.

Berry could say will alter it” Harrison wired back to Palmer, “I consider your instructions to cancel sales . . . unreasonable, unjust, illegal and impracticable.”

Simultaneously, Harrison issued his immediate resignation as the OAP representative and released the text of his reply to the press.¹²⁷

On July 22, 1918, Palmer took the situation directly to the president who responded by notifying the Harrison: “I am clearly of the opinion that Palmer is right.” Wilson then issued a direct order for Harrison to agree to revoke the sales; however, Harrison was so slow in processing the rescissions, that Wilson had no alternative but to issue an official and immediate nullification order of all sales in the Philippines.¹²⁸ While Berry was in Washington, he advised Palmer: “You cannot realize the delicacy of alien property matters there and caution is necessary to protect against coming attacks and partisan investigations.”¹²⁹ True to Berry’s prediction, Wilson’s nullification directive sent the Harrison’s cadre of American friends and business associates into frenzy with letters and telegrams of complaint delivered to Palmer’s associates, members of Congress, and McAdoo. Palmer faced disgrace and political ruin if he did not subvert the looming scandal.¹³⁰

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Philippine Islands; Records of the Division, Record Group 131; National Archives II, College Park, MD.

Palmer sent Garvan's associate, Douglas M. Moffat, to take over the property sales in the Philippines with instructions to "keep the lid on."¹³¹ After several weeks, when the furor had calmed, Palmer directed Moffat and BID agents to contact the original German property owners, who interred at US prisoners of war camps, and offer them their freedom if they would consent to the new OAP terms of sale.¹³² As each prisoner agreed to the proposal, Berry approved the resale of the individual properties to the Harrison's cohorts who had originally purchased the properties through PNB scheme.¹³³ Although the Republican administrations of the 1920s uncovered abundant evidence of fraud in the PNB sales transactions, there were no indictments.¹³⁴

Palmer and the Bosch Magneto Company

Palmer's most serious difficulties arose from his confiscation and sale of the German-owned Bosch Magneto Company (BMC), which was the major producer combustion engine parts in the United States.¹³⁵ Although the USDT was still investigating Bower's bank transactions, Palmer named him as acting BMC president, and PDC members Christian Girl, William G. Fitzpatrick, George A. McDonald

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Noggle, Teapot Dome, 71.

¹³⁵ A. Mitchell Palmer, APC, announced this afternoon that he had taken over the Bosch Magneto Company of Plainfield, New Jersey, and Springfield, Massachusetts; 20 April 1918, Records of the Division of Corporate Management, Bosch Magneto Company, New York, NY, 1918-1919, Record Group 131; National Archives II, College Park, MD.

(Princeton, 1871), Arthur H.D. Altree, and Arthur T. Murray as officers of BMC. The APC also appointed certified public accountant, John MacMartin, as assistant BMC secretary, with Covington tapped to serve as BMC associate counsel.¹³⁶

On May 2, 1918, Palmer publicly announced the new officers of BMC, and pledged, “The production capacity of the [confiscated enemy] plants will be increased as far as it is necessary to take care of the regular output and one hundred percent of the Government’s war activities as required.”¹³⁷ As the OAP secured control of BMC, independent accountants audited the firm’s books and calculated the net value of its assets at \$8.5 million (\$72 million).¹³⁸ Five months later, with BMC operating at a pace that should have increased profits, MacMartin conducted an internal audit; the results showed a decrease in net value to only \$5 million (\$45 million).¹³⁹ This appraisal became all the more suspicious when Palmer published the figures in a prospectus sent to potential bidders for the BMC.¹⁴⁰ During a congressional oversight hearing, Palmer assured the Senate sub-committee that A.W. Anthony, of the independent New York

¹³⁶ Ibid.

¹³⁷ Palmer, *Diary*, 2 May 1918, 51; Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD.

¹³⁸ Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD.

¹³⁹ Ibid.

¹⁴⁰ Copies of the Bureau of Sales: Alien Property Custodian; Custodians A. Mitchell Palmer, Francis P. Garvan; Director of Sales Joseph F. Guffey; 3 v., 1920, “Presented to Spier Whitaker with the Compliments of Joseph F. Guffey;” In 1930, Whitaker, an attorney from New York, represented German clients, *ESCHER v. WOODS*, 281 U.S. 379 (1930), in a case of relief from additional administrative costs from the confiscation of Escher’s property.

accounting firm, Haskins and Sells, had checked MacMartin's audit figures and had pronounced the figures accurate.¹⁴¹

Palmer limited the conditions regarding the purchase of BMC: only those persons or companies who deposited bonds of \$50,000 (\$450,000) with the OAP could examine the BMC books and an additional bond of \$50,000 (\$450,000) was required in order to submit a bid.¹⁴² Although the main offices of BMC were located in New York, the APC ordered the bidding held at the company manufacturing plant in the small city of Chicopee, Massachusetts. On December 7, 1918, only four bidders that deposited the required bonds appeared for the auction in Chicopee. Two prospects dropped out when the bids jumped from \$350,000 (\$3.15 million) to \$3.5 million (\$31.5 million). Martin E. Kern and H.E. Griffiths of NYC placed the final bid for \$4.15 million (\$37.35 million).¹⁴³ This was an extraordinary price for an enterprise that was valued at \$5 million (\$45 million), with corporate holdings of about \$2 million (\$18 million) in cash and

¹⁴¹ Ibid; New York Times, 29 December 1922, and New York World, 10 April 1924; Bethlehem Motors Corporation, "Stock Holders' Committee, 21 February 1921; Assigned to do accounting work inside the NYC office of the OAP, Anthony was officially employed and receiving a salary and expenses from Haskins and Sells. However, Anthony also received substantive payments as sales commissions and paychecks for additional accounting work requested by Guffey. Anthony's relationship with Guffey was so intimate that in 1919, when the OAP Auditing Division made an official inquiry about the Guffey's non-remitted bank deposit interest, it was Anthony, who responded on Guffey's behalf, and effectively maneuvered to postpone further examinations.

¹⁴² Ibid.

¹⁴³ New York Times, 8 December 1918.

government securities, and consistent earnings over a \$1 million (\$9 million) a year.¹⁴⁴

Although the impropriety was obvious, Garvan declared:

I have made a complete investigation into the circumstances surrounding the sale of the Bosch Magneto Company, and the character of the purchaser. I have examined the letters of Hornblower and Weeks, and the letter of J. Harry Covington, counsel for Martin E. Kern, delivered January 6, 1919, and in view of my investigation and the filing of these letters, I beg to recommend that the Bureau of Sales approve the same to H.E. Griffiths, agent of Martin E. Kern, of Allentown, PA.¹⁴⁵

Kern was the chief stockholder in Bethlehem Motors, and Palmer's friend and law client.¹⁴⁶ Adding to the impropriety, Covington represented Kern as counsel in arranging the final terms of the sale while employed as a member of the OAP legal team.¹⁴⁷

After Kern took over control of the BMC, he immediately reorganized it as the American Bosch Magneto Company (ABMC), and offered securities to the public through a syndicate headed by Hornblower and Weeks. The Custodian's prospectus of sale had noted that Bosch Magneto's entire capitalization was 250 shares of common

¹⁴⁴ "Annual Report, American Bosch Magneto Corporation, 1920," Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD; Established in Boston in 1888, the company, known in 2007 as Hornblower and Fischer, has grown to become one of the most dominant firms on Wall Street.

¹⁴⁵ Alien Property Custodian, Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD: Ingraham to Grim 14 January 1919: The ASC deemed the sale to be a fair price.

¹⁴⁶ Kern was a convicted felon who had spent several years in Sing Sing Prison in Ossining, New York.

¹⁴⁷ Ibid., Alien Property Custodian, "Prospectus of Sale, Bosch Magneto Company," Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131: National Archives II, College Park, MD.

stock at \$1000 (\$250,000 in 1918 - \$2,250,000 in 2007) per share.¹⁴⁸ However, Kern's new stock issue amounted to \$1.8 million (\$16 million).

Three of the OAP's property administrators, Murray, MacDonald, and MacMartin, became Kern's top company officials in the re-organized ABMC: Murray as president, MacDonald as vice president and treasurer, and MacMartin as secretary and assistant treasurer. The men asked the APC if it was legal to continue their retention as employees of the OAP while accepting salaries and bonuses of "twenty five to thirty shares of small blocks" of stock from the ABMC.¹⁴⁹ With no Congressional oversight, the APC determined that concurrently representing both the government and a public company was not a conflict of interest.¹⁵⁰

The OAP audit reported that Kern's public offering of ABMC netted him an immediate paper profit of \$302,246 (\$2.7 million); Murray's profit was \$275,584 (\$2.4 million) and MacDonald's \$168,500 (\$1.5 million). Hornblower and Weeks earned \$351,946 (\$3,167,514) from commissions and stock bonuses, while Chase Securities

¹⁴⁸ Records of the Division of Corporate Management, Alien Property Custodian, "Prospectus of Sale, Bosch Magneto Company," New York, NY, 1918-1919, Record Group 131, Box 2, National Archives II, College Park, MD.

¹⁴⁹ Senate Committee on the Judiciary, Hearing on the Nomination of A. Mitchell Palmer. 1-128; New York Times, 2 March 1919.

¹⁵⁰ *Congressional Record*, 66 Congress, 1st Session, September 2, 1919, 4647; New York Times, 22 October 1926; "Annual Report, American Bosch Magneto Corporation, 1920," Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD: Shortly before the transfer was completed Murray and MacDonald were also awarded cash bonuses amounting to approximately 50 percent of their annual BMC salaries.

profited by \$210,000 (\$1.8 million).¹⁵¹ Furthermore, within six months of ABMC stock issue, the price per share doubled.¹⁵²

In 1922, during Congressional hearings regarding the ABMC, Palmer stated that it was Hornblower and Weeks, not Kern that requested that Murray and the other OAP officials remain as officers of ABMC. Not satisfied with Palmer's explanation, the Senate charged Kern, Covington, and three officers of ABMC with defrauding the government. The case went before a Boston Grand Jury in October 1926; however, no indictments were handed down.¹⁵³

Palmer's Failed Insurance Scam

Palmer was unsuccessful schemes was his attempt to establish an OAP directed insurance monopoly. On April 22, 1918, he issued a memo to the directors of each of the OAP trusts informing them:

I have deemed it advisable to have an insurance survey be made of all properties in which the APC has a substantial interest . . . I have designated Mr. Dean Caldwell, of Washington D.C. to make such surveys. Since the properties involved will secure the benefit of Mr. Caldwell's services, it seems proper that his compensation should be borne by the properties rather than by the government.¹⁵⁴

¹⁵¹ "Annual Report, American Bosch Magneto Corporation, 1919," Records of the Division of Corporate Management, Bosch Magneto Company, Record Group 131; National Archives II, College Park, MD: An additional 20,000 shares were sold to the public in late 1919 at \$100 (\$900) per share.

¹⁵² New York Times, 8 June 1922.

¹⁵³ Noggle, Teapot Dome, 72.

¹⁵⁴ Palmer memo to all Trust Directors, Alien Property Management: Property Insurance, Record Group 131; National Archives II, College Park, MD.

Palmer instructed the trust companies managers to purchase individual explosion, bombardment, and full war coverage in addition to standard corporate liability insurance. Based on the property location, the premiums for each form of coverage ranged from \$.20 (\$1.80) to \$1.50 (\$13.50) per \$1000 of value per annum. For example, located in New Jersey, Botany Worsted Mills (BWM) was considered at high risk for sabotage, thus the company was assessed a “bombardment premium” of approximately \$3100 (\$27,900). With the industry standard of a three percent commission, Caldwell stood to make \$25,500 (\$230,000) per annum from the insurance premiums on \$850 million (\$7.65 billion) of trust properties.¹⁵⁵

Three men thwarted Palmer’s insurance swindle: Karl Helmar, Clarence E. Wood, and Francis K. Lane. The initial act of defiance came from Helmar, president of BWM, who recognized the scheme almost immediately. He refused to sign the Caldwell insurance policies and reinstated BWM’s original liability carrier. Caldwell tried to reason with him, however, Helmar became agitated and refused to reconsider. On May 28, 1918, Caldwell dispatched a letter to Palmer detailing the situation. Palmer responded by sending a letter dated June 2, 1918, which ordered Helmar to sign the insurance policies offered by Caldwell.¹⁵⁶

On August 9, 1918, Secretary of the Interior Lane received a Bureau of Mines memo titled: *Insurance Monopoly through Director of Trusts – Scandal Suggested*.

¹⁵⁵ Ibid.; Backman, Wages and Prices, 119.

¹⁵⁶ Ibid.; Alien Property Management: Property Insurance, Record Group 131; National Archives II, College Park, MD: Caldwell memo to Palmer; Palmer memo to Helmar.

In the correspondence, Wood, the US Inspector of Explosives, outlined the insurance scheme described to him by an associate explosive inspector:

. . . a certain insurance broker, by the name of Dean Caldwell, is backed up by the “Director of Trusts” under the jurisdiction of Mr. Palmer. The gist of the complaint is that our government is acting unjustly and unfairly toward the insurance men of America to have the immense alien insurance transactions concentrated.”¹⁵⁷

Woods went on to say that the “arrangement has every aspect of a scandal of gigantic proportion . . . and it is inevitable that such a scandal will produce dire political effects upon the administration of Woodrow Wilson.”¹⁵⁸

Lane, a Wilson protégé from Princeton, sent an urgent memo to the president, who in turn sent word to Palmer which strongly advised him to give the matter his immediate attention. On September 5, 1918, in a two-page letter to Wilson, Palmer replied that he it was all a misunderstanding. He stated that he asked Caldwell to handle the insurance needs of all the trust companies in order to save the trustees and directors from dealing with the time consuming and annoying sales presentations given by multiple insurance providers. Finally, Palmer concluded that it was not his intention to obstruct American insurance companies from doing business with the OAP: “Rather than have our purpose and position misconstrued in the insurance world, I decided some weeks ago to dispense with the service of Mr. Caldwell in this matter.”¹⁵⁹

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

FIVE

PALMER AND HIS BAND OF PRIVATEERS

“Great and permanent good will result to this country from the Americanization of these enemy-owned properties. A hybrid Americanization is no less dangerous in industry than in individuals. Foreign capital ought to be welcomed here, but only if it becomes promptly naturalized and remains loyal to the country of its adoption.”

A. Mitchell Palmer

By the time of the Great War Armistice on November 11, 1918, the social and cultural orders in Europe had been overturned, and the United States was the world's leading economy. The price tag of the war to America was \$50 billion (\$450 billion), and the international financial fortunes of the US changed from that of a debtor to a creditor nation. By December 1918, the federal budget grew from \$742 million (\$6.7 billion) in 1916 to nearly \$14 billion (\$126 billion). Between 1914 and 1916, America's volume of international trade was increased by \$2.2 billion (\$19.8 billion) while the gross national product rose by \$41 billion (\$369 billion).¹⁶⁰ However, the burden of the maturing Liberty Bonds and billions of dollars in outstanding guaranteed government and private loans to the Allies became an issue of grave and immediate importance.¹⁶¹

The House of Morgan, which extended more than \$100 million (\$900 million) in lines of credit to Great Britain and France during the war, had expected to recoup its

¹⁶⁰ “Why Business Men Will Vote for Wilson,” Literary Digest, 60, 2 September 1916): 572.

¹⁶¹ McAdoo, Crowded Years, 443- 45.

capital through the proceeds of the First Liberty Loan series.¹⁶² However, McAdoo, fearing public and Democratic Party reprisals if reparations were paid first to the *money trust*, deferred the remuneration.¹⁶³

In December 1918, with all of his attention directed toward preparing for the upcoming Paris Conference, Wilson effectively abdicated his interest in US domestic policy for his vision of world peace. McAdoo was desperate for an immediate cash infusion into the USDT because knew that the nation needed to float its war debt until the US domestic industries were operating on a post war footing and major world markets recovered.¹⁶⁴ Palmer viewed this situation as an opportunity, both politically and financially; he presented a plan to Wilson and McAdoo that would aid in retiring the nation's war liabilities. Since there was no signed treaty for peace between the United States and the Alliance, America was still technically in a state of war. The foundation of Palmer's financing proposal was to continue to appropriate and sell enemy property, with the funds flowing into the USDT for use against the maturing bonds. This ploy met with

¹⁶² As a private bank with deposits of \$160 million, the J.P. Morgan Company had ties to banks and trusts in New York City with assets of \$723 million, the controlling interest in dozens of railroads and street-railway systems, and financial influence in industrial giants such as United States Steel, International Harvester, General Electric, and American Telephone and Telegraph.

¹⁶³ An investigation of the so-called *money trust* in 1912, by the Pujo Committee of the U.S. House of Representatives, was aimed directly at J.P. Morgan and Company, a.k.a., The House of Morgan.

¹⁶⁴ E. L. Bogart, War Costs And Their Financing (New York, Harpers, 1921), 3-82.

little resistance from Wilson or McAdoo.¹⁶⁵

In order to secure public support his mandate to continue confiscating German property, Palmer had to convince the American public that although Germany had lost the military battle, it maintained a “great industrial and commercial army, planted in the US, with hostile intent” to take over America.¹⁶⁶ Through the CPI, Palmer’s propaganda campaign commenced on November 14, 1918, with his key argument: “there is a grave peril of a post-war German economic takeover of the US and world economies.”¹⁶⁷ He asserted that although there was an armistice in effect, the German threat was sufficient to justify continued use of wartime powers with respect to seizing enemy property. Thirty days later, Palmer proclaimed to an audience of New York attorneys: “This *war power* is of necessity an inherent power in every sovereign nation. It is the power of self

¹⁶⁵ Wilson’s obsessive preparation for the 1919 Paris Peace Conference at Versailles left the Executive Branch with a leadership void, which Palmer used to his advantage; Woodrow Wilson: Some Princeton Memories, ed. William Starr Myers (Princeton: Princeton University Press, 1946), 11: In reference to Wilson, George McLean Harper wrote, “He takes up one thing at a time and hammers it out. He once said that his was a ‘single-track mind,’ and because of this remark, persons wagged their heads and wondered how such a man could presume to be President of the United States”; John Dos Passos, Mr. Wilson’s War (Garden City, NY: Double Day & Company, Inc. 1962), 446-82; Margaret Macmillan, Paris 1919: Six Months that Changed the World (New York: Random House, 2001), 3-35. Charles L. Mee, Jr., The End of Order: Versailles 1919 (New York: E. P. Dutton, 1980), 1-42; Wilson’s Executive Order, amending the original Trading with the Enemy Act, was issued on November 4, 1918, seven days before the Armistice was officially declared.

¹⁶⁶ “He balked the Hun Attempt to Grab Our Industries,” Literary Digest, LX, April, 1920: 277.

