

14 Feb 1950

NOTE

MEMORANDUM REGARDING NICOLAE MALAXA

April 30, 1949

Nicolae Malaxa is a former Rumanian industrialist, presently in the United States. His Rumanian properties have been confiscated and his Rumanian citizenship has been revoked by the Rumanian Communist Government. Mr. Malaxa desires to remain in the United States and to engage here in the manufacture of products for which his training and experience as an engineer and industrialist qualify him. However, Mr. Malaxa entered the United States under a visitor's visa which has expired; and the Rumanian quota under the immigration laws (which is only 377 per year) will not be available for years to come in view of the numerous applications already pending, nor is the quota technically available to Mr. Malaxa as a person already within the United States. Accordingly, in order for Mr. Malaxa to be permitted to establish permanent residence in this country, he must seek relief under the Displaced Persons Act of 1948 or other legislation designed to meet the special situations of persons who have escaped from behind the Iron Curtain.

It is the purpose of this memorandum to set forth facts concerning Mr. Malaxa, his background and activities and his family and other associations, which may be relevant with respect to his application for permission to establish permanent residence in this country. Such facts are set forth more completely and in greater detail herein than would be appropriate for such purpose but for certain attacks which have been made upon Mr. Malaxa and certain misstatements which have been made about him resulting from an old rivalry dating back to a period before the war. While normally slanderous remarks and malicious misstatements should be ignored, in view of the present status in this country of Mr. Malaxa (a situation well known to the persons responsible for the misstatements) it is deemed necessary in this memorandum to deal at length with such misstatements and, notwithstanding their obvious falsity in most cases, to disprove them in the only way possible-- by setting forth in detail the true and correct facts.

This memorandum is supported by the affidavit of Mr. Malaxa appended hereto, and also attached as Exhibits are copies of numerous documents which support or supplement statements made in the memorandum.

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NAZI WAR CRIMES DISCLOSURE ACT
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Brief Summary

Mr. Malaxa was born in 1884 in Rumania, which has always been his home. His early education was in Rumanian schools until he entered the Polytechnic Institute in Karlsruhe, from which he was graduated in 1912 as an engineer. He then returned to Rumania and, after a brief period during which he built a small factory for the processing of vegetable oils, he entered the employ of the Rumanian State Railways as an engineer in connection with the maintenance and repair of rolling stock. Early in 1919 he resigned from that position and established a locomotive repair shop of his own. Over the years this enterprise was expanded from its modest beginnings as a repair shop to become an industrial enterprise for the construction of locomotives, Diesel-powered self-propelled trains and other railway equipment. In 1936 Mr. Malaxa constructed and placed in operation a plant for the manufacture of seamless steel tubes, recognized as being one of Europe's most modern and efficient seamless steel tube mills. The establishment by Mr. Malaxa in Rumania of a steel tube industry was accomplished by him notwithstanding the opposition of the European steel tube cartel (which was dominated by the Germans) and in spite of every effort of the cartel to prevent the accomplishment of his objective, thereby creating a lasting enmity of the German cartel.

Late in the 1930s Mr. Malaxa further expanded his industrial operations to include the production of armaments and munitions, which theretofore had been largely purchased by Rumania from foreign suppliers, primarily Czechoslovak producers.

In the course of about twenty years Mr. Malaxa built up in Rumania an outstanding industrial enterprise. His plants, photographs of some of which are annexed to this memorandum, were generally recognized as being highly efficient and most modern in all respects. They occupied over 2,000,000 square feet of floor space under roof and employed more than 10,000 persons. Of this enterprise, Mr. Malaxa was the engineer, designer and operator, and to it (except for his family) he devoted his complete time and attention. In addition, he had important interests in, or was a member of the board of directors of, several other Rumanian corporations, including Resita, Astra, Copsa-Cugir, Gaz Metan, Ford, Santierele Navale Galatzi and Ciosani.

Mr. Malaxa has always worked for the creation, improvement and enlargement of Rumanian industry, believing

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that Rumania can be and should be largely self-sufficient industrially and that such self-sufficiency was of primary importance in achieving the Rumanian ambition of becoming and remaining a free and democratic country. Mr. Malaxa was not a politician and did not engage in politics, although he was a friend and supporter of Juliu Maniu and Ion Mihalache (the leaders of the National Peasant Party) and, later, of General Radescu. He was a loyal Rumanian who devoted his energies and skill to the building and operation of plants and the creation of the industries of his country, in which endeavors he was singularly successful and therefore well known in Rumania and, among people in the iron and steel business, throughout the world. He was not an internationalist and had no foreign affiliations, although he endeavored, on several occasions particularly in recent years, to establish close business relations with leading American companies.

As a result of a coup d'etat inspired by the Nazi, King Carol was deposed and Ion Antonescu came to power in Rumania late in 1940. Efforts were made to induce Mr. Malaxa to sell his works to the Germans. He refused, and was imprisoned on January 23, 1941, the occupation and barricading of his house (and other neighboring houses) by the Iron Guard during the insurrection of January, 1941, being seized upon as a pretext for his imprisonment. (To becloud the real issue and in typical Nazi fashion, the Antonescu government set loose a barrage of charges, subsequently investigated and found without basis, that Mr. Malaxa was aiding the rebellious members of the Iron Guard.) Notwithstanding his imprisonment and threats of dire consequences if he should persist in his refusals, he still refused. After twenty days of futile efforts, through threats and otherwise, to induce Mr. Malaxa to "consent" or otherwise "cooperate" with the government, his factories were taken over by the Antonescu government and transferred by it to a new company, "Rogifer", formed for the purpose and jointly owned by the Rumanian Government and the Hermann Goering Werke, the latter having the management and control of actual operations. When the factories had been fully taken over by the Germans and the formalities of decrees, contracts, etc., had been completed, Mr. Malaxa, on October 9, 1941, was released. Then began his fight to regain his factories and to bring about a reversal of their illegal taking. While the Germans succeeded in "purchasing" participations or interests in several important Rumanian enterprises, as did the Soviets later, Mr. Malaxa's enterprises could not be purchased in whole or in part, and they were

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the only important Rumanian enterprises seized and turned over to the Germans. Though the Antonescu government was under Nazi domination, the Rumanian legal forms and guaranties were still theoretically in effect, and under Rumanian law the seizure and transfer of Mr. Malaxa's factories, without his consent or acquiescence, was illegal and unprecedented. He was theoretically successful in his efforts for recovery of his plants when, on October 9, 1943, a decree was promulgated dissolving Rogifer and recognizing Mr. Malaxa's ownership of the stocks of his corporations. But regaining actual possession and control was a different matter. It was not until April, 1945, several months after the Germans were driven out of Rumania and after she had aligned herself with the Allies, that Mr. Malaxa finally succeeded in obtaining the actual return to his control of his factories and resumed their management and operation.

On August 23, 1944, Rumania ceased fighting and requested an armistice of the Allies. On August 25 she declared war against Germany. Against no resistance from the Rumanians, the Russians quickly and ruthlessly occupied the country. An Armistice Convention "dictated by Moscow" was signed September 12, 1944, requiring reparations to Russia of \$300,000,000 in "commodities" over a six-year period. Both before and after the signing of the Armistice Convention the Russian Army engaged in considerable looting, carrying off great amounts of merchandise, machinery and movable equipment. Few, if any, industrial establishments were spared, in the case of Mr. Malaxa's plants the products, machinery and equipment so taken being of a value of more than one-half million dollars and including almost the entire contents of a modern engine plant. Plants were looted regardless of ownership, American and British owned plants included. None of the owners of looted property has received any compensation therefor, nor has the Rumanian Government been given any credit in respect of looted property against its obligation to deliver to Russia \$300,000,000 value of commodities under the Armistice Convention.

In November, 1944, the Russians requested the Rumanian Government to dismantle and deliver to them under the Armistice Convention the Malaxa tube mills, which were then still in the possession of the Rumanian Government. In December, without Mr. Malaxa's consent and despite his vigorous opposition, the larger (6-14") tube mill was delivered by the Rumanian Government to the U.S.S.R. under Article 11 of the Armistice Convention and the Rumanian

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Government was given a credit of \$2,460,000 in respect thereof, a value greatly below its real value. Subsequently Mr. Malaxa obtained partial compensation (in lei, for the most part, notwithstanding the government's undertaking to pay in foreign exchange) from the Rumanian Government in conformity with the practices under the Armistice Convention (articles deliverable to Russia under the Convention being first purchased by the Rumanian Government from Rumanian owners and delivered by the Government to Russia for the Government's account under the Convention). Mr. Malaxa subsequently converted into foreign exchange a large part of the compensation thus paid to him by the Rumanian Government. Such conversion was effected pursuant to an arrangement with the Joint Distribution Committee and the Hebrew Immigrant Aid Society, whereby Mr. Malaxa made lei available to those organizations for their work in Rumania against payments to him abroad in Swiss francs and U. S. Dollars.

Mr. Malaxa had the distinction of being the only Rumanian industrialist whose works were taken both by the Germans and by the Russians.

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Immediately prior to the war, Mr. Malaxa endeavored to effect collaboration with one or more leading American companies, but the intervention of the war required postponement of those plans. His efforts to interest American firms in participating in Rumanian industry were resumed as soon as the Germans left Rumania and included offers of participation in his principal companies to several American corporations. The U. S. Commercial Counselor at Bucharest, Mr. Emil Kekich, was kept informed of these various proposals and they and the objectives to be accomplished thereby were discussed with him frequently.

Still believing that Rumania, with Western support, could be saved from complete Soviet domination, that the international cooperation forecast at Yalta would become a reality, and that, in the meantime, a modus vivendi with the Russians might be worked out, Mr. Malaxa departed for the United States in June 1946 as a member of a Rumanian economic mission. With appropriate clearance from the Department of State, Mr. Malaxa after his arrival in the United States negotiated with American industrial concerns for their participation in Rumanian industrial developments, and an agreement was finally concluded with International Harvester Corporation. He also organized a corporation to further American-Rumanian industrial cooperation and obtained

the interest of various American industrialists in those projects, However, events moved quickly in Rumania and after the November 1946 "elections" the purges began and the Iron Curtain soon was dropped. All of Mr. Malaxa's properties in Rumania have now been confiscated and his citizenship has been revoked. Those of his close business associates who were not fortunate enough to escape are now in prison or unaccounted for. Early in 1948 Mr. Malaxa's wife and son managed to escape from Rumania and reached Istanbul. After short stays in Switzerland and Paris, they went to Brazil where they obtained permanent residence permits. Thereafter United States visitors' visas were issued to them and they came to the United States in February 1949. Mr. Malaxa's daughter and son-in-law preceded him to New York and are also now in this country.

