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A Proposal to Prevent Realization by the Nazis of Looted
Securities

On the eve of the outbreak of war in Europe a large amount of U.S. dollar securities were held by foreigners. Some of these securities were actually on deposit with banks and brokers in the U.S., others were kept in U.S. safe deposit vaults by the owners, while the balance was held outside of the U.S., some in the country of the owner, and some in neutral countries. The securities held include bonds of the U.S. government and its political subdivisions, bonds and stocks of railroad, utility and industrial issuers, and common and preferred stocks of U.S. corporations. The various kinds of securities owned by foreigners, as well as the several possible loci in which they were held at the war's outbreak or to which they have been transferred since, increase the complexities of evolving a fair procedure for returning to their rightful owners those which have been expropriated by the Germans from their own citizens and from those of occupied countries, either by outright seizure, under duress or by decree, and also makes more difficult the task of preventing the Nazis and their agents from realizing good American dollars for these stolen properties. In addition to considerations of justice, the return of stolen property to persons to whom it rightly belongs and from whom it was stolen or fraudulently alienated, there is involved in this situation a potential threat to the maintenance of peace and the prevention of a resurgence of Nazism and its leaders. Securities of U.S. issue held in Germany, in Nazi-satellite countries and most importantly in countries invaded and occupied by the Nazis is of such substantial amounts, that assuming that only a fraction of the securities were actually expropriated by the Nazis, they would be provided with a potential fund which could finance their espionage and other under-cover activities for many years, if they are able either to dispose

of the securities or to hypothecate them. It would seem to be a matter of immediate moment that steps be taken by the United Nations in conjunction, if possible, with the neutral countries, to make it impossible for the Nazis to realize on or to borrow on these securities, as well as those other securities of various national origins which they have expropriated for their own purposes. It would appear to be highly important that steps be taken promptly which would in effect make such securities valueless to their present owners, now and forever. If such steps are delayed, and it may already be too late as to a large part, the securities will find a market where they will find purchasers at a discount, who will in turn transfer them to perhaps innocent buyers and the game will be up. Furthermore, in such event the original owners would never be able to come into repossession of their property. Also if preventive steps should be only of a temporary and stop-gap nature, the securities would not be made valueless, they would again find a market at some level and in some locale, and it would be merely a question of holding them until such time as the controls are relaxed. The market price discounts on the sales of these securities would give consideration to the apparent impermanence of the control measures and the only result of such measures would be to make the price of the securities in the market, or their collateral value, such as to warrant the risk of purchase or loan. Before presenting a proposal to defeat the use by the Nazi underground of stolen securities it may be advisable to indicate the magnitude of the problem involved and several aspects which should be considered in approaching its solution.

The most complete pre-war data on foreign holdings of American securities were prepared by the Bureau of Foreign and Domestic Commerce, in a report entitled Foreign Long-Term Investments in the United States 1937-1939. As of the middle of 1937 foreign holdings (including direct investments) of American stocks and bonds were estimated to have a value of \$6.9 billion, of which \$3.8 billion was in stocks, \$565 million in corporate bonds, \$651 million

in miscellaneous investments and \$1.8 billion in direct investments. These figures are exclusive of foreign holdings of United States national, state and municipal government bonds estimated at about \$100 million.

Of the European countries subsequently invaded by the Germans, the holding of Netherlands \$970 million, France \$408, and Belgium \$142 are the largest according to these estimates. Swiss holdings in mid-1937 are reported at \$763 million, German at \$124 and Italian at \$48.

Some of these data were carried forward through 1940 and published in the Foreign Commerce Weekly of January 4, 1941. More recent data, however, are provided by the Census of Foreign Held American Property which was made by the Treasury Department pursuant to Executive Order. The results of this census show the following holdings as of June 14, 1941 by foreigners of American stocks and bonds (excluding direct investments and miscellaneous investments)

Enemy countries	\$50 (million)	
Enemy occupied countries	625	“
Other blocked countries	540	“
American republics	225	“
All other countries	<u>1,690</u>	“
<u>TOTAL</u>	<u>\$3,130</u>	“

In addition direct investments are estimated at about the same as the mid-1937 level, while no figures are yet available on miscellaneous investments.