¹⁶⁷ Palmer, Diary, 101, Record Group 131; National Archives II, College Park, MD; Palmer, “The Great Work of the Alien Property Custodian,” Record Group 131; National Archives II, College Park, MD; “Alien Property Report for 1918,” Records of the Alien Property Custodian, A. Mitchell Palmer, Washington, D.C., Record Group 131; National Archives II, College Park, MD: “I want the bankers of this country to help me crush the stranglehold which Germany...has had upon many to the essential industries of this nation.” In actuality, Germany was more likely pursuing a market economy with an eye to avoiding restrictive tariffs, and the use of a cheap labor pool rather than a “take-over” of the United States.

his certitude, Palmer noted on a page of his desk diary, “The language of the Trading with the Enemy Act, amended by Presidential Order, makes clear that the right to removals of enemy property is still enforceable until a treaty of peace is negotiated, signed and approved by the Congress.”¹⁶⁹

As the new round of confiscations got underway, Palmer was still hindered by the limited criteria for the disposal of assets. Early in 1919, Palmer complained to a reporter that, “lawyers who, while the war was on, would have been unwilling to play any part in resisting the just demands of the Government in the taking of enemy property, are now opposing the APC demands and even invoking the aid of the courts to do so.”¹⁷⁰ Palmer warned the public that if the OAP continued to dispose of the confiscated German companies only through public auctions and only on a limited basis, the Germans would devise a strategy of reacquiring the companies through their network of paid American

¹⁶⁸ *Congressional Record of the 65th Congress, Session 1*, The International Emergency Economic Powers Act (IEEPA) is Public Law 65-91, Chapters 105, 106, 6 October 1917: The IEEPA allowed the Attorney General and Congress the right to suspend certain Constitutional guarantees of companies doing business in the United States. The IEEPA falls under the provisions of the National Emergencies Act, which requires that the IEEPA be renewed annually in order to remain in effect, and may be terminated by Congressional legislation.

¹⁶⁹ Trading with the Enemy Act, 1917; A. Mitchell Palmer, *Diary*, 71, Records of the Alien Property Custodian, Record Group 131, Box 3, , National Archives II, College Park, MD; “Alien Property Custodian Report for 1918, Record Group 131; National Archives II, College Park, MD: Press Release, August 20, 1918: A. Mitchell Palmer announced today that he had taken over the American rights to a large number of enemy owned grand operas, operettas, plays, songs, and books. The royalties of these American rights are now being collected by the APC and will be invested in Liberty Bonds.”

¹⁷⁰ Palmer, “The Great Work of the Alien Property Custodian,” Record Group 131; National Archives II, College Park, MD.

agents.¹⁷¹ In a sales report to Congress, Palmer pleaded with legislators to “make the Trading with the Enemy Act a fighting force in the war.” He assured them that:

Great and permanent good will result to this country from the Americanization of these enemy-owned concerns. A hybrid Americanization is no less dangerous in industry than in individuals in society. Foreign capital ought to be welcomed here, but only if it becomes promptly naturalized and remains loyal to the country of its adoption.¹⁷²

The Congress was unwilling to commit to Palmer’s ideology, so he appealed to the president for authorization of the unrestricted power of sale.¹⁷³ Back in September 1918, Wilson had warned Palmer: “Certain of my friends have reported to me a degree of uneasiness in the business world among men who want to purchase what you sell.” Now, in December 1918, Wilson determined that Palmer’s request was unnecessary, drastic, and might be an impediment to peace. Palmer acknowledged: “He called my attention to the fact that I had issued immediately after becoming Alien Property Custodian, a public statement . . . to the effect that the Alien Property Custodian was a mere conservator of

¹⁷¹ Press Release, August 22, 1918, from the Office of Alien Property, New York: A. Mitchell Palmer, APC, announced today that through the efforts of his BID, under Francis P. Garvan, Rufus W. Sprague, Jr., Tom Howick, and Lewis F. Muccino, he had frustrated a plan by representatives of the former German owners of the Bayer Company, one of the largest chemical concerns in this country, to acquire for German interests a substantial portion of the Bayer Co. business and establish it on a waterfront property on the Jersey shore of the Hudson River, directly opposite NYC, particularly adapted to development for deep water docks and commercial warehouses.”

¹⁷² “Alien Property Custodian Report for 1918”; Record Group 131, Box 10, National Archives II, College Park, MD.

¹⁷³ *Congressional Record 66th Congress Session 1*, 2 September 1919: 4602: Spearheaded by New Jersey Republican, Senator Theodore Frelinghuysen, a select group of senators suspected that Palmer would use private sales of the trust properties to enrich his friends, and thus insisted upon public bidding. Speaking on the floor of the Senate, Frelinghuysen stated, “I will say that I distrusted Mr. Palmer from the very bottom of my heart; from the time that his weasel words about the sinking of the *Lusitania* were published in the New York Times.”

these enemy properties.”¹⁷⁴ Thus, he was unable to convince the president to act upon his request.

Palmer sought the advice of Colonel Edward M. House, counselor to Wilson.¹⁷⁵ House suggested that Palmer to meet with president again and this time use Wilson’s emotions as a method of persuasion: “Never begin by arguing. Discover a common hate, exploit it, get the president warmed up, and then start your business.” Following this recommendation, Palmer met with the president again and informed him that BID investigations revealed that the *Junker Class* had made the enormous German investments within the United States.¹⁷⁶ Palmer continued his line of reasoning with Wilson by stating that experts who studied the German assets agreed that these investments were “part of the deliberate plan of Germany to conquer the world by

¹⁷⁴ Wilson to Palmer, Baker Life and Letters, Potomac ed.; 1939 - 1946, 382-3: “I have no doubt that this letter is unnecessary, but several of my friends have reported to me a certain degree of uneasiness in the business world among men who want to purchase what you sell under the Alien Property Act, and therefore I am going to take the liberty of expressing the hope that you are using the power of private sale granted by my executive order of the 15th of July in the most sparing manner and only where no other sort of sale is possible. I think you have in mind as much as I have the danger and disadvantage of making any but the most sparing use of such powers, but a little reassurance between friends will do no harm.”; Palmer, Diary, 75, Records of the Alien Property Custodian Record Group 131; National Archives II, College Park, MD.

¹⁷⁵ Charles Seymour, The Intimate Papers of Colonel House: Arranged in a Narrative (Cambridge, Houghton Mifflin Company, 1926), 119; Edward Mandell House, the son of a successful banker and landowner, was born in Houston, Texas. He played a prominent role in Wilson’s 1912 election and aided the president-elect in the selection of his cabinet. He never held an official political position within the administration, but emerged as the president’s chief advisor and go-between. House worked well with Congress and earned a share of the credit for Wilson’s early successes in the enactment of “New Freedom” legislation.

¹⁷⁶ Massie, Dreadnought, 85: “The wars had been won by the Prussian Army, the military embodiment of the Prussian Junker aristocracy, and the agrarian *Junkers* continued to demand predominance in the government of the empire. The rapid expansion of German industry also gave rise to a new industrial proletariat. Otto von Bismarck, the Kaiser’s mentor, was a *Junker*, thus, in Wilson’s mind, the entire *Junker Class* was militaristic.

trade.”¹⁷⁷ He asserted that it was an immoral proposition “for the American government to continue to carry the expense of collecting enormous wartime profits from German owned companies only to return the funds to the very enemies who caused the war.”¹⁷⁸ Palmer also professed that Germany’s confidence was buoyed by the knowledge that no matter what happened during the war, they could still capture America through a corporate invasion by companies such as I.G. Faben.¹⁷⁹ In his diary, Palmer wrote:

I asked the President to let me go down to the Congress and ask Congress to hit the Germans where it would hurt, to strike a blow from which they know they could never recover, and let them know right now, as an act of war, that we proposed to Americanize this property.¹⁸⁰

This new argument persuaded Wilson and he issued an Executive Order authorizing the unfettered sale of all current and future German properties held in trust by

¹⁷⁷ Stanley Frost, “Germany’s Plot to Gas the World’s Trade,” *New York Tribune Magazine*, Sunday, October 23, 1918, Parts 1, 2, 3: “Now another conception comes out of the heart of Germany, that threatens the commercial interests of unsuspecting nations – carefully thought out, with characteristic German thoroughness, openly advocating the breaking down of all business ethics, relying upon trickery and circumvention to gain their end. The purpose is to win for Germany, by commercial, industrial and economic aggression, the world supremacy that she could not win by arms, and incidentally to make the nations that defeated her pay the indemnities she owes the world.”

¹⁷⁸ Ibid.

¹⁷⁹ Interessen Gemeinschaft Farbenindustrie Aktiengesellschaft (IGF) was Germany’s greatest corporation and the kingpin of the Great War effort. As the center of the network of international cartels, it controlled a bewildering array of products including oil, rubber, dyes, nitrogen, explosives, aluminum, nickel and synthetic silks. IGF controlled more than three hundred and eighty other German firms and more than five hundred international firms. It maintained its own mines for coal, magnetite, gypsum, and salt and its own coke ovens and was a heavy investor in steel firms. Additionally, IGF owned banks, patents, and research firms that were scattered throughout all the main business centers of the world.

¹⁸⁰ Palmer, *Diary*, 76, Records of the Alien Property Custodian; Record Group 131; National Archives II, College Park, MD.

the OAP.¹⁸¹ However, the president cautioned the APC to use the right of private sale, which was permissible for property worth less than \$10,000, in the “most sparing manner and only when no other sort of sale is possible.”¹⁸²

Even with the president’s Executive Order in place, Congress still balked at allowing Palmer to exercise this extraordinary new authority. His management of the past sales of enemy properties and the fees collected by their administrators had brought intense criticisms from the media and public interests. The newspapers and periodicals, particularly the *World* and the *New York Times*, questioned Palmer’s omnipotent authority, and the owners of the confiscated properties continued impede the APC through legal maneuvering.¹⁸³ Congress reacted negatively to the public scrutiny and required a thorough outing of the policies of the OAP.¹⁸⁴ Although there was significant evidence of OAP improprieties, the Senate and House determined that the German risk to the stability of the American economy was far too immediate not to act. Reluctantly, the Congress voted to cease all protests of Wilson’s Executive Order, which allowed the APC free reign in his sale of enemy assets.¹⁸⁵

¹⁸¹ The Trading with the Enemy Act was amended by Executive Order on 4 November 1918.

¹⁸² Wilson, Woodrow Wilson: Life and Letters v.5, (1937) ed. Ray Baker, 199.

¹⁸³ The Anheuser Busch Company of St. Louis, Missouri, successfully fought to retain control ownership and the Bayer Company regained control after a lengthy court battle.

¹⁸⁴ “Alien Property Custodian Report for 1917-1922,” Record Group 131; National Archives II, College Park, MD.

¹⁸⁵ Palmer, “How Seized German Millions will Fight Germany,” New York Times, Sunday, 9 December 1918.

The vast riches under Palmer's control brought out the greed and unscrupulous acts of his friends and political associates. As Russell Baker most aptly wrote in his article published February 12, 2004, in the *New York Review of Books*, "Our truly great buccaneers prosper most when presidents and congresses grant them boons in the name of free enterprise."¹⁸⁶ The freebooting conducted during Wilson's tenure was on a scale unmatched by previous administrations.¹⁸⁷

¹⁸⁶ Russell Baker, "New York Review of Books, 51/2, 2 February 2004, review John W. Dean, Back to Normacy!: Warren Harding (New York, Time Books: American Presidents Series/Times Books, 2002).

¹⁸⁷ Senate Committee on the Judiciary, "Hearing on the Nomination of A. Mitchell Palmer," *Congressional Record 66th Congress*, 9 July 1919, Washington, D. C.: In 1919, while testifying before the Senate as Attorney General, Palmer assured the Senate committee: "With all the millions and millions of dollars worth of property which I sold while I was Alien Property Custodian, I never put my hand to an instrument that approved a single one of those sales until the ASC committee of five of the most distinguished men in America had put their stamp of approval upon it unanimously."

SIX

PALMER, GARVAN, AND THE CHEMICAL PATENTS

To love ideas is excellent, but to understand how social forces condition ideas themselves is better still.

Vernon L. Parrington, 1917

After the 1856 British discovery for the use of coal tar as the base for the manufacture of organic chemical compounds, the Germans took the process and developed it for mass production of oxygenated chemical reactions, and became the world leader in research, development, and production in the chemical industry between 1905 and 1914.¹⁸⁸ German chemical, pharmaceutical, and dye companies opened subsidiary manufacturing plants in the United States, filed for the U.S. patent rights to protect their processes, and then imported the strategic organic chemicals and compounds to America for domestic production.¹⁸⁹ US patent applications failed to require strict and full disclosure information, which allowed the Germans to withhold key procedure variables, such as temperature, which kept the emerging American-owned chemical, and dye companies from reproducing the exact processes required to recreate the reactions.

¹⁸⁸ The chemical industry had played its part in providing war materials, largely based on coal-derived chemicals. For instance, coal tar provided a source for synthetic dyes and coal-coking furnaces provided the nitrogen for fertilizers, and trinitrotoluene (TNT) explosives.

¹⁸⁹ Garfield, *Mauve*, 8, 9-11, 23-4, 132: At age eighteen, British chemist, William Henry Perkins, created mauve, the first synthetic dye color. His discovery, enabled coal tars to become the foundation for supplying color fast dyes for textiles. By 1914, Germany had a world monopoly in the field of dyes with American industries using coal tar colors to produce approximately \$3 billion (\$21 billion) per year in goods. When the Germans discontinued shipments of dyes to the United States, American textile, leather, paint, and ink manufacturers severely affected. Because these same organic processes were used in the manufacture of munitions, the U.S. domestic production of new types explosives was stagnated.

When the events of the Great War halted the supply lines of German chemicals to the United States, it deprived American consumers of essential medicines and other manufactured goods. The fledgling American textile and pharmaceutical industries sought relief from the magnitude of the influence of the German chemical companies. Key American policymakers, industrialist, and chemists, were desperate for solution. Palmer and Gavan intervened on behalf of “the American people,” and capitalized on the wartime anti-German propaganda in their demand to Americanize the chemical patents.¹⁹⁰ Yale University Museum curator, Arthur W. Hixson wrote:

In his work, Mr. Garvan first glimpsed the importance of chemicals in the whole industrial fabric of the nation and in the health and general welfare of the People. It did not take him long to discover the almost complete dependence of the country upon Germany for its organic chemical supplies.¹⁹¹

Initially, the OAP confiscated German chemical plants were Merck, Heyden, and Bayer Company pharmaceutical subsidiaries. The APC also attempted to impound the US subsidiary of the Germany’s largest exporter of chemicals, IGF; however, IGF filed several lawsuits and successfully thwarted the confiscation.

On December 12, 1918, the APC sold Bayer to the American owned, Sterling Drug, of Wheeling, West Virginia, for \$5.3 million (\$45 million). Along with the Bayer labs, Sterling acquired the Bayer plant, other real property, and twelve hundred organic

¹⁹⁰ Frost, “Germany’s Plot to Gas the World’s Trade,” New York Times, Sunday, 30 April 1918, Part 3; Fred Aftalion, A History of the International Chemical Industry (Philadelphia, University of Pennsylvania Press, 1989), 186 -226; William Haynes, American Chemical Industry v.1, New York, Van Nostrand, 1945), 16-48; Alexander Mitchell Palmer and Francis P. Garvan, “*Aims and Purposes of the Chemical Foundation, Incorporated, and the Reasons for Its Organization*,” National Cotton Manufactures’ Association, May 1919 (New York: The De Vinne Press, 1919), 3-65.

¹⁹¹ Alan Shestack, Gerald W. R. Ward, Patricia Kane, and Helen Cooper, Francis P. Garvan: Collector (New Haven: Yale University Art Gallery, 1980), 12; American Art Association Anderson Galleries, Inc., Furniture and Silver by American Craftsmen of Colonial and Early Federal Times (New York, 1931).

chemical patents. However, Sterling was interested in only the pharmaceutical patents, especially the one for aspirin. The company sold off the dye plant and all of the undesirable patents and to the American owned Grasselli Chemical Company (GCC) of Passaic, New Jersey. The sale of key dye formulas to GCC created a new American cartel of more than one thousand coal tar patents for dyes, and Palmer was flooded with accusations he had supplanted German domination for a US monopoly.¹⁹²

At the time of Sterling's patent sale to GCC, Palmer had already begun his insider campaign for the Democratic presidential nomination. Palmer and Garvan were both concerned about the call for a congressional oversight hearing regarding the Bayer sell-off and the damaging effect on Palmer's political future. In order to mitigate harm, Garvan developed a scheme for an organization to control the remaining German chemical processes on file at the US Patent Office.¹⁹³ The Chemical Foundation, Incorporation (CFI) was designed to own the rights to the enemy patents and thus obviate German competition from the future monopoly of organic chemical processes.¹⁹⁴ Under the "nonexclusive" clause of the CFI charter, the Federal Trade Commission (FTC) was

¹⁹² Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131; National Archives II, College Park, MD.

¹⁹³ In its original design, the TEA addressed the practical complications arising from conducting business during war. Section 10, permitted the use of U.S. patents owned by alien enemies if the patents contributed to the war effort; A. Mitchell Palmer and Francis P. Garvan, "The Chemical Foundation, Incorporated: and The Reasons for Its Organization, in an Address to The National Cotton Manufacturers' Association," New York, 1919: Garvan was fond of referring to the German Triple Alliance, "the triple alliance of science, industry and the militaristic state"; Additionally, Garvan utilized every able form of communication to press his opinion that, "Germany intended to suppress American industry and society by laying off four million industrial workers in the German owned chemical, dye, and pharmaceutical plants, while allowing the needless spread of illness and death by cutting off the German produced supply of patented medications such as aspirin and Salvarsan."

¹⁹⁴ The German patents included synthetic rubber tires, Novocain, and other innovations.

to issue concurrent licenses for each patent to any American owned manufacturer who paid a fee for a patent permit.

In Palmer's rush to avert the negative publicity over the botched Sterling/GCC deal, he filed for the CFI's incorporation papers before seeking Wilson's approval. With the scheme already in play, Palmer had to convince Wilson of the value in the CFI.¹⁹⁵ However, by that time, Wilson's preoccupation with the Peace Treaty created a power vacuum within the administration.¹⁹⁶ Palmer finally met with Wilson for about an hour on March 3, 1919, and according to his Diary notation, he did a superb sales job on the president.¹⁹⁷ Carter Glass, who replaced McAdoo as Secretary of the Treasury, viewed the CFI plan an opportunity to enhance the funds to the pay-offs on the Liberty Bonds, and pressed Wilson to move forward with the approval of the new agency.¹⁹⁸

Once Wilson gave his approval, Palmer proceeded to authorize the OAP to sell more than four thousand five hundred confiscated patents to the CFI for a mere \$55.00 each. The patents were made available to US chemical, pharmaceutical, and dye companies, the impact of the non-disclosed proprietary patent information created

¹⁹⁵ Carter Glass replaced McAdoo in November 1918; New York Times, 27 February 1919.

¹⁹⁶ In a letter to Wilson, Secretary of the Interior Francis K. Lane complained that government officials shrank from responsibilities and controversial decisions: "Everyone seems to be afraid of everyone else. The self-protective sense is developed abnormally while the creative sense atrophies."