*Palace was in
New York*

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which eventually reached Istanbul, Turkey, on April 6, 1948, where Mr. Malaxa was able to place them in funds to travel, first to Switzerland and thereafter to Paris. In Paris they applied to the U. S. consul for United States visitors' visas (visitors' visas being the only type available for issue to them) in order to join Mr. Malaxa and Mrs. Palade in New York. Such visas were refused on the ground that, as refugees, they would have no place to go once their visas had expired. Thereafter Mrs. Malaxa and Constantin Malaxa obtained Brazilian immigration visas and in October, 1948, proceeded to Rio de Janeiro. They now hold Brazilian identity papers as residents of Brazil, and are presently in the United States on visitors' visas. Such visas were issued to them by the U. S. consul at Rio de Janeiro and they entered the United States on February 12, 1949.

Mr. Malaxa's only other surviving close relatives are his two sisters, Elena Malaxa and Natalia Malaxa. In so far as known to Mr. Malaxa, they are both still in Rumania. Mr. Malaxa understands that they were recently evicted from their home in Bucharest.

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The Locomotive Works

The locomotive repair shop started by Mr. Malaxa about 1920 grew rapidly until it was one of the principal such shops in Rumania. In 1927, during the reign of King Ferdinand and three years before Carol came to the throne, the Rumanian Government passed a law concerning the acquisition by the Rumanian State Railways of railway equipment. This law offered an opportunity to Rumanian manufacturers to submit bids for contracts for the supplying of such equipment, in addition to the foreign industries, principally German, who had theretofore been the principal suppliers of items of Rumanian railway equipment. Pursuant to such a bid, Mr. Malaxa obtained, in 1927, a 20-year contract for the manufacture of locomotives for the State Railways. This contract was in many respects the most important contract ever obtained by Mr. Malaxa, and made possible the building up of a large industrial operation for the manufacture of locomotives. These endeavors were later expanded to include the manufacture of Diesel-powered self-propelled trains, Diesel engines, various types of railway cars, items of braking equipment for railway use, as well as other items of industrial equipment for use in the oil and chemical industries. In expanding his activities to these new fields,

Mr. Malaxa became an active competitor and rival of the German industries which had theretofore supplied to Rumania a large part of such products of heavy industry.

The Malaxa locomotive works covered an area of some 3,200,000 square feet (approximately 1,000,000 square feet being under roof) and employed over 6,000 workers.

The Tube Mill

In 1936 Mr. Malaxa built another factory, adjacent to his locomotive works, for the purpose of the manufacture of seamless steel tubes, for which there was a large market in Rumania, as an oil producing country. This factory, when completed, had a capacity of approximately 250,000 tons of steel pipe per year, and included facilities (two separate mills) for the production of steel tubes for the oil industry ranging in size from 1/4 inch to 14 inches. The tubes were produced by the American Stiefel process, and their quality fully met the high specifications of the American Petroleum Institute. The plant was one of the most modern of its kind in Europe, included a steel mill and covered an area of over 3,000,000 square feet, of which more than 800,000 square feet were under roof. Approximately 2,000 workers were employed in the tube mill.

In the construction of his tube factory, Mr. Malaxa met with the vigorous opposition of German and other steel tube manufacturers and the rigid cartel into which those manufacturers had been organized. He encountered great difficulties in obtaining the necessary machinery and equipment, but finally was able to procure designs for such equipment and to have it produced for him by a German factory that had not theretofore been engaged in the production of tube fabricating machinery and thus was not subject to the domination of the cartel.

The Armament and Munitions Works

Prior to the late nineteen-thirties, the principal contracts of the Rumanian Government for the purchase of armaments were granted to foreign companies, principally the Czech Skoda and Zbrojovka works, a development which hampered the growth of Rumanian industry and, in the opinion of many Rumanians, might involve serious consequences in the event of war. Mr. Malaxa believed Rumanian industry should

be expanded to be able to handle, and should be given, a substantial part of such contracts. He accordingly prepared a detailed program which he submitted to the Rumanian Government, and which was approved by it, for the building up of an armament industry in Rumania and whereby portions of certain of the contracts which had theretofore been given to Czech factories would be transferred to Rumanian industries. In 1936, while the above steps were being taken, Mr. Malaxa, with the approval of the Rumanian Government, commenced the construction of a large factory in the Carpathian Mountains for the manufacture of munitions. This operation occupied an area of some 22,500,000 square feet, of which 750,000 square feet were under roof. Approximately 4,000 workers were employed.

During the years immediately preceding the war the munitions plant in the Carpathians and Mr. Malaxa's plants in Bucharest obtained large contracts from the Government for the manufacture of munitions and armaments, those factories receiving, in total, about one-third of all of the orders for armament and munitions placed by the Rumanian Government during that period. However, all Rumanian factories having facilities for the manufacture of munitions and armaments were, during those years, given all such contracts that they could possibly handle.

After the war the Malaxa armament and munitions works were converted for the manufacture of equipment for the oil industry, railroad cars and other industrial products.

Corporate Reorganizations

Early in 1939, Mr. Malaxa reorganized the corporate structure of his enterprises, without, however, affecting his ownership or control thereof. He caused three stock corporations to be organized under Rumanian law, to which were transferred the legal title to his factories. These corporations were:

- N. Malaxa, S.A.R. (the locomotive works),
- N. Malaxa, Uzine de Tuburi si Otelarii, S.A.R.
(the tube factory),
- N. Malaxa, Fabrica din Tohanul Vechiu, S.A.R.
(the munitions plants).

Other Business Interests

Resita. During 1932 Mr. Malaxa, jointly with Mr. Max Ausnit, acquired approximately 20% of the outstanding shares of Uzinele de Fier si Domeniile din Resita S.A. (hereinafter called Resita). Resita is the largest iron and steel manufacturing concern in Rumania, being an integrated operation having its own iron and coal mines, coke ovens, blast furnaces and steel finishing facilities, as well as fabricating facilities for the manufacture of locomotives, railroad cars and equipment, etc. Resita was the principal supplier of steel to the Malaxa Works. Such shares were acquired from STEG, an Austrian corporation, and constituted the largest single holding of Resita stock. Mr. Malaxa's participation in such acquisition gave him approximately 10% of the outstanding shares of Resita. He was elected an Administrateur Délégué of Resita in 1932, or thereabouts, and served as such until 1941 when he was removed from the Board by the Antonescu government. He was reinstated as a member of the Resita Board of Directors in June, 1945, but was again removed by the present Rumanian government after his departure from Rumania. In 1936, the Resita shares acquired from STEG by Mr. Malaxa and Mr. Ausnit were transferred to a Monacan company known as Centrind, formed for the purpose. The shares of Centrind were in turn deposited with a bank in London under an agreement between Mr. Malaxa and Mr. Ausnit providing in substance that their respective Resita shares should be held together and voted as a unit. Pursuant to a Rumanian law of November 8, 1939, such holding and voting arrangements for armament manufacturing corporations became illegal and Mr. Malaxa, as required by such law, applied for and received duplicate certificates for his Resita shares registered in the name of Centrind. Subsequently Mr. Ausnit commenced litigation against Mr. Malaxa alleging breach of the London agreement. That and other litigation commenced by Mr. Ausnit is hereinafter more fully described.

Astra. In 1936 or thereabouts Mr. Malaxa and Resita jointly purchased a majority of the shares of the "Astra" Company, of Brasov and Arad, which manufactured various items of railroad equipment, guns, ammunition and other products. Mr. Malaxa served as an Administrateur Délégué of such company from 1936 until 1941, when he was removed from the Board by the Antonescu government.

Copsa-Cugir. From 1933 until he was removed in 1941 by the Antonescu government, Mr. Malaxa served, at the request of the Rumanian Government, as an Administrateur Délégué of "Copsa-Cugir", a corporation manufacturing small

arms, automatic weapons and ammunition therefor, whose factories had been built during the 1920s in cooperation with the British Vickers interests under an arrangement with the Rumanian Government. The Rumanian state owned approximately 80% of the outstanding shares of Copsa-Cugir and the Vickers Company owned most of the remaining 20% until such shares were sold in 1936, or thereabouts to a Czech munitions corporation known as Zbrojovka.

Upon the German occupation of Czechoslovakia in 1939, the Germans acquired control of Zbrojovka and through it of the Copsa-Cugir shares which had been sold to Zbrojovka by the Vickers Company, together with a substantial block of shares in Resita also owned by Zbrojovka. In 1940 the Germans (through Albert Goering of the Hermann Goering Werke, which had taken over Zbrojovka), demanded representation, as substantial stockholders, on the Boards of Directors of Copsa-Cugir and of Resita. Such demands were made upon Mr. Malaxa (among others) as an Administrateur Délégué of the respective corporations. In such capacities he acceded to such requests, with the approval of the Rumanian Government.

Other Companies. Mr. Malaxa also had investments in various other Rumanian corporations, and was a member of the boards of directors of several such corporations, among which were:

* Societatea Nationala de Gaz Metan, a corporation owning the very large Rumanian reserves of natural gas, of which Mr. Malaxa was the largest private stockholder, the Rumanian State owning 80% of the outstanding stock;

* Ford Motor Company, the Rumanian Ford subsidiary, of which Mr. Malaxa was Chairman of the Board;

* Santierele Navale Galatzi, an important marine construction company; and

* Clogani, a lumber company with woodland holdings of about 150,000 acres of virgin forest and a plant situated on the Danube.

II. UNDER GERMAN OCCUPATION

The Antonescu Government

On September 6, 1940, King Carol abdicated, General Ion Antonescu came into power and Rumania was swung into the Axis line. Under the "New Order" Rumania was to become a purely agricultural country, industrially and economically dependent upon Germany, and her heavy industries were to be integrated into German concerns, then gradually eliminated. This was not a program to appeal to Mr. Malaxa, who had pursued with marked success a course diametrically opposed to that envisaged for Rumania by Hitler.