There are certain limitations on the use of both of these sets of figures for purposes of this discussion. The estimated holdings are based on the reported nationality or recorded nationality

of the owners and, therefore, do not discriminate as to locus of holding or nationality of beneficial owners. Swiss holdings, for example, would represent all the securities reported as held by Swiss banks, bankers and other agents irrespective of the nationality of the accounts for whom they are held, or whether they are on deposit in Switzerland, in New York or elsewhere. Furthermore, it is generally known that there has been a substantial shift in ownership as well as in locus of holdings since the invasion of Western Europe. But at least these sets of figures supply us with an index of the magnitudes of the potential values in liquid forms that could be disposed of by the Nazis and used for purposes of their own after the war. The preparation of more accurate and detailed data is not only practically impossible, but even if obtainable would take so long a time that when available it would already be dated and useless. Furthermore to proceed now by a study of the problem and the accumulation of statistical information would be to play right into the hands of the Nazis and give them the opportunity to divest themselves of their loot. Action must precede, or at least accompany, research in the situation we are considering.

There are, moreover, certain non-statistical types of information that have been obtained principally from foreign financial periodicals and from refugees with financial experience as to more recent trends affecting foreign holdings of American securities that may be of importance in approaching the problem under consideration. The following may serve as an illustration of such information:

1. Most of the securities attributed before the war to Swiss holders are held by banks and brokers in New York. These securities were placed on deposit with these agents from time to time prior to the outbreak of war and beginning in the early 1930's. These securities are almost without exception held in the name of a Swiss bank, banker, other agent or of some

corporate title or rubric. The actual beneficial owners of these securities has never been disclosed to the authorities in this country. In defense of this concealment the American bankers contend that they have no knowledge of the real owners of these securities and no way of obtaining it from their Swiss correspondents. This may well be the case, but it would appear to be quite significant that even under the powers granted by Executive Order 8389 and the control of Foreign Funds established pursuant thereto, no disclosure has been effected of the real owners of securities of U.S. issue registered or held in the name of Swiss agents. Prior to the war and before the setting up of foreign funds controls a canvas of opinion among New York bankers who handle the bulk of the Swiss securities business resulted in a consensus that certainly most of these holdings were not those of Swiss nationals, but rather those of the nationals of other European states.

2. Prior to the invasion of Holland it is estimated that approximately \$1 billion of U.S. securities were held by Dutch nationals. As to equity securities, which are thought to have comprised the largest amount of such holdings, there is good reason to believe that substantially all were physically located in Holland at the time of occupation. This belief is based on the following information: For some years prior to the war American stocks had been purchased and imported into Holland. The certificates for these stocks, however, were not in circulation there, but were held in the vaults of the Amsterdam stock exchange. Against these securities there were issued by quasi-governmental and licensed agencies known as Administration Offices, other certificates evidencing the actual American shares. Prior to the invasion of Holland, discussions were held between the Dutch and U.S. authorities and a plan prepared whereby all of the original American certificates were to be destroyed by cremation in the event of German invasion. New shares were to be issued thereafter by the American corporations, and

the certificates which had been issued by the Dutch Administration Offices were to become void. This plan was never effectuated due to an unfortunate chain of circumstances on the day of invasion, the keys to the vault where the American shares reposed being in the possession of the Minister of Finance who was already en rout to or in England. There is, therefore, every reason to believe that this block of negotiable American securities was at the mercy of the Nazis upon occupation of Holland and is now in their possession. And this takes no account of the bonds of U.S. government, municipal and corporate issues which may have also been in safe deposit vaults in Holland and other countries invaded by the Germans.

3. With a turn in the tide of the war which followed the entry of the U.S. a number of Germans began to prepare for possible defeat, including the finding of a safe haven for their property. The securities of American and other national issue provided a type of property which was easily transferable to safe keeping and readily concealable. Who the beneficiaries of the American securities looted in occupied lands may be is a question to be determined. But it may be assumed without much hesitation that they are primarily persons closely affiliated with the Nazi party. It has been learned from refugees and from observers in neutral countries that during the past several years there have been set up in Switzerland, Sweden, Portugal and Spain a number of holding companies and private investment trusts and there has been also a substantial activity in the banking circles of those countries which specialize in this type of business. The inference is made that securities of U.S. issue and of other countries which were looted upon occupation have been steadily exported to neutral countries and are being concealed in anonymous accounts awaiting the opportunity either for sale or for validation of title which any relaxation of war time controls would provide, or which might be provided by the reopening of the securities markets in certain of the United Nations after liberation. Trading in international

securities, for example, including those of U.S. and British issues, has already recommenced on the Paris Bourse. Inquiry at the French Legation fails to elicit any information as to whether controls had been established on the import of securities. It was frankly admitted, however, that even should such controls be adopted there would be considerable doubt of their effectiveness. The reopening of business communications between the U.S. and France, therefore, may provide opportunity for the realization of looted assets in default of other measures than those now in operation.