¹⁹⁷ Palmer, Diary, Records of the Alien Property Custodian, Record Group 131; National Archives II, College Park, MD.

¹⁹⁸ Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131; National Archives II, College Park, MD: One of first licenses issued was the formula for synthetic rubber to Goodyear Tire. By 1921, when the Senate officially ended the state war with Germany, the total sale of patents purchased by the CFI was \$271,850 (\$2.4 million).

another crisis for Palmer, Garvan, and the CFI. It was immediately obvious that only a highly proficient organic chemist could duplicate the patent formula processes, and none of the US manufacturers was capable. Palmer and Garvan sent an emissary, Dieter Nordegg, to Germany to survey the possibility of German scientists traveling to the United States to accurately reproduce the processes for codeine, quinine, cocaine, morphine, digilene, pantopon, medinal, and johembine, with the results published as an attachment to the patents.¹⁹⁹ The plan also included an exchange program in which the Germans would train CFI chemists in both America and Germany as to the exact processes used for the organic chemical reactions.²⁰⁰

The idea that German chemists would assist the CFI in reproducing patented formula reactions was extremely viable because the collapse of the House of Hohenzollerns, coupled with the human toll and financial losses of the Great War, left Germany economically and emotionally spent.²⁰¹ American industrialist used their prowess to finance and commercialize the output of these German chemists. They included such people as George Eastman, who formed Eastman Kodak and Eastman Chemical; Franklin Olin, founder of munitions manufacturer, Olin Corp.; John F. Queeny, of Monsanto; Herbert Dow, of Dow Chemical; and Pierre DuPont, who

¹⁹⁹ Records of the Division of Patents WWI, The Chemical Foundation, Inc., Record Group 131; National Archives II, College Park, MD: Five of these medications were opiate derivatives known as alkaloids and used in pain management.

²⁰⁰ Records of the Division of Patents WWI, The Chemical Foundation, Inc., Record Group 131; National Archives II, College Park, MD.

²⁰¹ Hohenzollern is the family name of Kaiser Wilhelm II, who was also a grandson of Queen Victoria, and therefore a member of the British Royal Family, the House of Hanover.

transformed the premiere U.S. explosives maker, E. I. DuPont de Nemours, into a diversified chemical manufacturer.

The ubiquitous power of control over the organic chemical patents was a political blessing for Palmer: it enabled him to eliminate the German investments that he declared to be a lethal to the US economy, and earned him a national reputation as a dynamic champion of Americanism. By the end of 1919, a reporter observed that, “Palmer has within six months become the outstanding member of Wilson’s Cabinet.” House held him in such high regard, that when Gregory resigned in April 1919, House urged Wilson to appoint Palmer as United States Attorney General (USAG).

Palmer’s recess appointment as USAG came only fifteen months before the 1920 National Democratic Convention and there was little time left to procure the requisite delegates and public support needed for a presidential nomination. With a stroke of arrogant partiality, Palmer appointed Garvan to the position of Assistant US Attorney General (AUSAG), which Garvan held concurrently with his position as Palmer’s successor as APC.²⁰² Additionally, Garvan performed as Chief Executive Officer of the CFI, which made him the sole arbiter of the prized chemical patents. Garvan explained away the impropriety of concurrent service in the two key government positions while

²⁰² Janet Oberla, Section Librarian, Registrar of the U.S. Department of Justice and the Federal Courts, 56th ed., 1992, US Government Printing Office, Washington D.C.; Garvan served concurrently as the APC, Assistant. US Attorney General, Director of the BID, and CEO of the CIF; Paul Avrich, The Anarchist Background: Sacco and Vanzetti (Princeton, NJ: Princeton University Press, 1991), 133-34, Murray Red Scare, 200; Records of the Bureau of Investigation and Department of Justice, Washington, D.C.; 1920 to 1927; General records of the Bureau of Investigation; Record Group 65, File 61-133, Washington, D.C.; Bishop, “Judicial Construction of the Trading with the Enemy Act,” 721-59.

serving as head of a government sanctioned lobbying organization as the most efficient manner for making “decisions that would best serve the citizens of America.”²⁰³

²⁰³ The Omaha Bee, 15 September 1924 :1; The United States had been dealing with issues surrounding the Sherman Anti-Trust Act and Progressivism since 19th century. Manufactures of fine chemicals, such as pharmaceuticals and specialty chemicals, like dyes, have always been heavily dependent on patents to maintain a competitive foothold in the market. The German Chemical companies were among the first firms to employ systematic and strategic patenting as a *business tool*.

SEVEN

UNITED STATES V. CHEMICAL FOUNDATION, INC., 272 U.S. 1 (1926)

The complaint alleges that a number of domestic manufacturers as a result of war conditions had been able to combine and monopolize certain chemical industries in this country; and, fearing that at the end of the war German competition would destroy the monopoly, they conspired to bring about transfers and sales of the patents at nominal prices to themselves or to a corporation controlled by them; that the patents so obtained would control the industries in question and perpetuate the monopoly, and that the sales were procured through the fraudulent deception of the President, the Alien Property Custodian, and other officials.²⁰⁴

At the 1920 Democratic Convention, neither Palmer nor McAdoo was nominated to succeed Woodrow Wilson. Instead, the Democrats selected newspaper publisher and Ohio Governor, James M. Cox, to challenge a Republican US Senator from Ohio, Warren G. Harding. Banking a four to one funding advantage, Harding campaigned against Wilson, calling for “normalcy,” and bested Cox in a landslide.²⁰⁵

After Wilson retired from office, Palmer and Garvan sold the bulk of the German patents to the CFI for the paltry sum of fifty-five dollars each. The media accused Garvan of creating an impenetrable pharmaceutical cartel, and attacked Palmer and Guffey for conducting questionable OAP financial transactions. On March 4, 1921, Palmer, Garvan, and Guffey, who had operated with little congressional oversight, were confronted with a federal criminal investigation by the new Republican administration.²⁰⁶

²⁰⁴ U.S. v. Chemical Foundation, Inc., Records of the Division of Patents WWI, Chemical Foundation, New York, NY, Record Group 131; National Archives II, College Park, MD.

²⁰⁵ Harding received sixty percent of the popular vote and four hundred four electoral votes, vs. thirty four percent of the popular vote and one hundred twenty seven electoral votes for Cox.

A DOJ review of the OAP raised questions about the stewardship of all the alien property under its control, as well as criticism specific to attention to parity. A second audit revealed evidence that allowed the DOJ to file charges against the former OAP officials. Additionally, the DOJ revelations caused the trio of privateers to be slapped with lawsuits for the return of private property and for reversal of the sales of corporations such as Anheuser Busch, Pabst, and Miller Brewing Companies and the Merck and Bayer Chemical Companies.

Additional details and criticisms emerged during congressional tariff hearings and the investigation of suspected monopoly practices within the newly formed American Dye Industry (ADI) lobbying association.²⁰⁷ In April 1922, Harding's Attorney General, Harry M. Daugherty, spearheaded attempts to uncover suspected wartime frauds, particularly contract profiteering, and warned the president that "hardly a more important duty" faced him than a thorough investigation of the OAP.²⁰⁸

After Harding suddenly died in office and Daugherty was forced out by allegations of corruption, Calvin Coolidge appointed Harlan Fisk Stone as USAG. Stone

²⁰⁶ *U.S. v. Chemical Foundation, Inc.*, Records of the Division of Patents WWI, Chemical Foundation, New York, NY, Record Group 131, Boxes 1&2, National Archives II, College Park, MD.

²⁰⁷ Records of the Division of Patents WWI Suits Filed, 1918 to 1926, Record Group 131; National Archives II, College Park, MD; Joseph Bishop, "Judicial Construction of the Trading with the Enemy Act," "Harvard Law Review," LXII, March 1949:721-59.

²⁰⁸ Daugherty Papers, Library of Congress, Washington, D.C.; Daugherty, an Ohio Republican party boss, engineered Harding's ascendancy to the 1920 presidential nomination. Harding won after the vote deadlocked between Leonard Wood and Frank Lowden in what is known as the "smoke filled room" decision. One of the "Ohio Gang," Daugherty, was the subject of a U.S. Senate investigation for his conduct as Attorney General, including his involvement in the Teapot Dome scandal, and resigned his position in 1923.

filed the first of three federal complaints against the CFI in the District Court of the State of Delaware.²⁰⁹ The principal tenets of the complaint were the issues of the price of chemical patents and the legality of the CFI. In his press release, Stone asked, “Who shall say that these men have the right to throw this property away?”²¹⁰

The TEA contained a provision, Section 10(f), which allowed patent owners to claim royalties if the US government had utilized their property during the war but before the formal treaty of peace was signed.²¹¹ In order to recover these royalties, the patent owners had to file a federal lawsuit within one year of the July 2, 1921, Peace Treaty ratification. In various US district courts around the country, approximately one hundred and twenty-five lawsuits were filed against the USDT and the FTC. Incredibly, the CFI joined the suits as a claimant to establish whether the confiscation of the patents was in fact legal.²¹²

After a series of short-term postponements and legal maneuvering between the DOJ and the litigants, the government arranged for all of the Section 10(f) suits to be tried as one case.²¹³ The lead attorney for the DOJ, Colonel Henry W. Anderson, was a

²⁰⁹ Harding died in San Francisco, of a heart attack, on August 2, 1923.

²¹⁰ Justice Harlan Fiske Stone was appointed to the U. S. Supreme Court in 1925 by President Calvin Coolidge; In 1941, he was elevated to Chief Justice by President Franklin D. Roosevelt.

²¹¹ The TEA required German residents in the United States to report their holding to the Office of Alien Property by December 20, 1917; Under the TEA, the Federal Trade Commission (FTC) authorized licenses for the use of enemy-owned patents and collected a 5 percent royalty. At the conclusion of the war, the patent owner could sue to reclaim the royalties.

²¹² Daugherty Papers; Records of the Division of Patents WWI Suits Filed, 1918 to 1926; Record Group 131; National Archives II, College Park, MD.

²¹³ *Ibid.*

Republican, who worked for the Red Cross in Europe during the war and was appointed Special Assistant to Daugherty in 1921. In turn, Palmer and Garvan hired their old friends and OAP associates, Covington and Kresel, as their legal representatives.²¹⁴

With all the complaints coalesced into one proceeding, *United States v. Chemical Foundation, Inc.* opened on June 4, 1923, in the courtroom of Federal Judge Hugh M. Morris, a Wilson Democrat. There were several issues at stake for the CFI: if the CFI was successful in its suit, its coffers would be enriched while simultaneously preventing the accumulated royalties from returning to the original enemy patent holders. However, if the suit was unsuccessful, the legal status of the CFI would be the subject to continued prosecution for violation of both the Sherman and Clay Anti-Trust Acts, misuse of federal funds, exploitation of the TEA, and unpaid royalties.²¹⁵

The first of the defense witnesses testified regarding the rationale for the establishment of the CFI. Kresel argued that the American synthetic dyes and pharmaceuticals industries, which had once lacked innovation, had become competitive through the use of the enemy intellectual properties licensed through the CFI. Kresel also observed that the public relations campaigns for the CFI had flourished during the early 1920s through the encouragement of Republican Secretary of Commerce Herbert

²¹⁴ One of Kresel's more illustrious cases was *Swift & Co. v. United States*, 196 U.S. 375 (1905).

²¹⁵ During the opening arguments of *U. S. v. Chemical Foundation, Inc.*, the prosecution stressed that the Germans had developed overreaching strategies that harnessed the power of groups of patents, known as *haber patents*, in addition to the power of individual patents.

Hoover. As a result, in 1923, the average American viewed developing a domestic chemical industry as a necessity.²¹⁶

Speaking for the DOJ, Anderson rebutted the defense statements by arguing that the CFI incorporation was illegal and the sale of the patents violated the original TEA. Anderson's second contention was that the formation of the CFI and the patent sale occurred because of a conspiracy among the US chemical and dye manufactures to monopolize trade. The prosecutions final argument was that the sale of approximately five thousand patents for \$55.00 each was inadequate and fraudulent.

Anderson reminded the Court that in 1917, the original TEA ordered the APC to act as the trustee for the owners of alien property during the state of war. Additionally, he pointed out that while the international armistice was signed in November 1918, and the official peace treaty was under negotiation in January 1919, the APC moved to confiscate the patents in February 1919. Anderson then concluded that the seizure of the patents was legal and appropriate only during a state of war and their reassignments from trust properties to marketable assets were executed by virtue of an Executive Order, not

²¹⁶ *U.S. v. Chemical Foundation, Inc.*; Records of the Division of Patents WWI, Chemical Foundation, New York, NY, Record Group 131; National Archives II, College Park, MD.

Congress, which was a violation of custodian's approved role as trustee.²¹⁷ Drawing upon the Wilsonian vision that America should serve as an example of justice and democracy to the rest of the war-weary globe, Anderson appealed to the court's sense of democracy. He observed that in the eyes of the world, the reputation of the United States would suffer considerably if the APC was exempted from adherence to the laws of the Constitution and accepted international rules of conduct.

Anderson also charged that the sale of patents had been part of a conspiracy by domestic industrialists who had manipulated officials within the OAP.²¹⁸ The DOJ's evidence illustrated that the amendments had passed through Congress as riders on revenue bills, which inhibited the full House and Senate debates that would have generated more protest within Congress.²¹⁹

Anderson was indignant over the fact that Garvan served as CEO of the CFI while serving simultaneously as APC and an AUSAG. In a barbed tone, he noted that in his capacity as APC, Gavan facilitated the sale of the patents to his own foundation, which

²¹⁷ The Constitution of the United States: Article I, Section 8, paragraph 18: *To make all Laws which shall be necessary and proper for the carrying into Execution the forgoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.* Wilson Papers, Manuscript Room, Library of Congress, Washington, D.C.; Late in November, 1918, Wilson to Palmer, November 20, 1918: "It seems to me that it would not be wise to add just now to the list of alien names, in view of the virtual cessation of hostilities misapprehensions would arise if we seemed to be taking advantage of the technical continuation of the war to get hold of this property." Palmer assuaged the president's concerns and convinced him move ahead with the sale of confiscated property through an Executive Order: Article II, Section 3 gives the President what is often called the "take care power." This *implied power* gives the President the authority to issue a directive known as an *Executive Order*.

²¹⁸ Anderson cited the first OAP sale of the Bayer patents first to Sterling Drug and then to GCC as a "back room deal."

²¹⁹ *Congressional Record* 66th Congress, Session 1; 2 September 1918: 4723; 4 November 4 1918: 5620.

was an outrageous conflict of interest. Anderson was equally vitriolic when making the point that Morris Poucher, of I. E. Du Pont Nemours Chemical, served concurrently on the board of American Dyes Institute (ADI) and on a federal chemical industry advisory board.²²⁰ He asserted that lawyers for both Du Pont and National Aniline Dye had reviewed rosters of registered patents owned by Germany and then advised the APC as to which ones to seize. This was the most clear and profound evidence that an ominous alliance existed between the chemical manufacturers and the APC.²²¹ Anderson reiterated that the TEA did not condone the “bargain basement” prices of the patent sale, and that the transaction amounted to fraud or outright recompense.²²²

Kressel rebutted Anderson’s statements by reminding the court that American industry had been completely dependent upon the temperament of the German patent owners, and entered into evidence the transcript a USHR testimony, given on January 3, 1923, by Colonel John A. Hull, Acting Judge Advocate General of the US Army:

The patent situation is rather unusual in that the underlying principle involved in the monopoly granted for patents, you might say, would be the development of civilization. Germany, in her plan for warfare, used the patent situation in connection with the doctrine of dreadfulness, and after we got into the war or before we got into the war, we saw that she was using patents to strangle the life and health of the countries that were either opposed to her or would not be friendly to her. As a result of the war, there was probably a billion and a half dollars (\$13.5 billion) invested by German businessmen at the instigation of the government in industries that involve patents.²²³

²²⁰ *Records of the Division of Corporation Management*, Alien Property Custodian Office, Washington, D.C.; 1917-1921; Record Group 131; National Archives II, College Park, MD.

²²¹ *United States v. Chemical Foundation, Inc.*, 272 U.S. 1 (1926).

²²² *Ibid.*

²²³ *Ibid.*

Anderson's allegations forced Palmer and Garvan to present a defense that revealed previously undisclosed activities conducted during their consecutive tenures as APC. Under oath, Palmer admitted that he was appalled when he evaluated how much property and income had accrued to German owners under the war mandate of the TEA.²²⁴ He repeated the argument that he had once made to Wilson: "it was an absolutely immoral proposition" for the OAP-held properties to restore so much profit to Germany "when it was responsible for so many American and Allied deaths in the trenches."²²⁵

The next defense witness was Garvan, who left little doubt as to his position on Germany and the patents.²²⁶ He charged categorically that the German companies were centers for spying and propaganda during the Great War, and labeled the alien German industrialists as *agents*, a term that conflated the German commercial competitors with the German military.²²⁷ According to Garvan, the German chemical, pharmaceutical and dye importers that were collusive and *dumped* chemicals below cost onto the US market to prevent the establishment of American-owned firms.²²⁸ He supported his testimony by

²²⁴ Palmer *Diary*, Records of the Alien Property Custodian, A. Mitchell Palmer, Record Group 131; National Archives II, College Park, MD.

²²⁵ Johnson, "The Political Career of A. Mitchell Palmer," 368.

²²⁶ Francis P. Garvan Papers, Alien Property Custodian to Woodrow Wilson, President, 1919-1921, General Records, 131; National Archives II, College Park, MD: Garvan's bullying and often-rude personality could cause friction even among friends and allies. He seemed driven into increasingly isolationist policy, and questionable legal territory.

²²⁷ *United States v. Chemical Foundation, Inc.*, 272 U.S. 1 (1926).

submitting into the record ADI reports citing criticism of Germany's international network of cartels.²²⁹ Additionally, Garvan was emphatic when he explained that the allegations of wrongdoing by the APC and CFI were a result of Harding being duped by German agents.²³⁰ Garvan's accusations were so aggrandized that they contained only shards of truth. However, to the detriment of the DOJ, the prosecuting attorneys did not adequately rebut or neutralize his exaggerated statements.²³¹

To divert the focus of the away from the government's assertions, Kresel had to concentrate the court's attention on the activities of the German firms and their importers. Kresel addressed the government's primary arguments in a direct fashion and began by rebutting the DOJ's contention that the amendments to the TEA occurred under conspiratorial conditions. He insisted that the members of Congress and President Wilson were fully alert to the seizure and sale of the chemical patents.²³² Kresel provided the court with of copies congressional transcripts in order to demonstrate his point.²³³ He

²²⁸ *Ibid.*; Due to the British naval blockade of Germany and rapidly decreasing funds for the financing of the war, the Germans did in fact dump chemicals in the US at rock bottom prices. However, records show that this tactic was not utilized effort to monopolize, but, rather as a method to raise *quick* capital.

²²⁹ Broth, Pioneers of Plenty: The Story of Chemurgy, 37-8.