In December, 1940, the Antonescu government entered into an economic agreement with Germany, one of the main objectives of which was to secure for the Germans the more important industrial installations in Rumania. Mr. Malaxa refused either to sell his plants to German interests or to implement the integration of Rumanian industry into the German economy, and his plants were an essential element in the German plans. A way had to be found and it was, in the typically Nazi manner.

Arrest of Malaxa and German Seizure; Rogifer

In January 1941 the extremist Iron Guard (which had theretofore participated in a coalition with Antonescu) attempted an armed insurrection to seize complete power; Antonescu, however, with army support, succeeded in suppressing the rebellion after considerable street fighting in Bucharest. During the fighting certain Iron Guardists occupied Mr. Malaxa's house in Bucharest, as well as other houses in the neighborhood, and used them for cover during the fighting with the army. The Antonescu government seized this incident as a pretext, arrested Mr. Malaxa on January 23, 1941, and placed him in a military prison. He was charged with aiding the rebellious members of the Iron Guard during the uprising. The charge was not only wholly trumped up and entirely false but on its face ridiculous to those who knew of Mr. Malaxa's political and business interests and friendships. While subsequently fully exonerated, as noted below, the pretext served the purpose of putting pressure upon Mr. Malaxa to "cooperate".

While in prison Mr. Malaxa received various suggestions and requests for his cooperation with the German-Antonescu economic program, among others being a message

from Baron von Killinger, the German Minister to Rumania, threatening Mr. Malaxa with deportation and eventual execution unless he consented to the transfer of his plants to the Hermann Goering Werke. His answer was a flat "no". He was taken under military guard to Antonescu and there "ordered" to sign. He refused; and the process was repeated with variations several times, and with the same result.

Despite his imprisonment, the charges concocted against him, the pressure and threats, Mr. Malaxa continued "uncooperative".* On February 13, 1941, only twenty days after the arrest of Mr. Malaxa, the Antonescu government entered into an agreement with the Hermann Goering Werke, whereby a corporation, to be known as "Rogifer", was to be formed for the purpose of operating the Malaxa factories, such corporation to be jointly owned by the Rumanian Government and the Hermann Goering Werke. Under the agreement the entire management of the plants was turned over to the German company, which was also given an option to purchase the plants during a period to expire December 31, 1943 (Exhibit 1). In order that this agreement might be carried out with some semblance of legality, the Government, five days later, on February 18, 1941, issued a Decree-Law which purported to expropriate Mr. Malaxa's interest in his factories on the supposed ground that his companies had received excessive profits on their government contracts (Exhibit 2). The Antonescu government apparently was convinced of the futility of persuasion upon Mr. Malaxa and resorted to self help.

Those steps having been taken, on April 3, Mr. Malaxa was released from prison and placed under house arrest in Bucharest (Exhibit 3). While held under such arrest, Mr. Malaxa was strictly confined to his home, was not permitted to receive any visitors or to transact any business, and was

* In a fashion typical of dictatorial regimes, Mr. Malaxa and his family became the butt of a propaganda campaign designed to becloud what was actually going on, and to create an ostensible justification for the Government's actions. Many of these stories reached the United States, and appeared at that time in newspapers here. No comparable publicity was given to Mr. Malaxa's subsequent release from confinement, or to his eventual clearing of the charges made against him.

not even allowed to leave his house to attend his daughter's wedding. While Mr. Malaxa continued under arrest, the process of turning the Malaxa works over to the Germans proceeded, the "legal" details taking some time due, at least in part, to the unwillingness of Mr. Malaxa to "cooperate" by signing any documents whatsoever or giving his consent or approval to any step. (Exhibits 4 through 9, inclusive)

On June 2, 1941, the incorporation of Rogifer was authorized by a special decree. On September 29, 1941, meetings of the "stockholders" of Mr. Malaxa's three corporations were held, at which all the shares of stock of such corporations were voted by the Rumanian Government, as their purported owner, in favor of leasing the plants to Rogifer. On September 30, 1941, the Council of Ministers formally approved the lease to Rogifer of the Malaxa plants. On October 9, 1941, the Board of Directors of Rogifer ratified the lease by that company of the plants, thereby completing all of the steps required to turn the Malaxa works over to the Germans. Thereafter, on the very same day, October 9, 1941, Mr. Malaxa was released from house arrest (Exhibit 10).

In so far as known to Mr. Malaxa, his works were the only substantial industrial enterprises in Rumania seized by the Antonescu government and turned over to the Germans, although the Germans did "purchase" substantial interests from others in various properties.

Unsuccessful Efforts to Regain Plants during German Occupation

After his release from imprisonment Mr. Malaxa had nothing whatever to do with the operations of his works during the occupation of Rumania by the Germans. He stayed either in Bucharest or at his country home. He did, however, use his utmost endeavors to secure a reversal of the acts taken with respect to his properties during his imprisonment. The pretexts could be and were proved to be unfounded. Even before Mr. Malaxa's release from imprisonment, several of the members of the Iron Guard who had entered Mr. Malaxa's house during the uprising were convicted and sentenced for "domicile violation", the verdict stating that the "culprits *** introduced themselves by force into the Mr. Malaxa's house *** although the culprits knew that they were not allowed to enter *** without consent, nevertheless they entered fully determined and by force *** barricading entrances." (Exhibit 11) Further subsequent investigations confirmed that Mr.

Malaxa "did not participate in the legionary rebellion of January 1941" (i.e. the Iron Guard rebellion), *** "did not have anything to do whatsoever with the preparations preceding said rebellion ***", and that he has "never had any connection with the legionary movement". (Exhibits 12 and 13)

A long-drawn-out investigation was conducted by a government-appointed commission into the charges that excessive profits had accrued to Mr. Malaxa's factories on their government contracts, which resulted in a finding that such charges were without foundation. (Exhibit 14)

After El Alamein (October 23, 1942), Stalingrad (February 1943), the German surrender in Africa (May 12, 1943), the Allied landing in Sicily and the fall of Mussolini (July 1943), the enthusiasm of the Antonescu government for cooperation with or incorporation into the Nazi orbit was considerably dampened. Supporters of Mr. Malaxa's efforts to secure the return to Rumanian control, and to him, of his plants became more outspoken and effective as time elapsed. On February 13, 1943, the Rumanian Government entered into an agreement whereby it repurchased the Rogifer shares held by the Hermann Goering Werke, thus becoming the sole stockholder in such corporation. (Exhibit 15) On October 9, 1943, the Government issued a further decree liquidating Rogifer, canceling the lease of October 7, 1941, abrogating the Decree-Law of February 18, 1941, and providing for the return to Mr. Malaxa of the shares of stock in his corporations. As a condition to the promulgation of the October 9, 1943, decree, Mr. Malaxa was required to renounce his claim against the State for non-functioning of the plants. (Exhibit 16)

But having the shares of the Malaxa companies restored to him did not accomplish the physical return of the plants or place Mr. Malaxa again in control of them, and he was unsuccessful in his efforts to regain possession and control from the Antonescu government. On December 19, 1943, a decree was published authorizing the liquidator of Rogifer to continue operations as before the October 9, 1943, decree. (Exhibit 17)

While restitutions of property seized by the Antonescu government for racial, religious or political reasons proceeded as rapidly as possible after the armistice, it was not, as hereinafter more fully set forth, until April 13, 1945, seven months after the surrender of Rumania and four years after their confiscation by Antonescu, that Mr. Malaxa was fully

restored to the management and control of his plants through the operation of a decree published that date. (Exhibit 18). Such decree, authorized by the Council of Ministers, was submitted to the King accompanied by a report reviewing the circumstances under which the Antonescu government had seized the plants from Mr. Malaxa, and stating that "political interests forced the past regime to do this act which prejudiced the Rumanian interests *** [disregarding] all principles of law and truth *** the State took over the 'Malaxa' Works, by means of a so-called expropriation, supported by groundless reasons, as was later proved even during the former regime." The report points out the numerous complexities and matters requiring settlement, including damages to plants, for delivering of the tube mill to the Russians under the Armistice Convention, etc., which must be settled, and the decree provided for a commission of arbitrators authorized to settle all disputes. (Exhibit 19). The terms of the settlement agreement are further described below.

III. UNDER RUSSIAN OCCUPATION

Armistice and Russian Occupation

On August 23, 1944, King Michael arrested Marshal Ion Antonescu and Vice-Premier Mihai Antonescu, and announced his order to cease fighting and request for an armistice. The following day the Luftwaffe attacked Bucharest and on August 25 Rumania declared war against Germany. The Red Army quickly occupied Rumania, encountering no resistance from the Rumanians and but little from scattered remnants of Germans. Within days Rumania was a country completely occupied by the Red Army. During the occupation process a new government was installed representing all democratic political parties. An Armistice Convention was signed at Moscow on September 12, 1944, as "dictated by Moscow".

"The Rumanian negotiators came home a disappointed and puzzled crew, with an armistice that looked, at least to them, very little like the armistice which they originally had been offered months before in the preliminary negotiations conducted through the good offices of the British and Americans in Cairo, Egypt. It gave Russia almost completely unlimited occupation privileges ***. The armistice promised a tripartite Armistice Control Commission, each part--Soviet, American, and British--to have its own inalienable functions, but the whole under Soviet chairmanship.

"This last was considered a ray of hope, but the hope thinned out as the months went by and neither an American nor a British political representative arrived to pair with the soon roaring Soviet Embassy ***. Meanwhile the Soviet command in Rumania took a tight grip on everything it wanted to control, ably seconded by a very large political section working out of the Soviet Embassy, at which the then chief communist representative in the first Rumanian surrender government, Minister of Justice Lucretiu Patrascanu, was presently noted to be a faithful daily visitor.

"When eventually, almost at the end of 1944, the American and the British military and political representations did arrive, it was soon found that the presumably equally important Western military representatives were in fact considered part of the subordinate

Soviet command, were treated as subordinates, and had indeed nothing whatsoever to say about the management of Rumania under the armistice.*

The provisions of the Armistice Convention were drastic with respect to reparations payments payable by Rumania to Russia (none of the other allies, incidentally, made any claim to reparations). Article 11 provided that losses caused the Soviet Union as a result of the occupation by the Rumanian forces of portions of Soviet territory would be made good by Rumania, but "taking into consideration that Rumania has not only withdrawn from the war but has declared war and in fact is waging war against Germany and Hungary," it was agreed that compensation for losses would be made only in part, namely, up to an amount of \$300,000,000 U. S. dollars payable over a six-year period in commodities (oil-products, grain, timber products, sea-going and river craft, sundry machinery, etc.). (Exhibit 20)

During and following the process of occupation of Rumania by the Russians, the Red Army engaged in extensive looting, carrying off considerable amounts of merchandise, machinery and movable equipment. Few, if any, industrial establishments were spared, in the case of Mr. Malaxa's plants the products, machinery and equipment so taken being of a value of more than a half million dollars and including almost the entire contents of a modern engine plant. American owned as well as other plants were looted, the oil companies being particularly subjected to the activities of the looting squads. None of the owners of the looted property has received any compensation therefor, nor has the Rumanian Government been given any credit in respect of looted property against its \$300,000,000 obligation under the Armistice Convention.