4. Further evidence of this concentration of looted securities in neutral countries is provided by published reports and by [_____] communications on the actual dealings which have for several years been taking place in American stocks and bonds in such markets as Zurich and Lisbon. Several Swiss financial periodicals have from time to time commented upon the unprecedented volume of transactions recently put through the Zurich securities markets involving issued of American, British and other corporate securities. Such reports cover, however, only a portion of the actual dealings. Another segment of this trading, and how large it is cannot be even estimated, is carried on in the black markets. In evidence of this are the communications which comment upon the prices at which American securities are bought and sold in Zurich and Lisbon. These prices range apparently around a discount of 20 per cent from the market prices in the domestic markets for bonds as well as for stocks. Quite obviously the American securities which are sold on such foreign markets at such substantial discounts are those which would not be negotiable in the U.S. In other words, they are securities which could not meet the import requirements of General Ruling Number 5 of the Foreign Funds Control. There is, therefore, a strong presumption that it is the securities looted in Europe by the Germans that are being traded in Zurich, Stockholm, Lisbon and elsewhere. And it is important to note

that by means of this trading the Nazis may be cashing in on these stolen securities.

Furthermore, this exchange of ownership goes on in spite of the expressed policy of the United Nations not to recognize transfers of looted property. There are still buyers for this property who apparently anticipate the relaxation of import controls in the U.S., U.K. and elsewhere and who feel that at a discount of 20 per cent from current market looted securities are worth the risk. Some of these purchasers, however, may be entirely innocent, persons who have bought the stocks or bonds at second or third hand from the original trader. This situation alone would seem to call for prompt action, and for something more than a statement of policy or a resolution and recommendation in general terms. The longer such action is delayed the more will stolen securities be passing from the looters to innocent holders, and the more difficult will be the task of resitution and reparation.

5. During the past few years substantial amounts of American securities owned by Europeans have been shipped into the Western Hemisphere and deposited in Argentina. It is reliably reported that prior to the adoption of controls on foreign funds and securities by Argentina many new accounts were opened on behalf of Europeans in anonymous names, investment trust titles and other rubrics. It is further reported that even since the adoption of controls the opening of such new accounts and the shipment of securities into them continues. Much of these shipments originates in Switzerland, some in Spain and Portugal. Now in view of the fact, as above noted, that before the war most Swiss owned American securities were on deposit in New York, and as very few American securities were credited to Spanish or Portugese owners, it would appear that this fresh crop of securities shipments involves to a large extent those which were found in Holland, Belgium and France when the Nazis entered. The reason for shipping these securities to the Western Hemisphere might well be the anticipation of continued

U.S. control of foreign funds applicable to Europe, which would not be applied to the Americas. At any rate, it may be reasoned, as the Argentine has joined the U.S. in establishing controls, property there will be given special treatment. And, in fact, Argentina is even now included in the "generally licensed trade area" under U.S. foreign funds controls, and thus accorded more favored treatment than European countries. In view of this trend it would seem that post-war measures to prevent the realization of Axis looted American securities must be made comprehensive as to the areas covered.

Conclusions and Recommendations: There are now in operation in the U.S. certain controls on the importation of foreign securities into the U.S. and on transactions effected by foreigners in the securities markets of the U.S. These controls have been adopted by the Treasury Department pursuant to Executive Order 8389. In the United Kingdom substantially similar controls have been adopted under the Trading With the Enemy statutes. The U.S. foreign funds controls have, however, been relaxed from time to time by the granting of general licenses and the exemption of certain countries so that there may be some question as to whether they would be adequately effective to check the disposal of Nazi held property even if extended after the war. One of the failures of these controls was the inability of our authorities to obtain disclosure of the identity of the actual owners of securities held in the name of agents such as Swiss banks, and Argentine corporations. This draw-back in effect actually places upon Swiss and Argentine authorities or bankers the responsibility for assuring compliance with U.S. regulations. But even should the foreign funds controls be extended beyond the war period there may be question as to their adequacy. Firstly, because they are war regulations, adopted under a war power executive order. This gives them the character of temporary measures, keeps alive

the expectation that they will some day be relaxed or repealed, and thus permits the continued marketing of stolen property on the basis of this expectation. Secondly, because they provide special privileges to neutral countries while the problem of preventing the Nazis from cashing in on its loot is focussed primarily in just those countries. Thirdly, because new securities markets are being opened up in formerly occupied countries such as France, Belgium and Holland.