²³⁰ At the time of the trial, Harding's cabinet had already achieved the notoriety of scandal from the corruption in the Veterans Administration, Prohibition violations, the Nan Briton Affair, and Teapot Dome; New York Times, 8 December 1937, *Obituary*: "Francis P. Gavan, 64, Is Dead: Creator of the Chemical Foundation: Began with Seized German Patents Purchased While Alien Property Custodian."

²³¹ Records of the Bureau of Investigation and Department of Justice, 1920 to 1927, Record Group 65, File 61-133; J. Edgar Hoover Building, Washington, D.C.

²³² *U.S. v. Chemical Foundation, Inc.*, 272 U.S. 1 (1926); The Executive Order was signed in January 1919, when the Congress controlled by the Republicans. This fact supported the arguments of both the prosecution and defense, but technically refuted the idea of a *congressional rubber stamp*.

²³³ *Congressional Record*, 66th Congress, Session 1, 2 September 1918: 4723.

then called former Under Secretary of State Frank L. Polk to testify that he had issued executive orders while Wilson participated at Versailles, and that both he and Wilson were in accord with Palmer.²³⁴

Next, Kresel subpoenaed a wide range of dye manufactures and chemists to refute the prosecution's charge of an ADI monopoly. He made Anderson's accusations seem like a wild conspiracy theory lodged against respectable industrialists and patriotic former government officials. Kresel asserted that the DOJ's suit was driven strictly by partisan politics, and he accused officials within both the Harding and Coolidge administrations of a cheap political attack on Wilson who was in poor health and lacked the ability to mount a defense, a claim that was vehemently denied by the prosecution.²³⁵

Although the two sides sparred vigorously over the issues of monopolies, conspiracies, and improper adherence to the TEA, the main focus of the debate centered on the intrinsic value of the patents. The intellectual properties of the patents included not only thousands of formulas for dyes and pharmaceuticals but also a collection of fifty high technology type *haber patents* for nitrogen fixation.²³⁶ The key to both sides of the legal battle was the "registered language of the process" contained within the patent applications and the ability for another person or persons to precisely recreate the product

²³⁴ Under cross-examination, Polk stated that he had signed the Executive Order on Palmer's advice without knowing the details about the proposed CFI.

²³⁵ *U.S. v. Chemical Foundation, Inc.*, 272 U.S. 1.

²³⁶ Records of the Division of Patents WWI Suits Filed, Washington, D.C.; 1918 to 1926; Record Group 131; National Archives II, College Park, MD.

utilizing the formulas.²³⁷ To prove their points, both the defense and prosecution brought in expert witnesses to estimate the patents' essential values.

Anderson opened with the deposition of a forty-year old chemist, Karl Holdermann, employed since 1906 by of the German company, Badische Anilin und Soda Fabrik (BASF).²³⁸ Holdermann, a German citizen and resident, was available to testify for only a short period in the spring of 1923, thus the court took his deposition on May 8, 1923. He stated that he believed that the *haber patents* alone would have carried a value of at least \$1.7 million (\$15.3 million) in 1919. Holdermann provided reports from the BASF accounting books, which stated that in 1913, his firm had collected 1.3 million gold marks or \$325,000 (\$2.9 million) in profit on products manufactured under the *haber patents*. Thus, Holdermann's testimony made the \$271, 000 (\$2.4 million) sale price the chemical patents even more suspect, especially since the expense for filing for a patent was eighty-five dollars per application.²³⁹

In another test of the true value of the patents, the government attorneys delivered the findings of their investigation of patent royalties paid to the FTC from 1918 -1922. Records indicated that the USDT collected close to \$500,000 (\$4.5 million) on the relevant FTC patent licenses. Anderson concluded that in determining a sale price, the

²³⁷ Fred Aftalion, A History of the International Chemical Industry (Philadelphia: University of Pennsylvania Press, 1989), 88-9.

²³⁸ From 1914 through 2007, BASF has been the world's largest chemical manufacturer.

²³⁹ Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131; National Archives II, College Park, MD.

APC had ignored the royalty profits, which indicated further proof of fraud and collusion between the OAP and the CFI.²⁴⁰

Herman Metz, a naturalized American, and former member of USHR from the State of New Jersey, was the prosecution's next witness. Metz was employed as a representative of the German pharmaceutical company, Hoechst. The DOJ believed Hoechst patents for two anti-syphilis drugs, Salvarsan and Neo-Salvarsan, were among the most valuable of the OAP/CFI sale.²⁴¹ Under oath, Metz estimated the 1919 market value of both drugs at about \$1 million (\$8.97 million). He added that the anesthetic Novocain, another Hoechst product, would have been worth at minimum, \$200,000 (\$1.8 million). Finally, Metz verified that the trademarks of all three drugs were worth at least as much as the patents.²⁴²

If Anderson and his team had fully comprehended the impact the Garvan's allegations against the German-American chemical importers, they might have reconsidered their decision to call Metz to the stand. However, the government was hampered by a limited pool of expert witnesses willing to testify for the prosecution because most of the American synthetic and organic chemical manufacturers benefited

²⁴⁰ Ibid.

²⁴¹ Aftalion, A History of the International Chemical Industry, 51-54: Paul Ehrlich, a German, working for Hoechst, developed and received a US patent for Salvarsan in 1910. Until the advent of penicillin, Salvarsan was main medicine used in the treatment of the pathogen, *syphilis spirochete*. Today, Ehrlich is known as the *father of chemotherapy*.

²⁴² Ibid., 53.

shares of CFI stock and FTC patent license royalties.²⁴³

Kresel was skillfully able to portray Metz as a puppet of the German industrialists. He suggested that during the early years of the European war, as a voting member of the USHR, Metz had received directions from the German Parliament before he cast each congressional vote. Kresel also grilled Metz regarding his relationship with Ambassador Johann H.G. von Berstorff, who had been reviled in the US since 1914.²⁴⁴ Next, Metz was asked to confirm evidence that in 1918, American soldiers being treated for syphilis died after receiving Salvarsan, which suggested that Metz and Hoechst had intentionally supplied a defective product. Finally, Kresel accused Metz and Hoechst of profiteering through price gauging and blamed Metz for instigating the government's suit against the CFI at the behest of the Germans. Anderson was appalled by Kresel's unfounded accusations against Metz and the way he "attacked this witness and his credibility, his character, and loyalty with a severity that had never been seen before."²⁴⁵

Throughout the lengthy trial, Kresel emphatically and repeatedly restated the list of the charges against the German dye companies. He repeated Garvan's pronouncement that the Germans were guilty of: bribing the dyers, "full-line forcing," and charging the exorbitant prices that only a monopoly could impose. Kresel repeated the implication that there was a sinister alliance between Germany and the Harding and Coolidge

²⁴³ Ibid., 245-47; "Aims and Purposes of the Chemical Foundation, Incorporated, and the Reasons for Its Organization," A. Mitchell Palmer, Former Alien Property Custodian, in his Report to Congress, and by Francis P. Garvan, Alien Property Custodian, in an Address to the National Cotton Manufacturers' Association, (New York: The DeVinne Press 1919), 3-73.

²⁴⁴ Historically, Berstorff is known for the part he played in the Zimmermann Telegram incident.

²⁴⁵ *Associated Press*: 23 June 1923.

Administrations when he referred to the German chemical industry as the “invisible plaintiff” behind the US Government’s case.²⁴⁶

The trial was a sensation that heavily covered by representatives from the New York newspapers and major urban media centers from coast to coast. The spectator’s gallery was standing room only, which generated hearsay reports from those with seats to those standing in the lobby, corridors, and courthouse steps. In order to control the narrative on behalf of the defense, William Keohan, Garvan’s public relations person, provided the *Associated Press (AP)* with his adaptation of Metz’s testimony. In Keohan’s version, Metz had admitted to paying a German spy to investigate the US dye industry.

Since there were no *AP* representatives inside the courtroom to hear Metz under oath, Keohan’s fabricated version was filed on the *AP* wire as a “first hand accounting” by one its own reporters.²⁴⁷ The next day, because of the *AP*’s completely inaccurate commentary, Judge Morris called reporters into his chambers to reprimand them. The following day, all newspapers that ran the *AP* story printed retractions, admitting that the “statements were false in every particular.”²⁴⁸ The reaction of the DOJ was to pay more attention to publicity throughout the rest of the summer and issue daily “memoranda” in

²⁴⁶ Records of the Division of Patents WWI Suits Filed, Record Group 131; National Archives II, College Park, MD.

²⁴⁷ *Associated Press*, 29 August 1923.

²⁴⁸ *Ibid.*

an effort to make their case with the public. However, by that time, the damage was irreversible.²⁴⁹

At the conclusion of witness testimony for both sides, the lawyers presented their closing arguments on July 27, 1923. Kresel began by reiterating an attack against the government for playing into the hands of the German conspiracy. He highlighted the connections of the witnesses appearing for the plaintiff, especially berating Holdermann and Metz as “German tools.” He charged that German bribery and the other offenses that occurred before America’s entry into the war had been entirely immaterial in the prosecution’s arguments.²⁵⁰ In turn, Anderson restated with absolute resolve that the OAP had misinterpreted the responsibilities of the TEA, received an inadequate price for the patents, and abused the public office. He emphatically charged that the Wilson Administration had completely mismanaged the enemy properties that it was legally required to hold in trust.²⁵¹

Morris issued the long awaited ruling on January 3, 1924. In his written opinion, he cited that there was ample precedent for the government to confiscate alien property, and he found no error in the implementation of the TEA. Morris dismissed the government’s charge of conspiracy by stating that the TEA specifically granted the powers of an “absolute owner” to the APC. Although Morris agreed that the patents sold at far less than market value, he ruled the sales legal and added that the significance of

²⁴⁹ Johnson, “The Political Career of A. Mitchell Palmer”: 69.

²⁵⁰ Ibid.

²⁵¹ New York Daily News, 17 July 1923.

the patents to American industry and national security compensated the “public interest” for any financial loss suffered by the USDT. Morris, who was clearly impressed by the “amazing” list of German holdings before the war, accepted the defense contentions that Germany, through illegal activities, had “prevented” the establishment of a domestic chemical, dye industry, and as such was to receive no royalties on the use of the patents before the peace treaty was ratified.²⁵²

Stunned, the DOJ appealed Morris’ decision to the District Court of Appeals and then to the Supreme Court on December 9, 1925. Justice Pierce Butler delivered the unanimous written opinion for the Court on October 11, 1926 in *United States v. Chemical Foundation, Inc.*, 272, U.S. 1 (1926): the Court upheld the lower court’s ruling, thus ending four years of litigation.²⁵³

Political scientist, James Gathings, has argued that substantial agreements and customs exist to protect individual property in the event of national conflict.²⁵⁴ He wrote that there was little doubt that Palmer and Garvan exceeded their powers in the “most notorious of the cases” conducted against the Alien Property Custodian. However, Gathings also recognized that although the legislative and executive branches of the American government felt obligated to abide by international law, the American Court

²⁵² New York Times, 4 January 1924: page 1 ; *U.S. v. Chemical Foundation, Inc.*, 272 U.S. 1.

²⁵³ *U.S. v. Chemical Foundation, Inc.*, 272 U.S. 1(1926).

²⁵⁴ James A. Gathings, *Council on International Law and American Treatment of Alien Property* (Washington, D.C: American Public Affairs, 1940).

system had a long record, beginning with the Revolutionary War, of upholding the right of the United States to confiscate enemy property during war.²⁵⁵

The Section 10(f) Patent Suits exposed the depth of privateering by both Palmer and Garvan, and the *New York Times* proclaimed, "Nothing in any oil transaction, not even the acts of Albert B. Fall, has any more sinister aspect."²⁵⁶ Although the records and opinions the three court cases rarely mention the scandals of the Harding Administration, the DOJ was mired in suspicions and revelations of misconduct under Daugherty, thus it lacked the credibility to convince the courts that members of the previous administration had committed unlawful acts.²⁵⁷

²⁵⁵ Ibid.

²⁵⁶ *The New York Times*, page 1, March 11, 1923; In 1912, Albert B. Fall won election to the Senate from New Mexico. In 1921, Harding named Fall to the position of Secretary of the Interior. It was during his term that Fall became involved in the Teapot Dome Scandal, which included the naval oil reserves located at Elk Hills, Calif., and Teapot Dome, Wyo. Under Fall's prompting, Edwin Denby, Secretary of the Navy, requested that President Harding order control of these reserves be placed under Fall. Fall proceeded to secretly lease the reserves to oil magnates Henry F. Sinclair and Edward L. Doheny. In 1923, Fall became the first cabinet member in US history to resign for felony charges. He was convicted of federal bribery for receiving \$400,000 to manipulate the leases; At the time of the Supreme Court review of the Teapot Dome Scandal, four of the Justices had been nominated to the Supreme Court by Wilson, and the other five appointments were made by Harding. Until 1932, political preference was the most persuasive argument before the Court rather than *blind justice*; A.R. Johnson Jr., to the Attorney General, 3 October 1926, File 9-17-78, Department of Justice Records, Record Group 552; National Archives II, College Park, MD.

²⁵⁷ Daugherty was suspected of profiting from the sale of government alcohol supplies, failing to enforce prohibition statutes, and the selling of pardons. Jesse W. Smith, a friend Daugherty's and a member of the so-called Ohio Gang, was indicted for involvement with the Harding's APC, Thomas W. Miller. It was revealed that Miller had taken a \$50,000 bribe from Smith to influence the disposition of some seized property. Smith committed suicide in May 1923, which caused considerable discomfort for the administration. In 1927, Miller was convicted of fraud and sent to prison. Daugherty, dismissed by Calvin Coolidge in March 1923, was charged in 1924 with defrauding the government. In his 1927 trial, Daugherty asserted his Fifth Amendment protection against self-incrimination and was eventually acquitted.

CONCLUSION

Sagacious commentators, beginning with those who drafted the Constitution, have warned that rule by the majority is both the greatest glory and the most serious hazard of our system: that our liberties are endangered most not by tyrants, but by democrats.

Stanley Coben

Historically, when hysteria and war subside, scrutiny reveals the truth: Palmer, Garvan, their associates, and American companies such as Dow Chemical, I.E. Du Pont, and Goodyear Tire, targeted and appropriated approximately \$400 million (\$3.6 billion) of German intellectual property.²⁵⁸

Wilson's Privateers were part of a larger group of opportunists, which included industrialists whose corporations produced record profits during the years 1914 - 1921.²⁵⁹ The United States Steel Corporation, with profits of \$14 million (\$126 million) in 1904, realized a net income of \$224 million (\$2.16 billion) in 1917.²⁶⁰ E.I du Pont de Nemours and Company, benefited by \$144 million (\$1.3 billion) from the manufacture of TNT, nitro, and the CFI patents that were used to develop domestic chemical processes.²⁶¹ During the years 1910-14, Bethlehem Ship Building earned an average \$6 million (\$54

²⁵⁸ Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131; National Archives II, College Park, MD; Records of the Alien Property Custodian and Other Records of Francis P. Garvan, New York and Washington, D.C., Record Group 131; National Archives II, College Park, MD.

²⁵⁹ Bogart, *War Costs And Their Financing*, 2-87.

²⁶⁰ Ibid.

²⁶¹ Ibid., During the 1930s, as Du Pont continued to produce explosives for export, it became known as one of the "Merchants of Death."

million) per year. From 1914-1919, profits increased on average to \$49 million (\$441 million) per annum.

As for the individual *privateers*, McAdoo, Palmer, Garvan, Guffey, and Harrison, some fared better than others did. Palmer's political career was decimated after Assistant Labor Secretary Louis F. Post levied charges of unconstitutional conduct against him for initiating the Palmer Raids. Although he was publicly reprimanded and humiliated, Palmer was never indicted. In 1926, he served as the personal attorney for Edward McLean, a key defendant during the lawsuits and congressional investigation into the Teapot Dome Scandal.²⁶² Although he retired in 1927, Palmer was still considered a strong political strategist, and in 1931, he assisted Franklin Delano Roosevelt in his pursuit of the Democratic presidential nomination.

In an attempt to control his historical destiny, Palmer removed and destroyed most of his important papers from the APC and DOJ offices. The exception was his Diary. The Freedom of Information Act provided access to the Diary, as well as critical files, which profiled the facts Palmer attempted to destroy. Palmer's actions harmed the American people far more than benefited them.

Other members of *Wilson's Privateers* fared much better. Guffey was elected to the US Senate from the state of Pennsylvania, and became a trusted advisor to Franklin Delano Roosevelt. He lived a life of privilege, wrote several books, and bequeathed his papers to Princeton University. In 1932, McAdoo was elected as a Democrat to the US

²⁶² McLean provided Albert B. Fall with an unsecured loan of \$100,000 to assist him in his illegal oil lease deals.

Senate from California, and he lived a respectable life as a wealthy public servant.

Harrison retired wealthy and in obscurity.

As for Garvan, he and his family amassed the greatest personal wealth and accordingly, had the greatest success in obscuring his OAP misdeeds. The Archives of Smithsonian Museum of American Art (SMAA) contained unabridged records, which revealed disquieting facts about the man still revered by the American chemical industry.²⁶³ The files confirmed that before accepting his position with the OAP, Garvan had a penchant for collecting antiques, difficulty in paying his personal bills, and a proclivity for promissory notes.²⁶⁴ Many of these notes were written for purchases from dealers who provided him with an eclectic mix of European furniture and silver. Records detailed that well into 1917, the sellers made repeated requests to Garvan to satisfy his debts.²⁶⁵

The SMAA records also indicated that immediately after he instigated the property confiscations on behalf of the OAP, Garvan cleared his debts. The files contained detailed lists of items purloined from enemy-owned private estates or the property of enemy sympathizers, which he acquired through his use of the OAP. Many of these items were irreplaceable Federal Style and Early American Master Craftsmen

²⁶³ Francis P. Garvan Papers; New York and Washington, D.C.; 1911-1921; Collection Number 112; Archives of American Art, Smithsonian Institution, Washington, D.C.; "Seventy-five Years of Excellence: Francis P. Garvan," Chemical Heritage: News Magazine of the Chemical Heritage Foundation 16, Fall 1998: Number 2, 14-15.

²⁶⁴ Mabel Brady Garvan, maintained the Brady family fortune, and Garvan was responsible for his own personal debts.

²⁶⁵ Ronald Tempest, "The Papers of Francis P. Garvan; New York and Washington, D.C.; 1911-1921; Collection Number 112.

antiques that Garvan either sold at auction in 1931 or bequeathed to his family upon his death in 1937.²⁶⁶ Additionally, records from the Anderson Galleries, a renowned auction house, indicated that between 1920 and 1923, both Palmer and Garvan personally profited through the sale of the less desirable or less rare antiques and collectibles.²⁶⁷ Checks for the proceeds of Anderson's auctions were made payable to either Palmer or Garvan, rather than required remittance to the USDT.²⁶⁸ At the time of his death in 1932, Palmer's Last Will and Testament listed approximately \$50,000 (\$450,000) of American antiques and art that was cross-referenced to OAP enemy property records.²⁶⁹

After Garvan's death, Mabel Brady Garvan made three calculated maneuvers that served as an almost impenetrable shield for Francis P. Garvan's privateering. Her first tactic was the donation of over ten thousand pieces of Early American, Federal Style, and Master Craftsmen antiques to the Yale University Museum of Art. In 2006, these unique pieces were valued as a "*priceless* collection of original works by artist such as

²⁶⁶ Anderson Galleries, Furniture and Silver, 1931, 1-283.