Tube Mill Taken by Russians under Armistice Convention

The Russians, as the Germans before them, lost little time after occupation in attempting to gain control or at least partial ownership of important Rumanian industries. In October 1944 a proposal, later pressed by Mr. Finogenov, the Russian Chief of the Economic Section of the Allied Control Commission, was made to Mr. Malaxa that he sell his plants against payment in large part in United States dollars in Switzerland. This proposal and all similar suggestions which would have given the Russians ownership of or a parti-

* King and O'Brien, The Balkans, p. 124.

cipation in his plants were flatly rejected. As in the case of the Germans, the Russians resorted to self help, although in this case, during the first months at least, without the active assistance of the Rumanian government in office.

On November 10, 1944, a proposal was made, in the name of the Inter-Allied Control Commission, by the Russian General Vinogradov, to the Rumanian Commission for Armistice Enforcement that the Malaxa tube mills be handed over to the Soviet Union under Article 11 (mentioned above) of the Armistice Convention, despite the fact that the mills could not properly be considered as "commodities", within the meaning of such Article. On November 27, 1944, the Rumanian Commission explained to the Control Commission that the dismantling and shipment to Russia of the Malaxa tube mills would have serious repercussions on the implementation of the Armistice Convention, as the loss of those mills would greatly hinder the repair and development of Rumania's oil industry and diminish the production out of which the Rumanian obligations under the Armistice Convention had to be fulfilled, especially as some 50% of these obligations were to be satisfied by deliveries of petroleum products. On November 29, 1944, General Vinogradov advised the Rumanian authorities of "the final and irrevocable" decision of the U.S.S.R. Government to take over the tube mills as reparations. (Exhibit 21) This advice was implemented by action, and on the next day, November 30, a Soviet military detachment appeared at the tube mill, took possession, and started loading finished tubes that were in the warehouse. On December 1 the Rumanian Commission was advised that the Rumanian Government had been ordered by the U.S.S.R. to turn over the tube mills at once. On December 4 the Minister of National Economy advised the Rogifer company (which still had de facto possession of the mill) that it had become imperative to hand over the tube mill to the Russians. (Exhibit 21-a) On December 17 actual dismantlement of the 14-inch tube mill was commenced. In the meantime every effort had been made by Mr. Malaxa to prevent the dismantlement of the tube mill. He made a personal request to the King for his intervention, and to General Radescu, the then Prime Minister. He also sought and obtained the intervention and help of Dr. J. Maniu, President of the National Peasant Party, Mr. D. Bratianu, President of the National Liberal Party and of Mr. Savel Radulescu, the Chairman of the Rumanian Armistice Commission. These gentlemen did all they could to prevent the taking of the tube mill, although Mr. Bratianu advised Mr.

Malaxa to permit the Russians to participate in his plants, being thereby hopeful of averting the disastrous consequences to the country of the dismantlement of the mills. Mr. Malaxa was unwilling to make that compromise, although he agreed to consider a short term lease which, however, was unsatisfactory to the Russians. The interventions and protests were, however, partially successful, and General Vinogradov finally agreed to leave the 6-inch mill standing, at least temporarily. This decision was communicated on December 22, 1944, by a letter from the Minister of National Economy addressed to Rogifer. (Exhibit 21-b) Although requested to cooperate in the evaluation of the dismantled plant for the purpose of determining the credit to be given to Rumania under the Armistice Convention in respect thereof, Mr. Malaxa refused. Under date of January 2, 1945, the Minister of National Economy wrote

"As early as Nov. 29, 1944, we notified Mr. Malaxa of this situation [that "the Allied Control Commission (Soviet Commission) notified the Roumanian government on Nov. 29, 1944, of its 'final and irrevocable' decision to take over the Malaxa Tube plant"] *** and requested him to take part in the computation of the value of the plants or to extend his cooperation, since it was in the interest of the Roumanian state, as regards dealings with the Allied Control Commission, to reach as fair a valuation as possible *** all of which does not clash with your interests. Nevertheless, your cooperation is not forthcoming.

"While your reserve could be understood at the time, as motivated by a feeling that you feared that your cooperation in the evaluation would be interpreted as consenting that the plant be taken over; today, since we are faced by a de facto situation, created by the unilateral will of the Allied Control Commission, the problems of an accurate assessment *** must come before the hypothetical pre-occupation mentioned above". (Exhibit 21)

Mr. Malaxa's tube mill was the only industrial plant taken out of Rumania by the Russians under Article 11 of the Armistice Convention. The Rumanian Government was given a credit in respect of the plant in the amount of \$2,460,000 against the \$300 million due as reparations under the Armistice Convention. (Exhibit 22) As noted above, substantial amounts of property were carried off by the Russians as loot, including substantially all the contents of an engine plant belonging to Mr. Malaxa. Neither credit to the Rumanian Government nor compensation to the owners has been made in respect of looted property.

Eventual Recovery of Plants

Although Rumania was a country ruthlessly occupied by the Russians, Rumanians confidently hoped, and believed, that somehow they would be able to reestablish themselves as a free democratic country. To this end they counted much on the help and backing of the Western powers, especially the United States. That hope was difficult to extinguish and still survives among many who have managed to escape. Their efforts, sincere and fearless though futile, to stem the Russian tide and to find a modus vivendi with or under the Russians, are now, unfortunately, but a chapter of the history of the Russian annexation of eastern Europe.

The surrender government

" *** lasted until early in 1945, when, feeling the increasing heat of attack from the Left, the 'Historic' parties tried to take matters more into their own hands by installing General Radescu as premier. ***

"The man who the Historic parties hoped might save the situation, General Radescu, seemed as well fitted for the job as could be expected if it is remembered that the party leaders who settled on him were more concerned with nationalistic patriotism than with politics, hating Soviet domination as much as they had German.

"Radescu was non-political in the sense that he had never been an active politician but had stuck to his army career. *** in 1942 he *** wrote a bitter letter to the German Ambassador *** protesting that Germany was leading Rumania, for purely German ends, farther and farther into a bitter and bloody war *** for which Rumania might some day have to pay a heavy penalty. *** For his temerity Radescu spent nearly two years in concentration camp."*

As we now know, the Radescu government was the last stand of the Historic parties and democratic forces in Rumania. During February 1945, while negotiations were theoretically taking place in Moscow for the orderly development of the Rumanian situation under tripartite participation,

* King and O'Brien, The Balkans, pp. 127-128.

Vyshinski arrived in Bucharest and requested an audience with the King that evening. He demanded the dismissal of the Radescu government.

" *** Mr. Vyshinski the next day demanded an audience with the King and asked for his decision on the suggestion of the previous evening. The King replied he had communicated this information to General Radescu and had started consulting party leaders for the purpose of choosing another Prime Minister. Vyshinski declared this answer was unsatisfactory. Then, the report stated, Vyshinski looked at his watch and told the King he had just two hours and five minutes to make it known to the public that General Radescu had been dismissed. By eight o'clock, he added in emphasis, the King must tell the public the name of his successor."*

Efforts to form a successor government encountered difficulties.

" *** Shortly afterward Mr. Vyshinski sent word to the King that the Communist leader, Petru Groza, was the choice of the Soviet government. Nevertheless, the King continued to consult party leaders and on the evening of March 1, Vyshinski again saw the King to inform him personally that the Soviet Union wanted Groza appointed. The King then decided to charge Groza with the formation of a government."*

The taking of the tube mill and the working out of a settlement in respect thereof, the matter of disposition of the claims relating to past operations of the Malaxa factories and similar matters, presented numerous practical and technical problems which required solution or settlement before the actual return of Mr. Malaxa's plants to him could be completed. To this end, the Radescu cabinet appointed a Commission to prepare a detailed settlement agreement whereby the plants would be effectively returned to their rightful owner. This Commission had not completed its work at the time of the dismissal of Radescu. Even under normal conditions such matters would have required considerable time, but to settle them amid the chaos then existing,

* Byrnes, Speaking Frankly, p. 51.

under a government beset with all the problems of military occupation and conflicting pressures from various political and national groups, was an accomplishment indeed. As noted above, Mr. Malaxa's plants were the only important Rumanian industrial enterprise taken over by the Antonescu Government, so that the restitution of those plants presented a unique situation which did not fall into any program of general application. Also, there was the matter of compensation for the tube mill, the only Rumanian plant (at least up to that time) turned over to the Russians under the Armistice Convention.

The Russians and their Rumanian Communist henchmen, upon being installed in power through Vyshinski's intervention, did not immediately adopt an anti-capitalist attitude. Reassurances, seemingly authoritative, were given to industrialists so as to induce them to invest in the rehabilitation of their factories.* The settlement agreement with respect to the Malaxa factories, which was in process

* See Article by Camil Ring, Reds Seen Choking Trade in Rumania, New York Times, March 2, 1949:

" *** The Rumanian middle class already has been victimized by a fraud that Premier Stalin and other leading Communists recently have tried out on the world at large. This is the conception that 'capitalism and communism can live very well together.'

"When the Communists seized power in Rumania, they told the 'capitalists' through the authoritative voice of the secretary-general of the Communist party that they had nothing to fear. 'Don't worry,' the 'capitalists' were told, 'continue to invest; you will be protected.'