Unless these countries are included in equivalent controls our own present ones would be of little account particularly if international arbitrage were again allowed to operate as it probably will be.

It is the conclusion of this memorandum that the only measure which has a reasonable chance of preventing the Nazis from converting their stolen securities into cash, and even into gold, and thus to use them for underground, sabotage and propaganda is a declaration that all securities issued within the U.S. and held outside its territories (with exceptions for the U.K. and Canada if similar measures are adopted) are null and void until they have been re-issued by the original issuer upon the granting of an application by the Federal authorities. Application for the re-issue of securities would have to be accompanied by affidavits of the actual beneficial owners or if the owner is a trust or corporation by the persons who own or control it. These affidavits should relate to ownership during the past four years, going back at least to the date of German invasion. Furthermore, it must be made a criminal offense by legislative enactment for any person in the U.S. to receive a security from abroad, to negotiate for the sale of, to transfer or make a loan upon any such security, until it has been validated.

Such measures, while drastic, could hurt only the Germans and those who have connived at and abetted the concealment of the property they have looted. Neither the French, Belgians or Dutch would be hurt by it if promptly adopted because securities held by their nationals are

either now on deposit in the U.S. or U.K., or were stolen by the Nazis on invasion and transferred elsewhere. On the other hand the measure would be helpful in facilitating restoration of stolen securities to their former owners, and discourage further transfers which will ultimately defeat this restitution.

But the measure is here recommended not primarily as ancillary to reparations and restitution but as a part of our national security program and of the program for the maintenance of peace. It is recommended in order to prevent the Nazis from obtaining cash by sales of or borrowing on American securities wherewith to carry on an ideological and underground warfare, to prevent them from buying radio stations, newspapers and other periodicals; from traveling and hiring agents in this and other countries. The securities which they have stolen if negotiable are their principal and most liquid asset, and would give them plenty of resources for years to come. But if these securities are voided and made to become mere pieces of paper, a serious crimp would be put in the Nazi plans for World War III.

As a possible alternative to the cancellation procedure above suggested consideration has been given to the preparation of a black list of securities held outside the United States. Such a list would contain the titles and numbers of all stocks and bonds issued within the U.S. that were known to have been held in parts of the world invaded or occupied by the enemy. The preparation of this list would in itself present many problems which to date, seem to be insurmountable. The listing of stock certificates would be less difficult than of bearer bonds. But even should such a list be compiled there is considerable doubt as to whether it could be used. The purpose of a black list would be to put persons on notice that certain securities being outside the confines of the U.S. should not be dealt in without a permit. The list of such securities would be so lengthy and involve so many different issues of securities that it could not

be used as a practical matter in securities trading. Furthermore, even with a black list the same validation procedures would be required as in the proposal recommended above.

The recommended measure would not seem to impose any burden upon purchasers and sellers of securities in the U.S. or on the investment industry over what present controls of foreign funds entail. Section 2A(2) of Executive Order 8785 in effect prohibits the transfer of any securities not physically within the U.S. General ruling Number 5 of the Foreign Funds Control prohibits the import of securities without examination and approval by an agent of the Treasury Department. These present provisions would probably be retained under the proposed procedure.

This suggests another alternative to the measure above proposed, viz., the permanent adoption by legislative enactment of certain essential controls which are now dependent upon the exercise of executive war powers. Such legislation might incorporate at least the controls on the import of securities, and a prohibition against the transfer within the U.S. of any securities held outside its borders. But it is submitted that while these controls may well be made a part of the permanent machinery for preventing the sale of Axis loot, they would not in the absence of cancellation have the desired effect. The most important limitation results from the fact that even under these controls looted securities would find a market in some neutral or uncontrolled jurisdiction from which they would eventually find their way into the U.S. markets. This would be particularly probable in the event that our general controls with respect to blocked countries such as France, Holland and Belgium should be progressively relaxed. Recent amendments to these controls emphasize that this is in contemplation.

But the cancellation of securities held abroad would enable relaxation of controls with formerly blocked countries without loss of effectiveness. The net results, therefore, may well be

to reduce the administrative task involved in present controls while increasing the effectiveness of them.