²⁶⁷ Auction records examples: a) Auction House: Anderson Galleries, Inc.; Title: Collection of Books and Manuscripts: Many in superb bindings; Books from the Library of the late Frederick R. Halsey; selections and duplicates from Mr. Henry S. Van Duzer: Important books and manuscripts sold by order of *A. Mitchell Palmer, Alien Property Custodian*.; b) Auction House: Anderson Galleries, Inc.; Title: English Literature from London; art and other books sold by order of *Francis P. Garvan, Alien Property Custodian*; and other collections; Place of sale: New York; Date Of Sale: 13/14 May 1919; Notes: No price list; Seller: *Francis P. Garvan*. d) Auction House: Anderson Galleries, Inc.; Title: Important and Valuable Objects of Art; Place of Sale: New York; Date Of Sale: 27 January 1919; Notes: No price list; Sellers: *A. Mitchell Palmer*.

²⁶⁸ Francis P. Garvan Papers, Smithsonian Museum of American Art, Collection 112, Washington, D.C.

²⁶⁹ *Alien Property Custodian Report for 1921-22*; Record Group 131, Box 17, National Archives II, College Park, MD; Alan Shestack, Gerald W. R. Ward, Patricia Kane, and Helen Cooper, Francis P. Garvan: Collector (New Haven: Yale University Art Gallery, 1980); Francis P. Garvan Papers, *Alexander Mitchell Palmer Last Will and Testament*, Smithsonian Museum of American Art, Collection 112, Washington, D.C.

Chippendale and Revere.”²⁷⁰

The second deflection measure was the Garvan family’s donation of several million dollars to the University of Pennsylvania to endow a chair for chemical research and scholarships. The third shield was Garvan’s son, Anthony, who earned a PhD in history, and served as both chairperson and dean of the History Department at the University of Pennsylvania. His son, Anthony, Jr., held that same position.

Finally, Francis P. Garvan has remained an honored founder and a benefactor of the Chemical Foundation, Inc. and American chemical industry.²⁷¹ The proceeds from the continued issue of the chemical and pharmaceutical patent licenses that originated from the confiscated German patents are still used to support scholarships and grants for chemical research in the United States.

The story of the *privateers* is a classic example of democracy’s most notorious weakness: public hysteria and political propaganda. *Wilson’s Privateers* utilized the Great War to advance their political aspirations and enhance their material wealth. As a direct result of the *privateers* egregious behavior, from 1917-1921, free speech and

²⁷⁰ To date, Yale University has made an extraordinary effort to avoid scrutiny of the true provenance of these items; On June 6, 1980, 123 pieces from Mrs. Garvan’s private collection were auctioned and sold for \$325 to \$180 thousand each for a net of \$2,056,884. This figure provides a benchmark value for the significantly more valuable Yale pieces at \$43 million (1980: \$174 million in 2002).

²⁷¹ “Seventy-five Years of Excellence,” Chemical Heritage: 14-15.

protest became “a clear and present danger” to democracy.²⁷² Americans could not question authority or take on the thankless task of protecting the right to free speech, because it would almost certainly result in a variety of forms of retaliation.²⁷³

In a commentary on the war years, in 1919, Walter Lippmann wrote,

At this moment, the man who in domestic policy stands about where Theodore Roosevelt stood in 1912, and in foreign affairs where Woodrow Wilson stood when he first landed in Paris, and in his doctrine of toleration where John Milton stood two and a half centuries ago, is certain, is absolutely certain to be called a pacifist, pro-German and Bolshevik.²⁷⁴

It was within the environment of hysteria fueled by propaganda, fear, and hatred that *Wilson's Privateers* thrived unabated in their nihilistic grasp for wealth and power. Democracy and German industry became the eviscerated victims.

²⁷² “Clear and present danger” is a term that was used by Supreme Court Justice Oliver Wendell Holmes, Jr. in his written opinion of *Schenck v. United States* 249 U.S. 47 (1919). The case concerned the freedom of speech clause of the First Amendment, and Charles Schenck’s public opposition to the Great War draft. Holmes wrote: “The question in every case is whether the words used in such circumstances are of such nature as to create such a clear and present danger and that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no Court could regard them as protected by any constitutional right.” Holmes opinion was reversed in 1951 in *Dennis v. United States* 341 U.S. 494.

²⁷³ Among others, presidential candidate, Eugene Debs, was imprisoned for speaking out against the Wilson Administration.

²⁷⁴ Walter Lippmann, *Men of Destiny*, (New York: MacMillan, 1927), 89.

APPENDIX 1.

Order to Confiscate Enemy Shipping Lines and Wharfs

Executive Order No. 2651:

German Boats

Whereas the following joint resolution adapted by Congress was approved by the President May 12, 1917:

Joint Resolution Authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction, which at the time of coming therein was owned in whole or in part by any corporation, citizen, or subject of any nation with which the United States may be at war, or was under register of any such nation, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to take over to the United States the immediate possession and title of any vessel within the jurisdiction thereof, including the Canal Zone and all territories and insular possessions of the United States except the American Virgin Islands, which at the time of coming into such jurisdiction was owned in whole or in part by any corporation, citizen, or subject of any nation with which the United States may be at war when such vessel shall be taken, or was flying the flag of or was under register of any such nation or any political subdivision or municipality thereof; and, through the United States Shipping Board, or any department or agency of the Government, to operate, lease, charter, and equip such vessel in any service of the United States, or in any commerce, foreign or otherwise.

Sec. 2. That the Secretary of the Navy be, and he is hereby, authorized and directed to appoint, subject to the approval of the President, a board of survey, whose duty it shall be to ascertain the actual value of the vessel, its equipment, appurtenances, and all property contained therein, at the time of its taking, and to make a written report of their findings to the Secretary of the Navy, who shall preserve such report with the records of his department. These findings shall be considered as competent evidence in all proceedings on any claim for compensation. And whereas the following vessels were, at the time of coming into the jurisdiction of the United States, owned in whole or in part by a corporation, citizen, or subject of the Empire of Germany, a nation with which the United States is now at war, or were flying the flag of or under the register of the Empire of Germany, or of a political subdivision or municipality thereof.

It is therefore ordered that through the United States Shipping Board there be taken over to the United States the possession and title of the aforementioned vessels. The United States Shipping Board is further hereby authorized to repair, equip, and man the

said vessels; to operate, lease, or charter the same in any service of the United States, or in any commerce, foreign or coastwise; and to do and perform any and all things that may be necessary to accomplish the purposes of the joint resolution above set forth.

Woodrow Wilson.
THE WHITE HOUSE,
June 30, 1917.

Vaterland.	Prinzess Irene.	Armenia.
Amerika.	Hamburg.	Adamsturm.
Kaiser Wilhelm II.	Neckar.	Willehad.
President Grant.	Bohemia.	Serapis.
Pennsylvania.	Rhaetia.	Alleniannia.
Bulgaria.	Wittekmd.	Nassovia.
Maia.	Sachsenwald.	Holsatia.
Neptun.	Staatssekretar Soif.	Staatssekretar Kraetke.
O.J.D Ahiers.	Aroa (Lighter).	Borneo.
Prinz Waldemar.	George Washington.	Marudu.
Loongmoon.	Kronprinzessin Cecile.	Tsintau.
Gouverneur Jaeschke.	President Lincoln.	Andalusia.
Darvel.	Cincinnati.	Camilla Rickmers.
Princess Alice.	Grosser Kurfurst.	Clara Jebsen.
Wiegand.	Barbarossa.	Elmshorn.
Bochum.	Friedrich der Grosse.	Johanne.
Carl Diederichsen.	Rhein.	Mark.
Coblenz.	Kouig Wilhelm II.	Rajh
Esslingen.	Koin.	Sambia.
Lyeemmoon.	Prinz Oskar.	Tubingen.
Pongtong.	Ockenfels.	Dalbek.
Sachsen.	Arcadia.	Magdeburg.
Suevia.	Pisa.	Matador.
Steinbeck.	Prinz Joachim.	Kurt.
Elsass.	Harburg.	Andromeda.
Indra.	Portonia.	Prinz Sigismund.
Arnoldus Virinen.	Clara Mennig.	Savoia.
Ottawa.	Pommern.	Arni (Lighter).
Grunewald.	Setos.	Argus (Lighter).

APPENDIX 2.

277 U.S. 138

HAMBURG-AMERICAN LINE TERMINAL & NAVIGATION CO.**v.****UNITED STATES (two cases).****ATLAS LINE S. S. CO.****v.****SAME.****Nos. 3-5.****Argued and Submitted April 25, 1928.****Decided May 14, 1928.**

Under Trading with the Enemy Act, 2(a), 50 USCA Appendix, 2(a), Comp. St. 3115 1/2 aa, property of domestic corporations, seized during war with Germany cannot be treated as owned by enemy, so as to preclude recovery of compensation from United States for use thereof, because their entire capital stock belonged to German corporation.

Congress, having power to direct forfeiture of all property beneficially owned by enemy subjects during war, could provide for seizure thereof, followed by such compensation as President might determine, as was done by Trading with the Enemy Act (50 USCA Appendix; Comp. St. 3115 1/2 a et seq.).

In action for value of tug boats, launch, etc., taken by United States from enemy owned domestic corporations under Trading with the Enemy Act (50 USCA Appendix; Comp. St. 3115 1/2 a et seq.), petition alleging that property was taken and used disclosed adequate ground for recovery to that extent, though not clearly showing what action was taken by United States.

United States is liable for value of barges belonging to enemy owned domestic corporations, if title thereto was actually taken under Trading with the Enemy Act (50 USCA Appendix; Comp. St. 3115 1/2 a et seq.), and should pay for any use thereof before acquisition of title. [277 U.S. 138, 139] Messrs. Charles H. Le Fevre and Daniel Dunning, both of Washington, D. C., for appellants.

The Attorney General and Mr. W. D. Mitchell, Sol. Gen., of Washington, D. C., for the United States.

Mr. Justice McREYNOLDS delivered the opinion of the Court.

These appeals were taken June 16, 1924, from judgments of the Court of Claims which sustained demurrers to the petitions. 59 Ct. Cl. 461. For the views of that court, see *Deutsch-Australische Dampfschiffs- Gesellschaft, Appellant v. [277 U.S. 138, 140] United States*, 59 Ct. Cl. 450. Appellants are incorporated under the laws of New Jersey and their entire capital stock has long been owned by the Hamburg-American Line, a German corporation.

In cause No. 3, the appellant seeks to recover (1) compensation for the use of certain docks and piers, New York harbor, seized by the United States April 6, 1917, and used by them until June 28, 1918; and (2) interest on the sum awarded by the President (December 3, 1918) as compensation for the same property, from June 28, 1918, when title was taken thereto until January 5, 1919, the date of actual payment. In cause No. 4 the claim is for the value of two tugboats, launch, barge, and coal hoister requisitioned and taken by the United States April 6, 1917, at the port of New York; and in No. 5 judgment is asked because of three barges, likewise taken on the same day.

The court below evidently proceeded upon the view that the property of appellant corporations should be treated as owned by an enemy because their entire capital stock belonged to a German corporation. And as the property was seized during the war with Germany it held there could be no recovery. Without doubt Congress might have accepted and acted upon that theory. It was adopted in the *St. Tudno*, Lloyd's Reports of Prize Cases, vol. V, p. 198, and the *Michigan*, Lloyd's Reports of Prize Cases, vol. V, p. 421. But Congress did not do so; it definitely adopted the policy of disregarding stock ownership as a test of enemy character and permitted property of domestic corporations to be dealt with as nonenemy. The prescribed plan was to seize the shares of stock when enemy owned rather than to take over the corporate property.

The Trading with the Enemy Act, approved October 6, 1917 (chapter 106, 40 Stat. 411 (50 USCA Appendix, 2(a), Comp. St. 3115 1/2 aa)), provides:

'Sec. 2. That the word 'enemy,' as used herein, shall be deemed to mean, for the purposes of such trading and of this act-

[277 U.S. 138, 141] '(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory. ...'

In *Behn, Meyer & Co. v. Miller, Alien Property Custodian* (January 5, 1925) 266 U.S. 457, 45 S. Ct. 165, we held the status of the corporation was not fixed by the stockholders' nationality, and said:

'Before its passage the original Trading with the Enemy Act was considered in the light of difficulties certain to follow disregard of corporate identity and efforts to fix the status of corporations as enemy or not according to the nationality of stockholders. These had been plainly indicated by the diverse opinions in *Daimler Co. v. Continental Tyre & Rubber Co.* (1916) 2 A. C. 307. ...'

The petition in No. 3 states a good cause of action for the use of the docks and piers from April 6, 1917, to June 28, 1918. As Congress might have directed forfeiture of all property beneficially owned by enemy subjects, it had power to provide for seizure followed by such compensation as the President might determine. Here such compensation was fixed and ultimately paid; and we find nothing to show that due allowance was not made for the delay in payment.

In No. 4 the petition fails clearly to show what action was taken by the United States. It does allege that the property was taken and used, and to that extent discloses adequate ground for recovery. It ought to be made more certain by amendment.

[277 U.S. 138, 142] If title to the vessels described in cause No. 5 was actually taken, the United States became liable for their value. For any use of such vessels before acquisition of title, the United States should pay. The allegations of the petition are not entirely clear, and should be made more definite.

The judgments appealed from are reversed. The causes will be remanded to the Court of Claims for further proceedings in conformity with this opinion.

APPENDIX 3.

Trading with the Enemy Act Amended
Public Law No. 65-91

(40 Stat. L. 411)

October 6, 1917; CHAP. 106.

An Act To define, regulate, and punish trading with the enemy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Trading with the enemy Act."

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this Act--

- a. Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.
- b. The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.
- c. Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean--

- a. Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by

the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

- b. The government of any nation with which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.
- c. Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this Act.

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean--

- a. Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.
- b. Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.
- c. Enter into, carry on, complete, or perform any contract, agreement, or obligation.
- d. Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.
- e. To have any form of business or commercial communication or intercourse with.

SEC 3. That it shall be unlawful --

- a. For any person in the United States, except with

the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

- b. For any person, except with the license of the

president, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

- c. For any person (other than a person in the service

of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, bring

into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be

delivered, directly or indirectly, to an enemy or ally of enemy: Provided, however, That any person may send, take or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions as shall be prescribed by the President.

d. Whenever, during the present war, the President

shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act.

SEC. 4. (a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may, within thirty days after the passage of this Act, apply to the President for a license to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: Provided, however, That reasonable notice of his intent

to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: Provided further, That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days' notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act, and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act, and pending the order of the president as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act, and further pending the entry of such order by the president, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act to the contrary notwithstanding: Provided, however, That the provisions of sections three and sixteen hereof shall apply to any act or attempted act of transmission or transfer of money or other property out of the United

States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act, or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof shall forthwith apply to all trade or to any attempt to trade with, to, from, for, by, on account of, or on behalf of, or for the benefit of such company or other person: Provided, however, That after such refusal or revocation, anything in this Act to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policyholder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the alien property custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof.

b. That, during the present war, no enemy, or ally of

enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.

SEC. 5. (a) That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may by proclamation, suspend the provisions of this Act so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof, and to perform any act made unlawful without such license in section three hereof, and to file and prosecute applications under subsection (b) of section ten hereof; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with the law, as may be necessary and proper to carry out the provisions of this Act; and the President may exercise any power or authority conferred by this Act through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

- b. That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy or otherwise, or between residents of one or more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed.

SEC. 6. That the President is authorized to appoint, prescribe the duties of, and fix the salary (not to exceed \$5,000 per annum) of an official to be known as the alien property custodian, who shall be empowered to receive

all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act. The alien property custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act: Provided, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: Provided further, That the President shall cause a detailed report to be made to Congress on the first day of January of each year of all proceedings had under this Act during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof.

SEC. 7. (a) That every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act, and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by

such enemy or ally of enemy, though standing on the books in the name of another: Provided, however, That the name of any such officer, director, or stockholder shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act, or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third nineteen hundred and seventeen: Provided, That the name of any person shall be stricken from the said report by the alien-property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

b. Nothing in this Act contained shall render valid or

legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act, or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof, made after the passage of this Act, and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or

perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act, the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof: Provided, That nothing in this Act contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out, completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: Provided, That such payment shall not be made without the license of the President, general or special, as provided in this Act.

Nothing in this Act shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof: Provided, however, That an enemy or ally of enemy licensed to do business under this Act may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: And provided further, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that, he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or

recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof, proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof.

c. If the President shall so require, any money or

other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian.

d. If not required to pay, convey, transfer, assign,

or deliver under the provisions of subsection (c) hereof, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

e. No person shall be held liable in any court for or

in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act.

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of

enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States.

SEC. 8. (a) That any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and under such rules and regulations as the President shall prescribe and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: Provided, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act, required; and that in case where, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: Provided further, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

b. That any contract entered into prior to the be-

ginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

c. The running of any statute of limitations shall be

suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy or ally of enemy country, and no suit shall be maintained on any such contract, or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: Provided, however, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law. SEC. 9. That any person, not an enemy, or ally of enemy, claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the Treasurer of the United States, or to whom any debt may be owing From an enemy, or ally of enemy, whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the Treasurer of the United States, may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may, with the assent of the owner of said property and of all persons claiming any right, title, or interest therein, order the payment, conveyance, transfer, assignment or delivery to said claimant of the money or other property so held by the alien property custodian or by the Treasurer of the United States or of the interest therein to which the President shall determine said claimant is entitled: Provided, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title or interest which he may have in such money or other property. If the President shall not so order within sixty days after

the filing of such application, or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may, at any time before the expiration of six months after the end of the war, institute a suit in equity in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the alien property custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if suit shall be so instituted then the money or other property of the enemy, or ally of enemy, against whom such interest, right, or title is asserted, or debt claimed, shall be retained in the custody of the alien property custodian, or in the Treasury of the United States, as provided in this Act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant or by the alien property custodian or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant, or suit otherwise terminated.

Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the alien property custodian shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

This section shall not apply, however, to money paid to the alien property custodian under section ten hereof.