"Incredible as it may seem now, many an industrialist and many a small business man and shopkeeper believed these assurances. In the enthusiasm of the first postwar reconstruction, great sums were invested. It is true that as time went by taxes increased to the point where they almost wiped out profits. But at least the investors had the Communist party's guarantee that their property would be protected."

of preparation by the Commission appointed by General Radescu, was not, therefore, allowed to drop by the incoming government, although, of course, the Communist elements therein could hardly be expected to be enthusiastic over the proposal. Mr. Malaxa endeavored in every way available to overcome their active or passive resistance to the restitution. An indirect approach was utilized by the retention, for a substantial fee, of one Mircea Solacolu (then Rumanian Foreign Trade Commissioner), who was believed to be persona grata and on good terms with influential Russian elements and with certain Communist ministers, to endeavor to expedite the completion of the restitution. Mr. Malaxa believes the efforts of Mr. Solacolu contributed to the final conclusion of the protracted and complicated negotiations. He also believes that earlier efforts of Mr. Solacolu were largely responsible for modification of the Russian demands as regards the tube mill, with the result that the Russians did not take, as they originally proposed to do, the 6-inch mill along with the 14-inch mill.* Mr. Malaxa did not otherwise retain the services of, or make any payment to, any person who might be considered a Communist or Communist collaborator, with one possible exception in the case of his proposed arrangements with Max Ausnit hereinafter mentioned.

Note: in accordance with large claims to property in which Malaxa is interested, he is to be given, through the Rumanian Government, the right to acquire & retain all properties, 1945

Pursuant to the law of April 13, 1945 (Exhibit 18), restoring to Mr. Malaxa his plants, a "Transaction and Act of Compromise" (hereinafter referred to as an agreement) was entered into under date of April 17, 1945. (Exhibit 23) Such agreement made provision for or disposed of claims relating to past operations, open contracts and accounts, work in process and manufactured goods, transfer of employees and various similar matters. The agreement also provided (Article 3), in part, that:

"As a counter value to the 14" rolling mill and of the machines in the pipe factory which the State handed over to the Soviet High Command in part payment of its war damages, the Roumanian State acknowledges the debt and lays at the disposal of the 'N. Malaxa' Pipe and Steel Works S.A.R. Company abroad, the sum of 2,460,000 U.S.A. dollars effectively and free of

* Mr. Solacolu's position of influence, if in fact it actually existed, did not last. It is understood that he subsequently fled from Rumania and is now living in South America.

*FBI - 31 Mar 1948
 X Refers to Malaxa's Malaxa contribution, in 1945 app. 4000 in Rumania
 Monthly Salary of 2000 to personally 3 1/2 % to 1000 of his work*

any present or future restrictions, namely the sum in dollars which the State has deducted from the war damages due to the U.R.S. by handing over the rolling mill and the machines."

Collection of Tube Mill Indemnity and Conversion into Dollars

As noted above, the Rumanian government had been given a credit of \$2,460,000 under the Armistice Convention in respect of the tube mill delivered by the Rumanian Government to the U.S.S.R. under Article 11 of the Armistice Convention. Such amount was agreed upon as the value of the mill between the Soviet authorities and the Rumanian ministry handling the matter. The value so fixed was substantially less than the actual or replacement value of the mill. At the same time the Russians received about \$525,000 value of semi-finished steel for use in the tube mill which belonged to Rogifer, the government corporation still in possession and then operating the plants. The Rumanian Government was likewise given credit for such steel under the Armistice Convention. (Exhibit 22)

This provision for payment by the government of the above amount was in accordance with the normal procedure in the case of reparation payments required by the Armistice Convention. Commodities destined to be turned over to the Russians under such Convention were purchased by the Government from suppliers, who, normally, received payment therefor from the Government in the local currency. Provision was made for payment in dollars in respect of the tube mill as all parties recognized that, in order to replace the tube mill, it would be necessary to purchase the necessary machinery and equipment outside of Rumania and that payment therefor would have to be made in foreign currency.

Notwithstanding the commitment of the Government to make payment in respect of the tube mill in foreign currency, neither Mr. Malaxa nor any of his companies ever received any payment in dollars or other foreign currency directly from the Government on account of such obligation. After more than a year of unsuccessful efforts to secure such payment, on June 7, 1946, the Rumanian Government authorized the issuance of permits to the Malaxa Tube Company for the export from Rumania of certain products, from the proceeds of the sale of which the tube company would be able to reimburse itself in foreign exchange up to ~~the~~ ~~limit~~ of the Government's obligation for payment in respect of the tube mill. (Exhibit 24) While several export permits were subsequently granted pursuant to such authorization, none proved of any value or became an effective reality except one

permit covering the export of some 10,000 cubic meters of lumber, from which export and sale Mr. Malaxa realized approximately \$190,000.

Realizing that the promised payment in foreign exchange, whether directly or through the issue of export permits, would not in fact be made, Mr. Malaxa requested that payment be made to him in lei, the local currency. Part payments in lei on account of the obligation of the Government were made for a while thereafter, during the period that Alexandrini, a member of the National Liberal Party, was Finance Minister, but such payments ended when Luca, a Communist, became Finance Minister.

During the period of his efforts to obtain payment of the Government's dollar obligation in respect of the tube mill, various proposals were made to Mr. Malaxa by persons who believed they could induce the Government to carry out its agreement. Mr. Malaxa discussed this matter with Mr. Max Ausnit who stated that he was able and willing, and for a substantial fee would, obtain payment in full, in U. S. dollars or Swiss francs, of the \$2,460,000 due to Mr. Malaxa from the Rumanian Government under the settlement agreement. Notwithstanding that Mr. Malaxa had had previous unfortunate business experiences with Ausnit, Mr. Malaxa regarded Mr. Ausnit as an ideal person to effectuate the payment because of the services he had rendered to Russian interests and the Communist regime in Rumania. It was Ausnit who gave the Russians their first participation in the industrial properties of Rumania through the issue to them of a proprietary stock interest in Resita in lieu of satisfying their claim in kind for Russian raw materials consumed during the war, establishing a pattern later followed by the Russians in Rumania and other occupied countries.* He had had

*Ausnit, as administrateur délégué of Resita, had, under date of December 29, 1944, without the authorization or approval of the Rumanian Government then in office, proposed to the Russians an arrangement, whereby stock of Resita would be issued to the U.S.S.R. in settlement of Russian claims in respect of ore and scrap iron, from Russian sources, consumed by Resita during the German occupation. (Exhibit 25) Such arrangement was subsequently concluded, with the U.S.S.R. becoming the owner of 30% of the outstanding stock of Resita.

an active part in organizing the SOVROMs which were eagerly sought by the Russians and had participated through companies controlled by him in SOVROM Lemn which took over the lumber industry.* And it was Ausnit who had suggested to the Russians that they take the Malaxa tube mills in order to further the reconstruction of the U.S.S.R. on the asserted ground that the mills were too large for the needs of Rumania. Thus it appeared that if anyone could induce the Groza government to make payment in foreign exchange as required by the settlement agreement, probably Ausnit could; and, in any event, the fee requested, though exorbitant, was entirely contingent. Ausnit, however, was not successful. Subsequently he claimed to be entitled to his fee notwithstanding and litigation, hereinafter mentioned, ensued.

Part of the lei received by Mr. Malaxa in lieu of dollars under the settlement agreement were subsequently converted into foreign exchange under arrangements made on behalf of Mr. Malaxa with the American Joint Distribution Committee and the Hebrew Immigrant Aid Society under Rumanian government approvals obtained by such organizations. Under such arrangements Mr. Malaxa furnished to such organizations lei required by them in Rumania for charitable and other relief to the Jewish inhabitants of Rumania, against Swiss francs paid to Mr. Malaxa in Switzerland or U. S. dollars paid to him in

* "It would be untrue to say that all this [SOVROMS and Russian participations in Rumanian industries] was the exclusive work of the Communists. Prominent Rumanian capitalists helped them. Most of these men came from around Gheorge Tatarescu, later discarded as foreign minister. Others were independent industrialists. It was said that Max Ausnit, the little red-haired steel man who entertained Russians as lavishly as Americans, had a hand in organizing SOVROM Lemn, which took over the timber cutting and lumber industry. These men, knowingly or unknowingly, were strong supporters of the sixth column. Many supported their aims, no doubt, in honest efforts to come to a peaceful understanding with the big neighbor of their country. Others expected personal gains out of their collaboration." (Bishop and Crayfield, "Russia Astride the Balkans", p. 203.)

New York.* (Exhibit 26)

Efforts to Secure American Participations

Before the war Mr. Malaxa built a Rumanian industry; after the war his efforts were directed toward rebuilding and expanding that industry. As an engineer and industrialist, he fully appreciated and recognized the desirability, if not necessity, of securing the cooperation, participation and "know-how" of leading American firms. Only with American technical cooperation and with American machines could Rumanian industry be rehabilitated and enlarged. Only under a democratic form of government would this be possible, and only with greater American economic participation and interest in Rumania could Rumania resist the pressure of the Communist forces. Those were complementary principles which guided Mr. Malaxa's activities until hope, at least for the present, was extinguished by the absorption of Rumania by the U.S.S.R.

Indeed, immediately prior to the War, he had taken steps to create such a relationship with American industry. The Germans completed their occupation of Czechoslovakia in the early spring of 1939. Mr. Malaxa had theretofore depended, in considerable measure, on Czech steel mills for his supplies of raw material, the Rumanian production being insufficient to supply all the potential market in that country for semi-finished iron and steel products. Since the Germans had shown themselves hostile to Rumanian heavy industry in general, and particularly to Mr. Malaxa's steel tube operations, he felt the need for looking to alternate sources of supply, and sent two of his engineers, Messrs. Carkez and Meta to the United States to investigate possible arrangements with American steel companies. These gentlemen, upon the recommendation of a minor Rumanian diplomatic official,

* A similar arrangement has recently been made by the Vatican with certain American motion picture companies, whereby lire frozen in Italy are to be released for the construction of a seminary for American priests, and the Church authorities in the United States are to turn over to the motion picture companies an equivalent amount in dollars. (See The New York Times, March 9 and 10, 1949.)

consulted a New York lawyer, Mr. Bernard Levine, who, on their behalf, incorporated Metalex Manufacturing Corporation under the laws of New York, on May 20, 1940. Due to the rapid spread of the War thereafter, and the engulfing of Rumania under the German tide, Messrs. Cerkez and Meta were unable to proceed further with their task.

In the summer of 1944 Mr. Malaxa was in touch with a representative of the Standard Oil Company (New Jersey), a certain Henry Noel. At Mr. Noel's suggestion, Mr. Malaxa made a formal proposal to sell to Standard a one-third interest in his various enterprises, the purchase price being payable only out of earnings. Mr. Malaxa never received any answer from Standard to his proposal. (Exhibit 27)

In November, 1944, Mr. Malaxa retained Col. O. Z. Ide, of Detroit, Michigan, who was introduced to Mr. Malaxa in Bucharest, and authorized him, as his attorney, to interest some large American industrial enterprise, or to organize a group of corresponding strength, to acquire a one-third interest in Mr. Malaxa's enterprises in Rumania, upon the same terms as those offered to Standard Oil. Mr. Malaxa explicitly stated that actual participation of American representatives of the purchaser or purchasers in the management of the Malaxa industries was imperative. Col. Ide was not, however, successful in effecting any such arrangement. (Exhibit 28)

Again, in April, 1945, Mr. Malaxa retained a certain Col. Grady C. MacGlasson, who had been a prominent member of the U. S. Military Mission to Rumania after the War, to return to the United States as his agent to bring about some form of collaboration between the Malaxa industries and a first-rate American industrial concern or banker. In consideration of technical information and assistance from such American concern, Mr. Malaxa was willing to turn over 20% of the shares of his principal corporation. Col. MacGlasson was also to investigate the possibility of creating a Rumanian branch for an American automobile manufacturer. (Exhibit 29)

Soon after Col. MacGlasson's return to the United States from Rumania, he got in touch with the Kaiser-Frazer Corporation, who indicated an interest in negotiating with Mr. Malaxa for the construction and operation in Rumania of a factory for the manufacture of tractors and, possibly, for the manufacture or assembly of automobiles and trucks. Arrangements were made for a conference between Mr. Malaxa,

FBI
MacGlasson
before
replied
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*
a Mr. Dodge, at the time head of the Kaiser-Frazer Export Department; and Mr. Bernard Lauren, the New York lawyer who, under the name of Levine, had earlier been retained by Messrs. Cerkez and Meta during their pre-war trip to the United States. Mr. Dodge, however, was unable to make the trip and Mr. Lauren alone met with Mr. Malaxa in Istanbul in January, 1946. Mr. Malaxa and Mr. Lauren agreed, as a basis for discussion, upon the organization of a mixed corporation, which would lease all or part of Mr. Malaxa's factories for the purpose of carrying on such operations, in which the American interests would have a 22-1/2% interest, Mr. Malaxa would have a 55% interest, and the Russians would have a 22-1/2% interest. The reason for including the Russians as participants in the venture was that, through the Allied Control Commission and their Communist colleagues in the Rumanian Government, they were in a position to interpose an effective veto upon the organization and commencement of business of any large new industrial enterprise in Rumania, such as that contemplated by Mr. Malaxa and in which American interests would be represented. In the light of the conditions existing at the time (less than a year after Yalta and while high hope still survived for the fulfilment of the Yalta pledges for international cooperation), Mr. Malaxa was hopeful that, despite such enforced Russian participation, the American investment in the new enterprise and the American technicians who would necessarily proceed to Rumania in order to assist in its development would help to build up Rumanian industry and help preserve and strengthen the economic influence of the United States in Rumania. Mr. Lauren told Mr. Malaxa that he would submit this proposition to the United States State Department upon his return to the United States. Mr. Malaxa, upon his return from Istanbul, gave a full account of the scheme to Mr. Emil Kekich, the American Commercial Attache, to be forwarded by the latter to the proper authorities in Washington. Nothing ever came of the scheme, however.

Col. MacGlasson was not able to find any other potential American investors in Rumanian industries, and eventually his authority as Mr. Malaxa's agent was terminated, upon the payment of substantial sums to him and to an associate of his as compensation for their efforts, such as they were. Mr. Lauren, who had assisted Col. MacGlasson, also brought suit in the United States courts against Mr. Malaxa, alleging that Mr. Malaxa had promised him a large fee for his services, which was eventually settled by the payment of a substantial amount to Mr. Lauren.

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IV. ACTIVITIES IN THE UNITED STATES

Economic Mission to the United States

During 1945 and 1946 many Rumanians believed that Rumania would survive Russian occupation and that once the peace treaty was signed Rumania would once again be a free and independent country. Mr. Malaxa shared those views and was further convinced that close economic cooperation between Rumania and the United States was essential if Rumanian industry was to be reestablished. Mr. Malaxa frequently discussed such matters with Mr. Emil Kekich, the U. S. Commercial Attache in Bucharest, who gave Mr. Malaxa encouragement and support in his efforts to achieve Rumanian-American industrial collaboration. Before Mr. Malaxa came to the United States in 1946, to further his efforts for such collaboration, Mr. Kekich assisted him considerably in the preparation for his trip and in furnishing letters of introduction. (Exhibit 30.)

The idea of an Economic Mission to the United States of which Mr. Malaxa would be a member had originated in 1945 with Ion Bernacki, who was general manager of the state railroads. Mr. Bernacki called on Mr. Malaxa and stated that he desired to go to the United States and there seek credits with which to rebuild the Rumanian railroads, and asked Mr. Malaxa if he would join him. Mr. Bernacki stated that he had already discussed his project with Max Ausnit, who had agreed to the proposal. Mr. Malaxa stated his willingness to join the mission.

A memorandum (Exhibit 31) was prepared and submitted to the Government, outlining the possibilities of obtaining credits in the United States, which referred to an article published by Mr. Kekich in the Rumanian press early in 1946, and to the article in the June, 1945, issue of Readers' Digest by Eric Johnston. The mission was approved in principle by government officials. Gheorghiu-Dej, a prominent member of the Cabinet, called Messrs. Malaxa and Ausnit and informed them that they might go to the United States to undertake preliminary negotiations, but without authority to speak for or to commit the Government. At the suggestion of Mr. Ausnit, who was President of the American-Rumanian Chamber of Commerce, it was decided that the mission should be as a delegation from that organization, the purpose of the mission being to foster commercial relationships between Rumania and the United States. The mission so constituted

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cont

received the assistance of the American representatives in Bucharest. (Exhibits 32 and 33.) The members of the mission left Rumania in June, 1946.

En route to the United States Mr. Malaxa stopped in Paris for two months, where the Peace Conference was in session. Despite the wranglings and difficulties of the Paris conference, it still appeared possible that Rumania could pull through. The treaty would guarantee "the enjoyment of human rights and of the fundamental freedoms ***" and secure the country against "discriminatory legislation and restrictions thereunder" and prevent the "denial to the people of their democratic rights." Rumania was not Communist and the small minority which had seized power would be out once the promised free election should take place. But, as we now know, the promised free election did not take place.*

A Basis for Rumanian-American Industrial Collaboration

Promptly after his arrival in the United States on September 29, 1946, Mr. Malaxa set about the accomplishment of the objectives of his visit: to secure technical cooperation of American concerns in the rebuilding of Rumanian industry, an achievement, the accomplishment of which would have been, in the opinion of Mr. Malaxa and many, the strongest possible defense against Soviet influence. The Armistice Convention, however, had greatly limited the scope of possible trade with the West by diverting to Russia as reparations the greater part of the principal articles of Rumanian export, such as oil products, grain and timber. Accordingly, any substantial trade with the West had to be in new industrial products or as a result of increased industrial production, and Mr. Malaxa devoted his energies to exploring possibilities in that direction and seeking collaboration with American companies to create new industrial enterprises in Rumania. Within a few weeks Mr. Malaxa was in negotiation with various American companies and had retained engineers to make studies of possibilities of development of Rumanian resources, particularly its large deposits of natural gas and its great fields of reeds and rushes in the Danubian delta country. A brief outline of the principal of such activities is set forth below. Mr. Malaxa's efforts to interest American companies in Rumanian development came

* Bishop and Crayfield, ^(C. J. ...) "Russia Astride the Balkans", pp. 258-263, gives an interesting description of the "elections" of November, 1946.

Based on newspaper accounts

to an end late in 1947 when the Russian Communists came into full power, King Mihai was forced to abdicate and the Iron Curtain was drawn over Rumania.

Clearance from Department of State

Mr. Malaxa realized that accomplishment of his objects and of his various projects for their achievement would require, if not the specific approval of the United States Government, at least its tacit consent, and he, therefore, kept the U. S. State Department at all times informed as to his plans and projects. As already noted, he, while still in Rumania, had been in close touch with Mr. Emil Kekich, the Commercial Attache of the American mission in Bucharest. Later, in Switzerland, while enroute to the U. S., he discussed his plans in considerable detail with Mr. Thomas C. Blaisdell, Assistant for International Trade to the Secretary of Commerce.

Promptly after his arrival in this country, Mr. Malaxa, through his attorneys, Messrs. Pehle, & Lesser and Mr. Randolph Paul, communicated with the appropriate officials of the State Department, and such attorneys were informed, after extensive discussions with such officials, that the Department, on the basis of the available facts, would have no objection to Mr. Malaxa's undertaking industrial and other operations in the Americas. (Exhibit 34.)

International Harvester

Soon after his arrival, Mr. Malaxa commenced negotiations with International Harvester Corporation with a view to effecting arrangements for the manufacture on a considerable scale in Rumania of tractors and other agricultural machinery produced by that Company. This would have been a new industry for Rumania, but Mr. Malaxa believed that his factories and personnel were capable, with the assistance of American technicians, of producing such equipment successfully.* After long negotiations Mr. Malaxa and

* Improvement in the standard of living of the Rumanian peasantry has been a cause to which Mr. Malaxa has devoted much time and given liberally over a period of years. (See below under Political Activities.) During his enforced leisure from business affairs under the Antonescu regime, Mr. Malaxa devoted his time to a study of agricultural machinery and methods of making such machinery available to the Rumanian peasantry, who in most cases had very small plots of land, individually too small to support machinery. Also, Mr. Malaxa has always felt that the peasantry constituted the backbone of Rumanian

International Harvester executed an agreement dated August 25, 1947, which licensed the Malaxa factories to produce tractors and other implements using International Harvester's designs and in accordance with International Harvester's standards. (Exhibit 35) The U. S. State Department, to which the agreement was submitted, indicated it had no objection thereto. (Exhibit 36) Under the agreement American specialists were to be sent to Rumania to assist in getting the operation under way. In view of the way political events were developing, however, a provision was inserted in the agreement that, as a condition to its becoming effective, the Rumanian Government should guarantee that the Malaxa factories would not be nationalized during the 10 year period of the agreement, and that International Harvester should have an option to purchase participation in the Malaxa corporations. The Government refused to give any such assurance and consent, and accordingly the agreement never came into effect. (Exhibit 37.)