SEC. 10. That nothing contained in this Act shall be held to make unlawful any of the following Acts:

a. An enemy, or ally of enemy, may file and prose-

cute in the United States an application for letters patent, or for registration of trade-mark, print, label, or copyright, and may pay any fees therefor in accordance with and as required by the provisions of existing law and fees for attorneys or agents for filing and prosecuting such applications. Any such enemy, or ally of enemy, who is unable during war, or within six months thereafter, on account of conditions arising out of war, to file any such application, or to pay any official fee, or to take any action required by law within the period prescribed by law, may be granted an extension of nine months beyond the expiration of said period, provided the nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privileges to citizens and corporations of the United States.

b. Any citizen of the United States, or any corpora-

tion organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

c. Any citizen of the United States or any corporation

organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is hereby authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding \$100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright, or otherwise, against the licenses for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) hereof.

d. The licensee shall file with the President a full

statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyrighted matter, or, if the President shall so order, five per centum of the value of the use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President: and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said license and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court as provided in subdivision (f) of this section, or upon the direction of the alien property custodian.

e. Unless surrendered or terminated as provided in

this Act, any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this Act, or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

f. The owner of any patent, trade-mark, print, label,

or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: Provided, however, That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: Provided further, That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the

facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease. If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

g. Any enemy, or ally of enemy, may institute and

prosecute suits in equity against any person other than a licensee under this Act to enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: Provided, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

h. All powers of attorney heretofore or hereafter

granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and

g. of this section, shall be valid.

i. Whenever the publication of an invention by the

granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may 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 end of the war: Provided, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the

Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if 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.

SEC. 11. Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, That no preference shall be given to the ports of one State over those of another.

SEC. 12. That all moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as hereinafter provided; and the President is authorized to designate as a depository, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depository or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depository or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required

to be deposited with the Secretary of the Treasury) and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which shall come into his possession in pursuance of the provisions of this Act, and, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, may manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights which may be or become appurtenant thereto or to the ownership thereof, if and when necessary to prevent waste and protect such property and to the end that the interests of the United States in such property and rights or of such person as may ultimately become entitled thereto, or to the proceeds thereof, may be preserved and safeguarded. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him. Any money or property required or authorized by the provisions of this Act to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: Provided, however, That on order of the President as set forth in section nine hereof, or of the court, as set forth in sections

nine and ten hereof, the alien property custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: And provided further. That the Treasurer of the United States, on order of the alien property custodian, shall, as provided in section ten hereof, repay to the licensee any funds deposited by said licensee.

SEC. 13. That, during the present war, in addition to the facts required by sections forty-one hundred and ninety-seven, forty-one hundred and ninety-eight, and forty-two hundred of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seven-teen, to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this Act, and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall on reaching port of destination of any of the cargo deliver a copy of the manifest and of the said master's, owner's, shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen.

SEC. 14. That, during the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is hereby authorized and empowered, subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any

domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy.

SEC. 15. That the sum of \$450,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to be used in the discretion of the President for the purpose of carrying out the provisions of this Act during the fiscal year ending June thirtieth, nineteen hundred and eighteen, and for the payment of salaries of all persons employed under this Act, together with the necessary expenses for transportation, subsistence, rental of quarters in the District of Columbia, books of reference, periodicals, stationery, typewriters and exchanges thereof, miscellaneous supplies, printing to be done at the Government Printing Office, and all other necessary expenses not included in the foregoing.

SEC. 16. That whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.

SEC. 17. That the district courts of the United States are hereby given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act, with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and

thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary."

SEC. 18. That the several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this Act committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this Act committed upon the high seas and of conspiracies to commit such offenses as defined by section thirty-seven of the Act entitled "An Act to codify, revise, and amend the penal laws of the United States," approved March fourth, nineteen hundred and nine, and the provisions of such section for the purpose of this Act are hereby extended to the Philippine Islands and to the Canal Zone.

SEC. 19. That ten days after the approval of this Act and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: Provided, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at on (naming the post office where the translation was filed, and the date of filing thereof) as required by the Act of (here giving the date of this Act). Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is hereby declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: Provided further, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United

States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. and the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of (here giving date of this Act), on file at the post office of (giving name of office)."

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned.

APPENDIX 4.

UNITED STATES v. CHEMICAL FOUNDATION, INC., 272 U.S. 1

U.S. Supreme Court

UNITED STATES v. CHEMICAL FOUNDATION, INC., 272 U.S. 1 (1926)

272 U.S. 1

UNITED STATES

v.

CHEMICAL FOUNDATION, Inc.

No. 127.

Argued Dec. 9, 10, 11, 1925.

Decided Oct. 11, 1926.

[272 U.S. 1, 4] The Attorney General and Messrs. Henry W. Anderson, of Richmond, Va., and Herman J. Galloway, Asst. Atty. Gen., for the United States.

Messrs. John W. Davis, of New York City, William G. Mahaffy, of Wilmington, Del., and Moorfield Storey, of Boston, Mass., for appellee.

Mr. Justice BUTLER delivered the opinion of the Court.

Suit was brought by the United States in the District Court for Delaware to set aside sales made by it to the Chemical Foundation of a number of patents, copyrights, trademarks, and other similar properties- which for brevity will be referred to as 'patents'-seized pursuant to the Trading with the Enemy Act of October 6, 1917, c. 106, 40 Stat. 411, as amended by the act of March 28, 1918, c. 28, 40 Stat. 460, and the Act of November 4, 1918, c. 201, 40 Stat. 1020, and other acts (Comp. St. 3115 1/2 a et seq.). The complaint alleges that a number of domestic manufacturers as a result of war conditions had been able to combine and monopolize certain chemical industries in this country, and, fearing that at the end of the war German competition would destroy the monopoly, they conspired to bring about transfers and sales of the patents at nominal prices to themselves or to a corporation controlled by them; that the patents so obtained would control the industries in question and perpetuate the monopoly; and that the sales were procured through the fraudulent deception of the President, the Alien Property Custodian, and other officials. [272 U.S. 1, 5] The answer denies conspiracy and fraud, and asserts that the transfers were made in good faith and pursuant to law, and that they are valid. There was a trial at which much evidence was taken. The District Court dismissed the complaint (294 F. 300), and its decree was affirmed by the Circuit Court of Appeals (5 F.

(2d) 191.) Both courts found that no unlawful scheme, combination, or conspiracy was shown, and that there was no deception or fraud.

The United States took an appeal under section 241, Judicial Code (Comp. St. 1218), and has applied for a writ of certiorari under section 240 (Comp. St. 1217). The decree of the Circuit Court of Appeals was entered March 26, 1925, prior to the taking effect of the Act of February 13, 1925, amending the Judicial Code. Chapter 229, 43 Stat. 936 (Comp. St. 1120). Since this is not a case in which the decree of that court is made final by section 128, the United States had the right of appeal. The application for certiorari is therefore denied.

The chemical industries in question are closely related to the production of explosives, gasses, and other things directly used in waging war, as well as to the production of dyestuffs and medicines essential to the welfare of the people. At the outbreak of the war many necessary medicines and other substances, as well as most of the dyestuffs used in this country, were imported from Germany or were manufactured under patents owned by enemy Germans. The amount of such things here produced was small. Importations were hindered by the blockade and ceased when this country entered the war. To meet the demand numerous plants were developed and by 1919 chemicals, dyestuffs, medicines, and the like were being produced here in large quantities. A number of associations of manufacturers were formed for the advancement of such industries; they included in their membership the producers of nearly all the dyestuffs and like chemicals made in this country. Mr. A. Mitchell Palmer was the Alien Property Custodian until he was [272 U.S. 1, 6] appointed Attorney General, March 4, 1919. In order to protect the United States against enemy and foreign control of its chemical industries and to stimulate production here, he favored the seizure and sale of the patents in question. To that end a number of conferences were held between his representatives and those of the industries. The plan that was carried into effect was formulated under his direction.

In February, 1919, the Chemical Foundation was incorporated under the laws of Delaware. The certificate of incorporation discloses that it was created and empowered to purchase enemy-owned patents seized by the Custodian and to hold the 'property and rights so acquired in a fiduciary capacity for the Americanization of such industries as may be affected thereby, for the exclusion or elimination of alien interest hostile or detrimental to the said industries, and for the advancement of chemical and allied science and industry in the United States'; to grant to the United States nonexclusive licenses to make, use, and sell the inventions covered by the patents, and also to grant like licenses, on equal terms and without advantage as between licensees, to American citizens and corporations under control of American citizens. The board of directors is authorized to prescribe the terms and conditions of such licenses. It may refuse to issue any license or may revoke any license granted by it. The corporation is required to enforce its rights and to protect the rights of its licensees. The authorized capital stock is \$500,000, consisting of 5,000 shares of the par value of \$100 each: 4,000 shares constitute nonvoting preferred stock, the holders of which are entitled to a cumulative dividend of 6 per

centum per annum, and 1,000 shares constitute the common stock, the holders of which are entitled to dividends not exceeding 6 per centum per annum after dividends on the preferred stock have been provided for. The preferred stock is subject to redemption at par plus [272 U.S. 1, 7] accumulated dividends, if any, and after such redemption net earnings not needed for working capital 'shall be used and devoted to the development and advancement of chemistry and allied sciences, in the useful arts and manufactures in the United States, in such manner as the board of directors may determine.' The holders of the common stock have all the voting power. The certificate provides that, without the approval of the board of directors, stockholders may not sell any of their stock. The board of directors consists of three members. The executive officers are president, vice president, and a secretary and treasurer. The president and vice president are required to serve without pay. The shares of the Foundation were subscribed by those interested in the chemical and dye industries. But a voting trust agreement was made, pursuant to which all common stock was deposited with, and all voting power was vested in, five trustees. Directors and officers were chosen March 8, 1919. Francis P. Garvan, Douglas I. McKay, and George J. Corbett were made directors and constituted the board. Mr. Garvan, then Alien Property Custodian, was elected president. Mr. McKay was elected vice president, and Mr. Corbett secretary and treasurer. Otto T. Bannard and four others were made voting trustees. All the directors, officers, and voting trustees were chosen by or in accordance with the direction of Mr. Palmer, given while he was Custodian.

The President, by Executive Order December 3, 1918, declared:

'I hereby vest in Frank L. Polk all power and authority conferred upon the President by the provisions of section 12' of the Trading with the Enemy Act as amended (Comp. St. 3115 1/2 ff).

Mr. Polk was then counselor for the Department of State, but was not so described in the order. He made two orders, dated respectively February 26, 1919, and April 5, 1919, to authorize the Custodian to sell at private sale to the Foundation without advertisement, at such places and upon such terms and conditions as to the [272 U.S. 1, 8] Custodian might seem proper, all patents found to relate to the objects and purposes of the Foundation as expressed in its charter. These orders contained a statement of the reasons therefore in the public interest. Briefly they were that the patents could not be sold to the best advantage at public sale after advertisement; that the Foundation had been incorporated to hold the patents as a trustee for American industries affected by the patents, to eliminate hostile alien interests and to advance chemical and allied industry in the United States, and that it was obligated to grant nonexclusive licenses upon equal terms to qualified American manufacturers and was empowered to grant free licenses to the United States; that the public interest would be best served by a wide use of the inventions, which most readily could be promoted by licenses which the Foundation was obligated to grant; that a private sale would prevent the patents from falling into the hands of purchasers unwilling or unable to use the inventions or who would use them for speculative purposes; that it would be impossible to make a public sale that would secure

these benefits, and that a private sale would avoid unnecessary expense, delay and inconvenience.

Prior to and contemporaneously with the organization of the Foundation, the representatives of the chemical industries co-operated with those of the Custodian in making lists of the patents to be seized and sold by the Custodian to the Foundation. Mr. Garvan, the Custodian, from time to time commencing April 10, 1919, executed and delivered to the Foundation various assignments of the patents. The considerations paid by the Foundation to the Custodian amounted in all to \$271,850.00. The President, February 13, 1920, made an executive order which was held by both courts below to constitute a ratification of the transactions. And pursuant to that order, the Custodian confirmed the assignments theretofore made. [272 U.S. 1, 9] We come to the question whether, as held below, the Act as amended March 28, 1918, empowered the President to authorize, and the Custodian under his supervision to consummate, these sales.

The pertinent provisions of the act are in section 12 as amended:

'The Alien Property Custodian shall be vested with all of the powers of a common-law trustee in respect of all property other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this act, and, in addition thereto acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: Provided, that any property sold under this act, except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine. ...' 40 Stat. 460.

'After the end of the war any claim of any enemy or of an ally of enemy to any money of other property received and held by the Alien Property Custodian or deposited in the United States Treasury, shall be settled as Congress shall direct. ...' 40 Stat. 424.

It is conceded that when seized the patents belonged to enemy Germans and that they were lawfully taken over by the Custodian. The purpose of the Trading with the Enemy Act was not only to weaken enemy countries [272 U.S. 1, 10] by depriving their supporters of their properties (*Miller v. Robertson*, 266 U.S. 243, 248, 45 S. Ct. 73), but also to promote production in the United States of things useful for the effective prosecution of the war. Section 10(c) authorized the President, if he deemed it for the

public welfare, to grant licenses to American citizens or corporations to use any inventions covered by enemy-owned patents. Subsection (c) of section 7 of the Act as amended November 4, 1918 (Comp. St. 3115 1/2 d), authorized the seizure of enemy-owned patents, and provided that all property so acquired should be held and disposed of as provided by the act. And there is no ground for contending that the seizure and transfers did not tend to lessen enemy strength and to encourage and safeguard domestic production of things essential to or useful in the prosecution of the war. There is nothing to support a strict construction of the act in respect of the seizure and disposition of enemy property. On the other hand, contemporaneous conditions and war legislation indicate a purpose to employ all legitimate means effectively to prosecute the war. The law should be liberally construed to give effect to the purposes it was enacted to subserve.

As originally enacted, section 12 gave the Custodian in respect of properties in his possession 'all of the powers of a common-law trustee.' He was authorized, acting under the supervision and direction of the President and under rules and regulations prescribed by the President, to manage the property and do any act or things in respect thereof or make any disposition of it by sale or otherwise and to exercise any rights appurtenant to its ownership 'if and when necessary to prevent waste and protect such property and to the end that the interests of the United States in such property and rights, or of such person as may ultimately become entitled thereto, or to the proceeds thereof, may be preserved and safeguarded.' The Custodian was a mere conservator and [272 U.S. 1, 11] was authorized to sell only to prevent waste. But brief experience made it clear that this restriction on the power to dispose of enemy property sometimes operated to defeat the purpose of the act and brought profit and advantage to the enemy. The amendment of March 28, 1918, eliminated the restriction upon the power of sale. It stated that the other powers given were 'in addition' to those of a common-law trustee. And it authorized the Custodian under the President to dispose of such properties by sale or otherwise 'in like manner as though he were the absolute owner thereof.'

There is no support for a construction that would restrain the force of the broad language used. Congress was untrammelled and free to authorize the seizure, use or appropriation of such properties without any compensation to the owners. There is no constitutional prohibition against confiscation of enemy properties. *Brown v. United States*, 8 Cranch, 110, 122; *Miller v. United States*, 11 Wall. 268, 305, et seq.; *Kirk v. Lynd*, 106 U.S. 315, 316, 1 S. Ct. 296; *Stoehr v. Wallace*, 255 U.S. 239, 245, 41 S. Ct. 293; *White v. Mechanics Securities Corp.*, 269 U.S. 283, 300, 46 S. Ct. 116. And the act makes no provision for compensation. The former enemy owners have no claim against the patents or the proceeds derived from the sales. It makes no difference to them whether the consideration paid by the Foundation was adequate or inadequate. The provision that after the war enemy claims shall be settled as Congress shall direct conferred no rights upon such owners. Moreover the Treaty of Berlin prevents the enforcement of any claim by Germany or its nationals against the United States or its nationals on account of the seizures and sales in question. 1

While not denying the power to confiscate enemy properties, the United States argues that as construed below [272 U.S. 1, 12] the provision in question is unconstitutional because it attempts to delegate legislative power to the executive. But the act gave the Custodian acting under the President, full power of disposition. No restriction was put upon dispositions other than by sales. And sales to the United States were not regulated. The general rule laid down was that all dispositions by sale or otherwise should be made in accordance with the determinations of the President; the proviso made an exception including a class of sales; and, upon the failure of the President otherwise to determine stating the reasons therefore in the public interest, it required that such sales should be made as there specified. It was not necessary for Congress to ascertain the facts of or to deal with each case. The act went as far as was reasonably practicable under the circumstances existing. It was peculiarly within the province of the Commander-in-Chief to know the facts and to determine what disposition should be made of enemy properties in order effectively to carry on the war. The determination of the terms of sales of enemy properties in the light of facts and conditions from time to time arising in the progress of war was not the making of a law; it was the application of the general rule laid down by the act. When the plenary power of Congress and the general rule so established are regarded, it is manifest that a limitation upon the excepted class is not a delegation of legislative power. *Field v. Clark*, 143 U.S. 649, 692, 12 S. Ct. 495; *Buttfield v. Stranahan*, 192 U.S. 470, 496, 24 S. Ct. 349; *Union Bridge Co. v. United States*, 204 U.S. 364, 377, 27 S. Ct. 367; *United States v. Grimaud*, 220 U.S. 506, 516, 31 S. Ct. 480.

The language of the statute is too plain to be misunderstood. Except as affected by the proviso, the Custodian's dominion over the property and power to dispose of it-acting under the President as provided-were as unlimited as are the powers of an absolute owner, and the power of the President to determine terms and [272 U.S. 1, 13] conditions of sales or other disposition was not restricted. He was authorized, stating the reasons therefor in the public interest, to dispense with any or all requirements specified in the proviso and to substitute others for them. Cf. *Levinson v. United States*, 258 U.S. 198, 42 S. Ct. 275. When the amended section is read in comparison with the original enactment and regard is had to the chemical warfare and other conditions existing at the time of the amendment, March 28, 1918, the inevitable conclusion is that it empowered the President to authorize, and the Custodian acting under him to consummate, the sales in question.

The United States argues that the Executive Order of December 3, 1918 was void, and that the one of February 13, 1920 did not authorize or ratify the transactions.

Section 5(a) of the act provides that:

'The President may exercise any power or authority conferred by this act through such officer or officers as he shall direct.' Comp. St. 3115 1/2 c.

The language of the executive order is:

'I hereby vest in Frank L. Polk all power and authority conferred upon the President by the provisions of section 12. ...'

Obviously all the functions of his great office cannot be exercised by the President in person. The contention that power to determine how enemy property should be sold could not be delegated to another is not sustained. This court has had occasion to consider a like question in *Certral Trust Co. v. Garvan*, 254 U.S. 554, 567, 41 S. Ct. 214; *Stoehr v. Wallace*, 255 U.S. 244, 41 S. Ct. 293, *supra*, and *Commercial Trust Co. v. Miller*, 262 U.S. 51, 53, 43 S. Ct. 486. These decisions sustain the delegation here involved.

It is argued that the order was not made in conformity with the statute because to 'vest' power in another is not to 'act through' him, and because the order did now show that Mr. Polk was an officer. But, if two constructions are possible, and one of them would render the order useless and the other give it validity, the latter is to be adopted. Cf. *Panama R. Co. Johnson*, 264 U. S. [272 U.S. 1, 14] 375, 390, 44 S. Ct. 391; *United States v. Coombs*, 12 Pet. 72, 75-76. The intention to exert the power conferred under section 5 is plain. Meticulous precision of language was not necessary. *Russell Co. v. United States*, 261 U.S. 514, 523, 43 S. Ct. 428. While the use of the word 'vest' was not accurate, it must be deemed sufficient when the context and circumstances are considered. Mr. Polk was an officer through whom the President was authorized to act. He was counselor for the Department of State, appointed by the President and confirmed by the Senate. *United States v. Germaine*, 99 U.S. 508. No particular form of designation was required. It would be unreasonable to read the order otherwise than as meaning that, in respect of the matters covered by section 12, the President determined to act through Frank L. Polk, counselor for the Department of State.