Roumanian-American Economic Corporation

As a corporate vehicle for his efforts in order to further economic relations between the United States and Rumania, Mr. Malaxa caused Roumanian-American Economic Corporation to be organized under the laws of New York on May 19, 1947. Mr. Malaxa subscribed for most of the shares of the common stock of the corporation which were originally issued, Lehman Brothers subscribing for the balance; and shares of preferred stock were issued to Bethlehem Steel Company and General Electric Company. The firm of Lehman Brothers furnished valued assistance to Mr. Malaxa in the formulation of his plans, and Mr. Frank J. Manheim, of such firm, became a Vice-President of Roumanian-American Economic Corporation.

Handwritten notes:
 Messrs. Malaxa & Manheim
 to contact & persuade
 23 July 1947
 Malaxa was
 introduced to
 Bethlehem Steel
 Re. terms of contract
 learned a bit
 they refused to
 further develop

The corporation was instrumental in negotiating a proposal by Bethlehem Steel Company in the fall of 1947 to furnish certain oil well equipment needed by the Rumanian oil industry, at prices lower than were quoted by any other prospective supplier. The Rumanian Government rejected this proposal.

democracy and the strongest possible bulwark against Communism. Accordingly, Mr. Malaxa's efforts during his early months in the United States were directed to the establishment of an industry to manufacture agricultural machinery in Rumania.

In October, 1947, the corporation formally submitted to the Rumanian Legation in Washington a letter outlining the purposes of the corporation, and setting forth various projects for economic collaboration between the United States and Rumania which were being explored by the corporation, such as railroad electrification and the development of natural gas as a carburent. (Exhibit 38) No apparent notice, however, was taken by the Rumanian Government of these proposals.

Industrial Inter-Trade Corporation

In the fall of 1946, soon after his arrival, Mr. Malaxa retained Industrial Inter-Trade Corporation, of New York, N. Y., the principal officers of which were two engineers, Messrs. Nicholides and Hagigogu, to investigate certain technical problems in connection with increasing the use in Rumania of the abundant natural gas supplies for the production of various products. Among the chief possibilities suggested by Mr. Nicholides was that of manufacturing formaldehyde for industrial uses, a compound which was at the time in very short supply and presented export possibilities in view of the large demand of the United States plastic industry. The investigation showed, however, that expected increased production from existing sources of supply would be likely to meet in the near future all demands for formaldehyde against which possible Rumanian production would be at a competitive disadvantage. The inquiry into this possibility was, therefore, dropped. The same firm also listed and investigated certain other projects. The services of such firm were terminated about December 31, 1946. (Exhibit 39.) The investigation on behalf of Mr. Malaxa of possible uses of Rumanian natural gas, particularly its possible use in the manufacture of formaldehyde, has been seized upon by some, greatly magnified in importance and given a sinister purpose. This investigation has apparently been distorted into a charge that Mr. Malaxa was endeavoring to build a formaldehyde plant in Rumania for the Russians.

Ebasco Services Inc.

Thereafter, Mr. Malaxa retained Ebasco Services, Inc., the engineering subsidiary of Electric Bond & Share Co., to make similar investigations; in particular to examine into possibilities for use in Rumania of natural gas. Another investigation conducted by such firm concerned the possible production of cellulose from the reeds and rushes in the Danube

Delta. Mr. Malaxa hoped that a possible use might be found for the abundant supplies of reeds and rushes and that they might be turned into a source of wealth to Rumania, particularly as practically all the existing timber exports were earmarked for shipment to Russia as reparations payments. The Ebasco investigation did not, however, produce any specific projects for further consideration.

Other Projects

Mr. Malaxa also negotiated for the purchase in the United States of machinery for the manufacture of steel tubes, similar to the facilities seized by the Russians, and also for the purchase of steel pipe for natural gas transmission and distribution. Due to the extreme shortness of supply of such materials in the United States, Mr. Malaxa was unable to acquire any such machinery or any pipe for export to Rumania.

Mr. Malaxa also negotiated unsuccessfully with Chrysler Corporation with a view to his establishing a factory in Rumania for the assembly of Chrysler cars and trucks for resale in Rumania and possibly in other Balkan countries.

Medex Inc.

Shortly after his arrival in the United States, Mr. Malaxa caused to be organized a corporation, known as Medex, Inc., under the laws of the State of New York, to engage in foreign trade. This corporation was organized as a vehicle for handling any Rumanian merchandise which might become available through the issuance of export permits pursuant to the authorization of June 6, 1946, mentioned above under "Collection of Tube Mill Indemnity and Conversion into Dollars". Substantially the only business done by this corporation was the making of certain contracts with corporations controlled by Mr. Max Ausnit, as hereinafter mentioned, with respect to products covered by one export permit actually obtained and another permit promised but not obtained.

Unfreezing of Mr. Malaxa's United States Accounts

As already noted, Mr. Malaxa had, immediately prior to the outbreak of the war, sent two of his engineers to the United States with authority to locate and acquire American sources of supply for the steel products needed for the opera-

tion of the Malaxa factories. Approximately \$1,300,000 was deposited at that time in the names of two of Mr. Malaxa's corporations in the Chase National Bank of New York. Upon the blocking in October, 1940, of all Rumanian assets in the United States, these bank accounts were "frozen" pursuant to Executive Order No. 8389, as amended.

In September, 1946, Mr. Bernard Lauren, assuming to act on behalf of Mr. Malaxa, filed an application for a Treasury License authorizing certain transfers of the accounts blocked as aforesaid, and granting to Mr. Malaxa the status of a generally licensed national. Such application was approved and two licenses, Nos. NY 807313-A-T and NY 807313-B-T, were issued. Upon his arrival in the United States, however, Mr. Malaxa observed that the applications in question contained certain inaccuracies with respect to his corporations and returned the licenses to the Federal Reserve Bank in New York, without having used them. Subsequently, through the law firm of Pehle & Lesser, of Washington, D. C., Mr. Malaxa again applied for a Treasury License unblocking the cash and securities in the blocked accounts in the Chase National Bank, and a license to that effect (No. NY 834337-T) was issued by the Treasury Department on April 28, 1947: (Exhibit 40). The Treasury Department subsequently confirmed to Pehle & Lesser that the license had been issued because it had been satisfactorily shown that these bank accounts were beneficially owned by Mr. Malaxa, who, as an individual, was among the class of persons whose property it was then the policy of the Treasury to unblock, to wit, a victim of Nazi political persecution during the war. (Exhibit 41)

1947 Relief Loan to Rumania

Soon after his arrival in the United States, Mr. Malaxa participated in negotiations for the granting of an immediate loan for the temporary relief of the Rumanian people who were suffering heavily as a consequence of two years of drought in 1945 and 1946 which had exhausted all available grain supplies in that country. Mr. Malaxa sought to be of assistance in the negotiation of a loan in order to purchase United States corn and also the necessary seed for the 1947 crops. In this connection Mr. Malaxa consulted Messrs. Pehle & Lesser in Washington and Mr. Allen Dulles of Sullivan & Cromwell in New York. The question of the loan also involved the disposition of a supply of Rumanian gold bullion which had been blocked in the United States, at least part of which consisted of gold which at one time had belonged to various

allied countries from whom it had been looted by the Germans and later turned over by them to Rumania in payment for supplies. Because the Rumanian Legation in the United States did not have sufficient funds available for the purpose, Mr. Malaxa paid a retainer of \$10,000 to Messrs. Pehle & Lesser for the account of the Legation.* As a result, in large part, of Mr. Malaxa's efforts, the Chase National Bank in early 1947 did make a loan of \$12,500,000 to Rumania for the purpose of purchasing feed and foodstuffs in the United States, which supplies arrived in Rumania in time for the next harvest and succeeded in substantially relieving the acute distress in that country.

End to Mr. Malaxa's Efforts to Promote Rumanian-American Economic Relations

In December, 1947, the Communist Government, having consolidated its position through force and fraud, determined to proceed without delay to the completion of its plans to remodel Rumania upon Soviet lines, and felt sufficiently powerful to sweep away the monarchy, last remnant of previously independent Rumania to which Mr. Malaxa remained loyal and owed allegiance. King Mihai, soon after his return from the Royal wedding in London, was summoned to Bucharest and bluntly informed that his abdication was in order. Since the Palace was surrounded by Communist troops, there was nothing that the King could do but accede, and he was shortly, together with the Queen Mother and the other members of the royal family, placed on a special train and deported from the country. Thereafter, the complete Sovietizing of Rumania into a "People's Republic" could proceed without any effective obstacle.

Mr. Malaxa was then forced to acknowledge that there was no further possibility for the time being of countering Communist infiltration into Rumania through the fostering of economic relations between Rumania and the United States, and the consequent building up the standard of living of the Rumanian people. All of Mr. Malaxa's various proposals, to which he had devoted much time and effort and considerable expense, had, in any case, been rejected in toto by the Rumanian Government.

*The Rumanian Government has never repaid the amount of this advance to Mr. Malaxa.

He was handicapped, however, in taking any public position against the Communist regime in his country because of the fact that his wife and his son still remained there, as well as several of his principal associates in his enterprises. He realized that their lives would be increasingly in danger as the process of Sovietization continued. Through intermediaries, he asked the Rumanian Government for permission for his wife and son, and for his associates, to leave the country, in consideration for his giving up his plants. He informed the State Department, through his attorney, Mr. Thomas K. Finletter, of his intentions in this regard (Exhibit 42). No agreement was ever reached.

In April, 1948, Mr. Malaxa's wife and son escaped from Rumania, and after several adventures, including hiding for several days without food under a pile of lumber upon a ship in the harbor at Constanza, they were able to reach Istanbul, where Mr. Malaxa had arranged for funds to be made available to them so they could proceed to Switzerland.