And the validity of each of the orders made by Mr. Polk is attacked by the United States on the ground that it was too broad and constituted an attempt to give to the Custodian the very power granted to the President by the act; that is, the power to determine that enemy properties should be disposed of otherwise than as specified in the proviso. But the contention cannot prevail. Each of the orders sufficiently described the patents seized and authorized a private sale to the Foundation without advertisement. This was enough to indicate a determination to take these sales out of the class covered by the proviso. And it is insisted that the orders were induced by misrepresentation and were made without knowledge of the material facts. But both courts found that the United States failed to establish any conspiracy, fraud or deception alleged. Findings of fact concurred in by two lower courts will not be disturbed, unless clearly erroneous. *Washington Sec. Co. v. United States*, 234 U.S. 76, 78, 34 S. Ct. 725. Under this rule the findings must be accepted. The presumption of regularity supports the official acts of public officers, and, in the absence of clear evidence to the [272 U.S. 1, 15] contrary, courts presume that they have properly discharged their official duties. *Confiscation Cases*, 20 Wall. 92, 108; *United States v. Page*, 137 U.S. 673, 679-680, 11 S. Ct. 219; *United States v. Nix*, 189

U.S. 199, 205, 23 S. Ct. 495. Under that presumption, it will be taken that Mr. Polk acted upon knowledge of the material facts. The validity of the reasons stated in the orders, or the basis of fact on which they rest will not be reviewed by the courts. *Dakota Cent. Tel. Co. v. South Dakota*, 250 U.S. 163, 184, 39 S. Ct. 507, 4 A. L. R. 1623; *Monongahela Bridge v. United States*, 216 U.S. 177, 195, 30 S. Ct. 356; *Martin v. Mott*, 12 Wheat, 19, 30. Cf. *Levinson v. United States*, 258 U.S. 201, 42 S. Ct. 275, *supra*.

We agree with the lower courts that the sales and transfers of the patents were ratified and confirmed by the President's order of February 13, 1920. It is urged that there was no ratification because it is not shown that the President had knowledge of the material facts; that he did not intend to ratify the sales of patents, and that the language used in the order is not broad enough to include the patents, trade-marks, any copyrights in question.

The Polk order of February 26, 1919, described the property covered as 'all of the letters patent, trade-marks and rights under letters patent and trade-marks, including all profits and damages ... for the past infringement thereof which the Alien Property Custodian may seize or may have seized ... and which he from time to time shall determine relate to the objects and purposes' of the Chemical Foundation. The President's order of confirmation recites that the Polk orders authorized the Custodian to sell 'certain choses in action and rights, interests and benefits heretofore determined to belong to, or to be held for, by, or on account of, or for the benefit of persons heretofore determined to be enemies.' The language last quoted was used to define the same properties that were covered by the Polk orders; that is, 'choses in action and rights,' etc., were used to [272 U.S. 1, 16] include 'letters patent, trade-marks,' etc. The President's order also states that it was the intention of the Polk orders to authorize the Custodian to sell 'all choses in action, rights, interests and benefits under agreements and rights and claims of every character and description including rights to receive moneys by way of royalties or otherwise as compensation for the use of patents, trade-marks or trade-names which the Alien Property Custodian may have seized ... and ... determined to relate to the objects and purposes' of the Foundation. It recites that doubt had arisen as to the authority of the Custodian to sell and convey to the Foundation 'certain of the said choses in action,' etc., 'including rights to receive moneys by way of royalties or otherwise.' And the President expressly authorized the Custodian to sell at private sale without public or other advertisement to the Foundation upon such terms and conditions as to the Custodian might seem proper 'all choses in action, rights, interests and benefits under agreements and rights and claims of every character and description which the Alien Property Custodian may seize or may have seized' under the act. The President further authorized the Custodian by a suitable instrument to conform and ratify sales theretofore made by him of any property as to which his authority under the Polk orders might be deemed doubtful. And he stated that his reasons for the determination and order were given in the Polk orders and in addition specified other reasons which need not be quoted.

This order authorizes sales of the patents to be made and ratifies and confirms those theretofore made by the Custodian. The President will be presumed to have known the

material facts and to have acted in the light of them. His intention to ratify the sales is plain. The comprehensive language used is broad enough to include the patents. Moreover the statement that his reasons for the determination are given in the Polk orders shows [272 U.S. 1, 17] the intention to cover the properties there referred to. As the transactions in question were ratified, it is unnecessary to consider the objections made by the United States to the procedure of the Custodian under the Polk orders.

The United States contends that the sales were void because made in violation of section 41 of the Criminal Code, 35 Stat. 1088, 1097 (Comp. St. 10205), and the rule of law forbidding sales by a public officer or fiduciary of trust property in his custody to himself or to a corporation of which he is the head.

Section 41 provides:

'No officer or agent of any corporation, ... and no ... person directly or indirectly interested in the pecuniary profits or contracts of such corporation, ... shall be employed or shall act as an officer or agent of the United States for the transaction of business with such corporation, ...'

Violators are made punishable by fine and imprisonment. The United States lays much stress on these facts: Mr. Garvan, while director of the Bureau of Investigation, Joseph H. Choate, Jr., chief of the chemical division of that bureau, and Ramsey Hoguet, patent attorney for the Custodian, conferred with the representatives of the chemical industries to arrange to make the seizures and sales of the patents. Later, Mr. Garvan, then Custodian, acted for the United States in making the transfers to the Chemical Foundation, of which he was the President. Mr. McKay and Mr. Corbett were directors and officers appointed by the Custodian of various corporations of which he had taken control. Before the transfers were made, Mr. Choate became the general counsel and Mr. Hoguet the patent attorney of the Foundation. Mr. Bannard and the other voting trustees were members of the Advisory Sales Committee-appointed by the President to see that sales of enemy properties were fairly made to qualified buyers. Without further reference to the facts relied on to support its contention, we assume in favor of the United States that those who acted for it in the transactions complained of were at the same time directors and officers of the corporation; that the members of the Advisory Sales Committee, while they were voting trustees, participated in the fixing of the prices paid for the patents by the Foundation, and that such prices were much less than the value of the properties and would have been inadequate to constitute just compensation if the patents belonged to nonenemy owners and were taken for public use under the power of eminent domain.

Section 41 was enacted when there was no war, and long before the Trading with the Enemy Act. It lays down a general rule for the protection of the United States in transactions between it and corporations and to prevent its action from being influenced by any one interested adversely to it. It is a penal statute and is not to be extended to

cases not clearly within its terms or to those exceptional to its spirit and purpose. *United States v. Noveck*, 46 S. Ct. 476; *Baender v. Barnett*, 255 U.S. 224, 226, 41 S. Ct. 271; *Hawaii v. Mankichi*, 190 U.S. 197, 212, 23 S. Ct. 787; *United States v. Kirby*, 7 Wall. 482, 486; *Bishop on Statutory Crimes* (3d Ed.) 235. At the time of the enactment, there were no enemy properties to be dealt with; and, save the generality of the language used, there is nothing to indicate a legislative purpose to deal with that subject. The Trading with the Enemy Act is a war measure covering specifically, fully and exclusively the seizure and disposition of enemy properties. The authority of the President to authorize sales and to determine terms and conditions in lieu of those specified in the proviso undoubtedly included the power to cause the Chemical Foundation to be incorporated to purchase and hold the patents as specified and to direct the selection of the directors, officers and voting trustees. The President, and under him the Custodian, acting for the United [272 U.S. 1, 19] States, the seller of the patents, caused the Foundation to be created to buy and hold them and caused it to be controlled by officers or representatives of the United States acting exclusively in its interest. Neither Mr. Garvan nor any of the others who acted for the United States had any financial interest in the Foundation, its profits or its contracts. All the corporate shares were subscribed and paid for by others—those interested in the chemical industries. They furnished the money to carry out the plan formulated by or under the direction of Mr. Palmer while he was Custodian. Under the voting trust agreement, shareholders were divested of all voice in the control, business or affairs of the corporation. All shares are to be held by the voting trustee for 17 years, within which all patents will expire, And by charter provisions dividends were limited to 6 per centum per annum. Transferable certificates of beneficial interest were issued by the trustees to the shareholders, but these cannot be used to control the corporation. The arrangement was intended to amount to a public trust for those whom the patents will benefit and for the promotion of American industries, and to give to them the right to have on equal and reasonable terms licenses to make, use and sell the inventions covered by the patents. The Foundation is properly to be considered an instrumentality created under the direction of the President to effect that disposition and subsequent control of the patents which he determined to be in the public interest. The transactions complained of did not involve any of the evils aimed at by section 41. The act will be construed and applied as not qualified or affected by that provision of the Criminal Code. *Utah Power & Light Co. v. United States*, 243 U.S. 389, 406, 37 S. Ct. 387; *Kepner v. United States*, 195 U.S. 100, 125, 24 S. Ct. 797, 1 Ann. Cas. 655; *Townsend v. Little*, 109 U.S. 504, 512, 3 S. Ct. 357; *In re Rouse, Hazard & Co.*, 91 F. 96, 100, 33 C. C. A. 356. And, as the power to dispose of the properties [272 U.S. 1, 20] by sales on the terms and conditions specified was included in the grant made by the statute, it follows that the rule in respect of sales of trust properties by fiduciaries does not apply.

Before the commencement of the trial, the District Court found that it was necessary that the testimony be taken down in shorthand and transcribed, and appointed an official stenographer for that purpose; and it was ordered that his fees be ultimately taxed as a part of the costs. By another order, counsel consenting, the court directed that the expense

of printing 100 copies of the transcript, to be available for use in that court and on appeal, be advanced from time to time and borne in equal amounts by the parties and form a part of the taxable costs. The decree directs that the Chemical Foundation recover from the United States the money advanced by the Foundation on account of such fees and expenses, and orders the amount to be taxed as costs in the case. The government insists that this is erroneous.

The general rule is that, in the absence of a statute directly authorizing it, courts will not give judgment against the United States for costs or expenses. *United States v. Hooe*, 3 Cranch, 73, 91, 92; *Shewan & Sons v. United States*, 267 U.S. 86, 45 S. Ct. 238; *United States v. Davis*, 54 F. 147, 152, et seq., 4 C. C. A. 251. But the Foundation insists that under equity rule 50, taken with the consent of counsel and the orders, the court was authorized to direct that these items be taxed as costs and to give judgment against the United States therefore.

Equity rule 50 in general terms provides that stenographers' fees shall be fixed by the court and taxed as costs, but it does not specify costs or judgment for money against the United States. The rule does not mention the United States and does not affect the sovereign prerogative not to pay costs. Congress alone has power to waive or qualify that immunity. But no statute author- [272 U.S. 1, 21] izes the giving of judgment against the United States for these items or authorizes the Attorney General or other counsel in the case to consent to such a judgment. No such authority is necessary for the proper conduct of litigation on behalf of the United States, and there is no ground for implying that authority. It follows that the direction for judgment against the United States for costs cannot be sustained. That part of the decree will be eliminated; and the decree, so modified, will be affirmed.

Decree modified, and affirmed, as modified.

Mr. Justice SUTHERLAND, and Mr. Justice STONE took no part in the consideration or decision of this case.

BIBLIOGRAPHY

Manuscript Records

Franklin K. Lane Letters, Gutenberg Project.

Albert S. Burleson Papers, Washington, D.C., Manuscript Room, Library of Congress, Washington, D.C.

George Creel Papers; The Committee on Public Information; The Hoover Institute, Boxes 1-4, Stanford University, Stanford, CA.

Harry M. Daugherty Papers, Box 6, Manuscript Reading Room, Library of Congress, Washington, D.C.;

J. Lionberger Davis Papers; Princeton University; 1932; Undergraduate Records, Box 1; Seeley G. Mudd Manuscript Library, Princeton, NJ.

Francis P. Garvan Papers; New York and Washington, D.C.; 1911-1921; Collection Number 112, Boxes 1-18; Archives of American Art, Smithsonian Institution, Washington, D.C.

Joseph F. Guffey Papers; Princeton University; 1920-1936; Undergraduate Records, Box 1; Seeley G. Mudd Manuscript Library, Princeton, NJ.

Louis F. Post Papers, Washington, D.C., Manuscript Room, Library of Congress, Washington, D.C.

Woodrow Wilson Papers, Washington, D.C., Arthur Link, Editor, November 1919 to January 1920, Volume 22; Manuscript Room, Library of Congress, Washington, D.C.

Published Works

Aftalion, Fred. A History of the International Chemical Industry. Philadelphia, University of Pennsylvania Press, 1989.

Aldrich Jr., Nelson W. Old Money: The Mythology of Wealth in America. New York: Allworth Press, 1988.

Allen, Frederick Lewis. "Only Yesterday: An Informal History of the Nineteen-Twenties. New York: Blue Ribbon Books, Inc., 1931.

- Ansprenger, Franz. The Dissolution of the Colonial Empires. (New York: Routledge, 1989).
- Asinof, Eliot. 1919: America's Loss of Innocence. New York: Donald Fine and Company, 1990.
- Audoin-Rouzeau, Stéphane and Annette Becker. 14-18 Understanding the Great War. New York: Hill and Wang, 2000.
- Avrich, Paul. The Anarchist Background: Sacco and Vanzetti. Princeton, NJ: Princeton University Press, 1991.
- Axson, Stockton, Brother Woodrow: A Memoir of Woodrow Wilson. Princeton: Princeton University Press, 1993.
- Backman, Jules. Wages and Prices. Irvington-on-Hudson, NY: Foundation for Economic Education, 1947.
- Bailey, Thomas A., Woodrow Wilson and the Peacemakers. New York, Macmillan, 1947.
- Benedict, Michael Les. Sources in American Constitutional History. Lexington, MA: D.C. Heath and Company, 1996.
- Blum, John Morton. Woodrow Wilson and the Politics of Morality. Boston: Little, Brown and Company, 1956
- Bogart, E. L. War Costs And Their Financing. New York, Harpers, 1921.
- Broth, Christy. Pioneers of Plenty: The Story of Chemurgy. New York: The Bobbs-Merrill Company, 1939.
- Bragdon, Harry Wilkenson. Woodrow Wilson: The Academic Years. Cambridge: Harvard University Press, 1967.
- Buitenhuis, Peter. The Great War of Words: British, American and Canadian Propaganda and Fiction, 1914-1933. Vancouver, B.C. Canada: University of British Columbia Press, 1987.
- Cary, John H., Julius Weinberg. The Social Fabric, 2v., New York: Harper Collins, 1995.
- Chafee, Zechariah. Illegal Practices of the Department of Justice: Mass Vilence in America. New York: Arno Press, 1920.

- Chernow, Ron. The House of Morgan: An American Banking Dynasty and the Rise of Modern Finance. New York: Simon and Schuster, 1990.
- Chickering, Roger. Imperial Germany and the Great War, 1914-1918. Cambridge: Cambridge University Press, 1998.
- Clark, Christopher. Kaiser Wilhelm II: Profiles in Power. Harlow, England: Longman, 2000.
- Coben, Stanley. The Development of an American Culture. Edgewood Cliffs, NJ: Prentice-Hall, 1970.
- _____. Reform, War, and Reaction: 1912-1932 A Documentary History of the United States. Columbia: University of South Carolina Press, 1972.
- Cohen, Warren I. Empire Without Tears: America's Foreign Relations, 1921-1933. New York: McGraw-Hill, Inc., 1987.
- Coit, Margaret L. Mr. Baruch. Boston: Houghton Mifflin Company, 1946.
- Conlin, Joseph R. Big Bill Haywood & The Radical Union Movement. Syracuse: Syracuse University Press, 1969.
- Cooper, John Milton, Jr. Pivotal Decades: The United States 1900-1920. New York: Norton, 1990.
- _____. Breaking the Heart of the World: Woodrow Wilson and the Fight for the League of Nations. Cambridge, GB: Cambridge University Press, 2001.
- _____. The Warrior and the Priest: Woodrow Wilson and Theodore Roosevelt. Cambridge: Harvard University Press, 1983.
- Copeland, Tom. The Centralia Tragedy of 1919: Elmer Smith and the Wobblies. Seattle: University of Washington Press, 1993.
- Creel, George. Wilson and the Issues. New York: The Century Company., 1916.
- _____. The War, The World and Wilson. New York: Harper Brothers, 1920.
- _____. How We Advertised America. New York: Harper Brothers, 1923.
- _____. Rebel at Large: Reflections of Fifty Crowded Years. New York: G. P. Putnam, 1947.

Cross, Wilbur. Zeppelins of World War I. United States: Paragon House/Barnes and Noble, 1993.

Daniels, Josephus. The Wilson Era: Years of War and After, 1917-1923. Chapel Hill: The University of North Carolina Press, 1946.

_____. The Cabinet Diaries of Josephus Daniels, 1913-1921. Lincoln: University of Nebraska Press, 1963.

Davidson, James West, and Mark Hamilton Lytle. After the Fact: The Art of Historical of Detection. 2v., New York: Alfred Knopf, 1982.

Destler, Chester McArthur. American Radicalism, 1865-1901. Chicago: Quadrangle Books, 1946.

Dinnerstein, Leonard, Roger L. Nichols and David M. Reimers. Natives and Strangers: Blacks, Indians, and Immigrants in America. Oxford: Oxford University Press, 1990.

Dos Passos, John. Mr. Wilson's War. Garden City, NY: Double Day & Company, Inc. 1962.

Dubofsky, Melvyn. We Shall Be All: A History of the IWW, The Industrial Workers of the World. Chicago: Quadrangle Books, 1969.

Dunn, Robert W. The Palmer Raids. New York: Labor Research Association, International Publishers, 1948.

Ehrmann, Herbert B. The Untried Case: The Sacco-Vanzetti Case and the Morelli Gang. New York: Vanguard Press, 1933.

Ferrell, Robert H. Woodrow Wilson and World War I, 1917-1921. New York: Harper Row, Publishers, 1985.

Filene, Peter. Americans and the Soviet Experiment: 1917-1933. Cambridge, MA: Cambridge Press, 1967.

Fischer, Fritz. Germany's Aims in the First World War. New York: W. W. Norton & Company, Inc., 1961.

Frazier, Thomas. The Underside of American History. New York: Harcourt, 1971.

Friedman-Kasaba, Kathie. Memories of Migration: Gender, Ethnicity and Work in the Lives of Jewish and Italian Women in New York, 1870-1924. New York: State University of New York Press, 1996.

- Fry, Michael G. Illusions of Security: North Atlantic Diplomacy, 1918-1922. Toronto: University of Toronto Press, 1972.
- _____. Black Hand at Sarajevo. New York: Simon and Schuster, 1975.
- Fussell, Paul. The Great War and Modern Memory. Oxford: Oxford University Press, 1975.
- Garfield, Simon. Mauve: How One Man Invented a Color That Changed the World. London: W.W. Norton & Company, 2001.
- Gilderhus, Mark T. Pan American Visions: Woodrow Wilson in the Western Hemisphere, 1913-1921. Tucson: University of Arizona Press, 1986.
- Green, Martin. New York 1913: The Armory Show and the Paterson Strike Pageant. New York: MacMillan Publishing Company, 1927.
- Gregory, Ross. The Origins of the American Intervention in the First World War. New York: W.W. Norton & Company, 1971.
- Guffey, Joseph F. Seventy Years on the Red-Fire Wagon: From Tilden to Truman Through New Freedom and New Deal. Privately Printed, 1952.
- Hall, Kermit L. and Arthur S. Link. By and For the People: Constitutional Rights in American History. Arlington Heights, IL: Harlan Davidson, Inc., 1991.
- Hanson, Ole. Americanism Versus Bolshevism. New York: Doubleday, Page and Company, 1919.
- Hargrove, Jim. The Teapot Dome Scandal. Chicago: Cornerstones of Freedom, 1989.
- Haynes, William. American Chemical Industry. 6 v., New York, Van Nostrand, 1945.
- Herwig, Holger H. The Outbreak of World War I: Causes and Responsibilities. Lexington, MA: D.C. Heath and Company, 1991.
- Hoeling, A.A. The Great Epidemic: When Spanish Influenza Struck. Boston: Little Brown and Company, 1961.
- Hofstadter, Richard. Social Darwinism in American Thought. Boston: Beacon Press, 1955.
- Hoyt, Edwin P. The Palmer Raids 1919-1920: An Attempt to Suppress Dissent. New York, The Seabury Press, 1969.

- Irons, Peter. The People's History of the Supreme Court: The Men and Women Whose Cases and Decisions Have Shaped Our Constitution. New York: Penguin Books, 1999.
- Jaffe, Julian F. Crusade Against Radicalism: New York During the Red Scare, 1914-1924. Port Washington, NY: Kennikat Press, 1972.
- Jelavich, Charles and Barbara. The Establishment of the Balkan National States, 1804 – 1920. A History of East Central Europe, 10 v., Seattle, University of Washington Press, 1986.
- Jordan, William G. Black Newspapers and America's War for Democracy, 1914-1920. Chapel Hill: University of North Carolina Press, 2001.
- Kennan George, Russia Leaves the War. Princeton: Princeton University Press, 1956
- _____. The Decision to Intervene, 1917-1920. Princeton: Princeton University Press, 1957.
- Kennedy, David M. Over There: The First World War and American Society. Oxford, GB: Oxford UP, 1980.
- Lansing, Robert. War Memoirs of Robert Lansing, Secretary of State. New York: Bobbs-Merrill Company, 1935.
- Laquerur, Walter. The Terrorism Reader: From Aristotle to the IRA and the PLO; A Historical Anthology. New York: New American Library, 1977.
- Leuchtenburg, William E. The Perils of Prosperity, 1914-32. Chicago: University of Chicago Press, 1958.
- Levin, Jr., N. Gordon. Woodrow Wilson and World Politics: America's Response to War and Revolution. London: Oxford UP, 1968.
- Levin, Phyllis Lee. Edith and Woodrow: The Wilson White House: The First Documented Account of the Woman Who Was President. New York: Scribner, 2001.
- Lewis, David Levering. W.E.B. DuBois: The Fight for Equality and The American Century, 1919-1963. New York: Holt, 2000.
- Link, Arthur S. Wilson: The Road to the White House. Princeton: Princeton University Press, 1947.

- _____. Wilson: The New Freedom Princeton. Princeton: Princeton University Press, 1956.
- _____. Wilson: Confusions and Crises: 1915-1916. Princeton: Princeton University Press, 1964;
- _____. Wilson: Campaigns for Progressivism and Peace: 1916-1917. Princeton: Princeton University Press, 1965.
- _____. Woodrow Wilson and a Revolutionary World: 1913 – 1921. Chapel Hill: University of North Carolina Press, 1982.
- Livermore, Seward W. Woodrow Wilson and the War Congress, 1916-18. Seattle: University of Washington Press, 1966.
- Lord, Frank B. and James William Bryan. Woodrow Wilson's Administration and Achievements. Washington, D.C.: James William Bryan Press, 1921.
- MacKenzie, David. The Exoneration of the "Black Hand." New York: Columbia University Press, 1998.
- Macmillan, Margaret. Paris 1919: Six Months that Changed the World. New York: Random House, 2001.
- Marshall, Thomas R. Recollections of Thomas R. Marshall: Vice President and Hoosier Philosopher, a Hoosier Salad. Indianapolis: Bobbs-Merrill Company, 1925.
- Massie, Robert K. Dreadnought: Britain, Germany, and the Coming of the Great War. New York: Ballantine Books, 1991.
- _____. Castles of Steel: Britain, Germany, and the Winning of the Great War at Sea. New York: Random House, 2003.
- Mayer, Arno J. Political Origins of the New Diplomacy, 1917-1918. New York: Random House, 1959.
- McAdoo, William G. Crowded Years: The Reminiscences of William G. McAdoo. Cambridge: The Cambridge Press, 1931.
- McCormick, Charles. Seeing Reds: Federal Surveillance of Radicals in The Pittsburgh Mill District, 1917-1921. Pittsburgh, PA: University of Pittsburgh Press, 1997.
- _____. Hopeless Cases: The Hunt for the Red Scare Terrorist Bombers. Lanham, England: The University Press of America, Inc., 2005.

- Mee, Charles L. Jr. The End of Order: Versailles 1919. New York: E. P. Dutton, 1980.
- Mitchell, David. 1919: Red Mirage. New York: MacMillan and Company, 1970.
- Mock, James R. and Cedric Larson. Words That Won the War: The Story of the Committee on Public Information 1917 - 1919. Princeton, NJ: Princeton University Press, 1939.
- Montgomery, Robert H. Sacco and Vanzetti: The Murder and the Myth. Belmont, MA: Western Islands, 1960.
- Murphy, Paul L. World War I and the Origin of Civil Liberties in the United States. New York: W.W. Norton & Company, 1979.
- Murray, Robert K. Red Scare: A Study in National Hysteria, 1919-1920. New York: McGraw, 1955.
- Myers, William Starr. Woodrow Wilson: Some Princeton Memories. Princeton, NJ: Princeton University Press, 1946.
- Nash, Roderick. The Nervous Generations: American Thought, 1917-1930. Chicago: Rand McNally, 1970.
- Nevins, Allan. The United States in a Chaotic World: A Chronicle of International Affairs, 1918-1933. New Haven: Yale University Press, 1951.
- Nicholson, Harold. Peace Making 1919. New York: Grosset & Dunlap, 1965.
- Noggle, Burl. Teapot Dome: Oil and Politics in the 1920's. New York: W.W. Norton & Company, 1965.
- Nugent, Walter. Crossings: The Great Transatlantic Migrations, 1870-1914. Bloomington: Indiana University Press, 1992.
- Pakenham, Thomas. The Scramble for Africa: The White Man's Conquest of the Dark Continent from 1876 to 1912. New York: Random House, 1991.
- Panunzio, Constantine. The Deportation Cases of 1919-1920. New York, 1920.
- Peterson, H.C. Propaganda for War: The Campaign Against American Neutrality, 1914-1917. Norman: University of Oklahoma Press, 1939.
- Post, Louis F. The Deportation Delirium of Nineteen-Twenty: A Personal Narrative of a

- Historic Official Experience. Chicago: Charles H. Kerr and Company, 1923.
- Preston, Diana. Lusitania: An Epic Tragedy. New York, NY: Walker and Company, 2002.
- Quirk, Robert E. An Affair of Honor: Woodrow Wilson and the Occupation of Veracruz. New York: W. W. Norton & Company, 1962.
- Robinson, Ronald, John Gallagher, and Alice Denny. Africa and the Victorians: The Official Mind of Imperialism. London: MacMillan & Co. LTD., 1961.
- Röhl, John C. G., The Kaiser and His Court: Wilhelm II and the Government of Germany. Cambridge: Cambridge University Press, 1987.
- Roosevelt, Theodore. The Works of Theodore Roosevelt, 20 v. ed. Hermann Hagedorn. New York: Charles Scribner's Sons, 1925.
- Russell, Francis. A City in Terror: 1919 The Boston Police Strike. New York: Viking Press, 1975.
- _____. Sacco and Vanzetti: The Case Resolved. New York, NY: Harper, 1986.
- Sandburg, Carl. The Chicago Race Riots: July, 1919. New York: Harcourt, Brace & Howe, Inc., 1919.
- Saunders, Frances Wright. Ellen Axson Wilson: First Lady Between Two Worlds. Chapel Hill, University of North Carolina Press, 1985.
- Schaffer, Ronald. America In The Great War: The Rise of the War Welfare State. New York: Oxford University Press, 1991.
- Schmidt, Regin. Red Scare: FBI and the Origins of Anti-communism in the United States. Copenhagen, Denmark: Museum Tusculanum Press, 2000.
- Seton-Watson, Hugh. Nations and States. Cambridge, England: University Printing House, 1977.
- Seymour, Charles, ed. The Intimate Papers of Colonel House, 4 v., Boston: Houghton Mifflin, 1926, 1928.
- Shestack, Alan, Gerald W. R. Ward, Patricia Kane, and Helen Cooper. Francis P. Garvan: Collector. New Haven: Yale University Art Gallery, 1980.
- Sinclair, Upton B., The Jungle (New York: Doubleday, 1906.

- Traxel, David. 1898: The Birth of the American Century. New York: Vintage, 1998.
- Tuchman, Barbara W. The Zimmerman Telegram: The Astounding Historic Espionage Operation that Propelled America into World War I. New York, Macmillan Publishing, Co. 1958.
- _____. The Proud Tower: A Portrait of the World Before the War, 1890-1914. New York: The MacMillan Company, 1962.
- _____. The Guns of August. New York: Macmillan Company, 1962.
- Tumulty, Joseph. Woodrow Wilson: As I Knew Him. Garden City, NY: Garden City Publishing, 1925.
- Tunney, Thomas J. Throttled: the Detection of the German and Anarchist Bomb Plotters in the Untied States. Boston: Small, Maynard & Company, 1919.
- Van Alstyne, Richard W. Genesis of American Nationalism. Waltham, MA: Blaisdell Publishing, 1970.
- Waldstreicher, David. In the Midst of Perpetual Fetes: The Making of American Nationalism, 1776-1820. Chapel Hill: University of North Carolina Press, 1995.
- Wayne, Stephen J., and Clyde Wilcox. The Quest for National Office: Readings on Elections. New York: St. Martin's Press, 1992.
- Weaver, Jim. The Serbian Black Hand. New York: Lightning Source, Inc., 2002.
- Weisman, Steven R. The Great Tax Wars: Lincoln to Wilson: The Fierce Battles Over Money and Power That Transformed the Nation. New York: Simon and Schuster, 2002.
- White, William Allen. Woodrow Wilson. Cambridge, MA: The Riverside Press, 1924.
- Whitehead, Don. The FBI Story: A Report to the People. New York: Random House, 1956.
- Wiebe, Robert H. The Search for Order, 1877-1920. New York: Hill and Wang, 1967.
- Williams, Marilyn Thornton. Washing the Great Unwashed: Public Baths in Urban America, 1840-1920. Columbus, Ohio State University, 1991.

Wilson, Andrew. A President's Love Affair with the Lake District: Woodrow Wilson's Second Home. London: Lakeland Press Agency, 1996.

Wilson, Edith Bolling. My Memoir. Indianapolis: Bobbs-Merrill, 1938.

Wilson, Woodrow. Congressional Government. New York: Houghton Mifflin, 1885.

_____. A History of the American People. 5 v., New York: Harper, 1902.

_____. Constitutional Government in the United States. New York: Columbia University Press, 1908.

_____. The New Freedom: A Call for the Emancipation of the Generous Energies of A People. New York: Doubleday, 1913.

_____. The Public Papers of Woodrow Wilson. 6 v., ed. by Ray Standard Baker and William E. Dodd. New York: Harpers, 1925-1926.

_____. Woodrow Wilson: Life and Letters. Potomac Edition, Youth – Princeton, 1856-1910 to Armistice, November 11, 1918, ed. Ray Standard Baker. Garden City, NY: Doubleday & Company, 1927, 1931, 1935, 1937, 1939.

_____. Selected Literary Papers and Addresses of Woodrow Wilson. 2 v., New York: Grosset and Dunlap, 1926.

_____. The Papers of Woodrow Wilson. 25 v., ed. by Arthur S. Link. Princeton: Princeton University Press, 1966 – 1984.

Wood, Stephen B. Constitutional Politics in the Progressive Era: Child Labor and the Law. Chicago: The University of Chicago Press, 1968.

Federal Bureau of Investigation Records

Record Group 147 Bomb Explosion; 2 June 1919, 1922-24, #61-126.

National Popular Government League; 1920-22, #61-1340, Boxes 1-6.

J. Edgar Hoover Memorabilia Collection; "Scrapbooks," 1913-24.

Catalogs

"Important Silver: From the Estates of Mabel Brady Garvan, New York, Donald S. Morrison, New Jersey, and the Property of Mrs. Pearl D. Morrison, New Jersey;" Friday, June 6, 1980 at 2:00 PM; Sotheby Parke Bernet, Inc., New York.

"Bureau of Sales: Alien Property Custodian," Custodians: A. Mitchell Palmer, Francis P. Garvan, v. 1-3, Director of Sales, Joseph Guffey, Inscribed copies to Spier Whitaker, 1920.

News Papers and Wire Service

Associated Press

Fort Wayne Journal-Gazette

New York Daily News

New York Times

Omaha Bee

Philadelphia Public Ledger

Rome Daily Sentinel

Washington Post

The World

Lectures

Axson, Stockton. Lecture. "Woodrow Wilson as Man of Letters," *The Rice Institute Pamphlet*, 22 (October, 1935) 195-270.

Wilson, Woodrow. Lecture. "*Nobel Lectures: Peace 1901-1925*," 6. ed. By Frederick W. Haberman. Amsterdam, Elsevier Publishing Company, 1972.

Palmer, Alexander Mitchell. Lecture. "Aims and Purposes of the Chemical Foundation, Incorporated, and the Reasons for Its Organization, as Told by A. Mitchell Palmer ... Former Alien Property Custodian, in his Report to Congress, and by Francis P. Garvan, Alien Property Custodian, in an Address to the National Cotton Manufacturers' Association," New York: The De Vinne Press, 1919.

Periodicals

"Seventy-five Years of Excellence: Francis P. Garvan." Chemical Heritage: Newsmagazine of the Chemical Heritage Foundation, 16 (Fall 1998): 14.

Bishop, Joseph W. Jr., "Judicial Construction of the Trading with the Enemy Act," Harvard Law Review, 62 (March 1949), 721-59.

Blum, John Morton. "Nativism, Anti Radicalism, and the Foreign Scare, 1917-1920." Midwest Journal 3 (Winter, 1950-51), 46-53.

Gathings, James A. Council on International Law and American Treatment of Alien Property. (Washington, D.C.: American Public Affairs, 1940).

Frost, Stanley, "Germany's Plot to Gas the World's Trade." "New York Magazine," New York Times. (Sunday, April 27, 1919), 2-4.

Johnson, Donald, "The Political Career of A. Mitchell Palmer," Pennsylvania History 25 (October 1958): 345-70.

Lippmann, Walter. "Political Scene." New Republic (March, 1922): 67-74.

Literary Digest: (January 1916 – December 1920) 60-64.

Kelly, Jack. "The Most Dangerous Institution." American Heritage 53/4 (September 2002), 30-39.

"Extent of the Bolshevik Infection Here." Literary Digest 64 (17 January 1920), 13-15.

Shannon, David. "A. Mitchell Palmer," American Historical Review 69/2 (January 1964), 483-5.

Springle, Ray. "Lord Guffey of Pennsylvania", American Mercury, 39 (November 1936), 273-84.

Turner, L.C.F. "The Significance of the Schlieffen Plan," Australian Journal of Politics and History 13, 1967: 1.

Watson, Richard L. Jr. "A. Mitchell Palmer: Politician," Mississippi Valley Historical Review 50/3 (December 1963), 523-34.

United States Government Records

U.S. Congress. Senate. Committee on the Judiciary. *Nomination of A. Mitchell Palmer*. 65th Cong., 1919. Washington: Government Printing Office, 1919.

The House of Representatives Committee on Rules, *Hearings: Attorney A. Mitchell*

Palmer on Charges Made Against Department of Justice by Louis F. Post and Others, 66th Congress, 2nd Session, 1920, Parts I & II.; Washington Government Printing Office, 1920.

United States Senate Documents: Bolshevik Movement in Russia, v. 4; 66th Congress, 2nd Session, 1919-1920, Washington Government Printing Office, 1920.

Records of the War Risk Bureau, Washington, D.C.; Record Group 131, Boxes 1-3; National Archives II, College Park, MD.

Records of the Alien Property Custodian, A. Mitchell Palmer, Washington, D.C.; Record Group 131, Boxes 1-14; National Archives II, College Park, MD.

Records of the Bureau of Investigation and Department of Justice, Washington, D.C.; 1920 to 1927; General Records of the Bureau of Investigation; Record Group 65, File 61-133; National Archives II, College Park, MD.

“Samuel Uttermeyer Letters;” Records of the Bureau of Investigation and Department of Justice, Washington, D.C.; 1920 to 1927; General Records of the Bureau of Investigation; Record Group 65, File 61-133; National Archives II, College Park, MD.

Records of the Alien Property Custodian, Division of Patents, Chemical and Dye Stuffs Industry, 1919-1934, Record Group 131, Box 1, Entry 79.

Records of the Division of Patents WWI Suits Filed, Washington, D.C.; 1918 to 1926; Record Group 131, Boxes 1-5; National Archives II, College Park, MD.

Records of the Division of Corporation Management, Alien Property Custodian Office, Washington, D.C.; 1917-1921; Record Group 131, Box 1; National Archives II, College Park, MD.

Records of the Division of Patents WWI, Chemical Foundation, New York, NY; Record Group 131, Boxes 1&2; National Archives II, College Park, MD.

Records of the Alien Property Custodian and Other Records of Francis P. Garvan, New York and Washington, D.C.; Record Group 131, Boxes 1-7; National Archives II, College Park, MD.

Records of the Division of Corporate Management, Sales Docket, New York, NY; 1918-1919; Record Group 131, Box 1; National Archives II, College Park, MD.

McAdoo, W. G., “The Second Liberty Loan And The Causes Of The War With

Germany.” Washington, D. C.: Government Printing Office, 1917.

Crowder, E. H., Second Report Of The Provost Marshall General To The Secretary Of War (Washington, DC: Government Printing Office, 1919).