The Rumanian Government decided to complete the process of abolition of capitalism in that country, and, on June 11, 1948, the Grand National Assembly, without debate, passed a law providing for the nationalization of all industries in Rumania. Such indemnities as were provided were to be paid only from future profits of the industries, the amount to be set by commission of three carefully selected magistrates from whose decision no appeals would be permitted. It was explicitly provided, however, that no indemnities would be paid to any persons who had left Rumania clandestinely and to those Rumanians who failed to return after the expiration of the validity of their travel documents. Mr. Malaxa, of course, was among those aimed at by this provision.*

Subsequently, on September 30, 1948, the Presidium of the Rumanian Grand National Assembly decreed that the Rumanian citizenship of Mr. Malaxa and of his son should be revoked. (Exhibits 43 and 44.) All property belonging to Mr. Malaxa and to the other persons named in such decree was declared confiscated. In usual dictatorship fashion, the confiscations were preceded by attacks and charges in the Rumanian Communist press.

A few of Mr. Malaxa's principal associates have succeeded in escaping from Rumania. Mr. Malaxa has not heard from any of the others, and he presumes that they have been thrown into prison.

* For a summary of the Nationalization Law of Rumania, see Doman, Postwar Nationalization of Foreign Property in Europe, 48 Columbia Law Review 1125, 1154 (1948). The U.S. Department of State has officially notified the Rumanian Government that such law does not provide prompt, adequate or effective compensation, and that this Government, therefore, would not recognize the validity of seizures of the properties of U.S. nationals thereunder. (N.Y. Times, March 18, 1949)

Establishment of United States Business

After Mr. Malaxa became convinced of the futility of further efforts to promote Rumanian-American business endeavors, he turned his attention to establishing or becoming a participant in a United States business enterprise. While he has made considerable investigation concerning manufacturing possibilities and concerning particular business enterprises which might be purchased in whole or in part, because of the uncertainty in his status created by the expiration of his visitor's visa, and the campaign of mis-statements which have been made against him, Mr. Malaxa has felt unable to make any definite commitments to date. He desires, of course, to invest in, and to assume all or a part of the management of an enterprise in which his abilities and skill as an engineer and as an industrialist could be utilized. He feels that if he can place his undivided attention upon the creation and in the building up of an industrial operation, he will be able thereby not only to contribute to the welfare of the United States through increasing industrial production, but also to be in a position to help in the struggle against Communist tyranny by assisting financially or otherwise the victims thereof.

Mr. Malaxa has also investigated the possibilities of making investments in iron and steel works and related industries in various parts of Latin America, but up to the present, due in part to the uncertainties of the situation in those countries, he has not committed any of his funds there.

V. GENERAL

Present Status in the United States

Mr. Malaxa entered the United States at New York, N. Y., on September 29, 1946, on a non-immigration visa No. 670 issued on August 7, 1946, by a U. S. Vice Consul in Paris, France. Mr. Malaxa was in possession of Rumanian Passport No. 023526 issued to him April 15, 1946, expiring on April 15, 1948. He secured various extensions of his stay in the United States until August 15, 1948. Application for further extension of his temporary stay was denied July 30, 1948, by the District Director of the New York office of the Immigration and Naturalization Service.

On June 21, 1948, application was made on behalf of Mr. Malaxa by Mr. Thurman Arnold and Mr. Thomas B. Shoemaker to the Attorney General for consideration under the bills relating to the admission of displaced persons into the United States for permanent residence. (Exhibit 45) Early in August, 1948, identical bills were introduced in both Houses of Congress by Senator Baldwin and Representative John Davis Lodge (S. 2942 and H. R. 7160, respectively, 80th Cong., 2d Sess.) authorizing and directing the Attorney General to record the lawful admission for permanent residence of Mr. Malaxa as of September 29, 1946. (Exhibits 46 and 47)

In September, 1948, Mr. Malaxa filed with the Department of Justice, Immigration and Naturalization Service, an application on the form provided for applications by displaced persons residing in the United States to adjust their immigration status. Action on such application is pending.

Political Activities and Affiliations

Mr. Malaxa was not a politician and has at no time taken any active part in politics. He was, however, over a period of many years a substantial financial contributor to the National Peasant Party and at times, and to a lesser extent, to the National Liberal Party. Since the war, Mr. Malaxa has given his full support to General Radescu and at the present time is assisting the Rumanian group headed by General Radescu. At all times Mr. Malaxa was a supporter of the Royal Family and was consulted by the King, particularly on matters relating to the development of Rumanian industry. Gossips have frequently implied that Mr. Malaxa had some special standing or relation-

*Not found
by 2/2/50
H. S. S.*

*The mention of
contributions
which account
to present time*

44

ship with the King or the Royal Family. He does not believe that he had any special standing, relationship or recognition beyond that of a loyal subject who was also an active industrialist engaged in the management and operation of large plants which constituted a substantial part of the Rumanian industrial economy.

Just the same

Mr. Malaxa not only supported the National Peasant Party by making substantial financial contributions, but gave his personal support to the leader of the Party, Dr. Iuliu Maniu,* a friend whom Mr. Malaxa greatly admired. This personal relationship was implemented by the fact that Dr. Maniu's nephew, Mr. Ionel Pop, was Mr. Malaxa's closest business associate and generally considered as Dr. Maniu's successor as the head of the party. Mr. Malaxa was also a close friend of Mr. Ion Mihalache, the Vice-Chairman of the National Peasant Party. Both Dr. Maniu and Mr. Mihalache were recently condemned to life imprisonment by a special Rumanian court on charges of collaboration with the Western Allies.

During the German occupation it was charged that Dr. Maniu and the National Peasant Party had received financial backing from the Allies and an "investigation" was ordered by Antonescu. In order to avoid difficulties in respect of any unaccounted for funds in the possession of the National Peasant Party, it was arranged between Dr. Maniu and Mr. Malaxa that Mr. Malaxa would accept responsibility for all contributions to the National Peasant Party for which the Party did not have

Where did these funds actually come from?

*Reuben H. Markham, for many years the Balkan correspondent of the Christian Science Monitor, in "Rumania Under the Soviet Yoke" (1949) describes Dr. Maniu as "one of the noblest democratic leaders of this generation". Markham states (pp. 78 et seq.):

What has the subject to do with Malaxa? Example of sympathy, indicating Malaxa too was a noble democratic leader.

"Far more influential during the decades of the 1930's and 1940's than the old Liberal Party was the National-Peasant Party, under the leadership of Iuliu Maniu and Ion Mihalache. *** though suppressed, [it] is still the principal democratic force in the face of foreign and native despotism. ***

"The name and activity of Maniu became synonymous with the Rumanian struggle for social advancement and nationality rights. ***"

other records. As a result, the Antonescu government was unable to create the intended pretext for action against Dr. Maniu and the National Peasant Party.

Another example of the position taken by Mr. Malaxa in regard to political affairs, and particularly with respect to pressure for Rumanian-German collaboration in the late 1930's, is illustrated by the following events: In March, 1939, a German economic mission went to Bucharest and presented several secret demands to the Rumanian Government, the effect of which would have been to make Rumania subservient, in economic affairs, to Germany. Upon learning of these demands, Mr. Malaxa protested and was invited to express his views at a special meeting of certain of the cabinet ministers called for that purpose and presided over by the King. At that meeting he vigorously opposed the proposals, but in view of a subsequent ultimatum delivered to the Rumanian Government by the German representative, he decided, notwithstanding the personal risk to himself, to communicate the proposals to the British Government, which was promptly done through the Rumanian Minister in London. The German demands were permitted to "leak" into the newspapers, and the ensuing publicity is believed to have been a contributing factor in causing the Chamberlain government to abandon its appeasement policy. (Exhibit 48.)

Can this be verified?

Soon after the armistice, General Radescu became head of the Rumanian Government and continued in that position until he was forced out of office by Vyshinski. During General Radescu's term in office, and subsequently, he has had the closest support and assistance from Mr. Malaxa, including assistance in connection with his escape from Rumania and financial aid since that time. A copy of an affidavit of General Radescu is annexed hereto as Exhibit 49. Mr. Malaxa believes that an organized Rumanian group outside of Rumania is important for the future of that country and has supported General Radescu in his organization of the "National Committee of Rumanians" under his leadership. In this connection Mr. Malaxa is working in association with Mr. Grigore Gafencu, an outstanding author, Rumanian diplomat and former Foreign Minister. Mr. Malaxa understands that the United States Government has not objected to the formation of that committee, but the formation of such committee was opposed by a number of Rumanians presently in the United States who energetically sought to thwart its organization by any means available, including personal attacks upon Mr. Malaxa as its financial supporter.

Was it not the President who suggested Radescu to us?

They did not push to show that - if anything - Malaxa is not a supporter.

46

Max Ausnit and Walter Winchell.

In Rumania the rivalry between Mr. Malaxa and Mr. Ausnit was well known and by some has been characterized as a "feud". They were the dominant figures in the Rumanian steel industry and their respective companies flourished. By Ausnit, at least, that "feud" has been carried to the United States and intensified, for reasons hereinafter mentioned, as typified by an article, believed to have been inspired and instigated by Ausnit, published by Walter Winchell on February 26, 1948. Except that that article is absurd on its face, it contains falsehoods exceeded in grossness only by the malice which inspired them. Mr. Malaxa has declined to resort to rebuttals in kind.* The differences between Mr. Malaxa and Mr. Ausnit are wholly irrelevant for the purposes of this memorandum. However, it is necessary to state them herein, and to set forth their background and the sequence of relative events, in order to show the source and purpose of the campaign against Mr. Malaxa which is typified by the scandalous attack published in the column of Walter Winchell. The "feud" divides itself into three phases: (1) The difficulties in Resita, of which Mr. Ausnit was the active managing director until shortly before his conviction and imprisonment in 1939-40 for, among other things, embezzlement and larceny of the funds of Resita during the period 1931-39 (a consequence for which Mr. Ausnit apparently endeavors to blame Mr. Malaxa), (2) the refusal of Mr. Malaxa to participate in American-Roumanian

* Shortly before their departure for the United States, Mr. Malaxa and Mr. Ausnit were separately talked to by Mr. Emil Kekich, the U. S. Commercial Attache in Bucharest, regarding their visit to the United States and their proposed endeavors to bring about American-Rumanian economic collaboration. Mr. Kekich specifically urged Mr. Malaxa and Mr. Ausnit, when in the United States, carefully to guard against any possible revival of their differences, and in particular Mr. Kekich advised against any public utterances, direct or indirect, of one against the other. Mr. Kekich explained that any such disagreement between the members of the mission, being the two leading industrialists of Rumania, would greatly prejudice the success of the mission and adversely affect possible future economic relations between Rumania and the United States. Mr. Kekich has confirmed such conversations to counsel for Mr. Malaxa.

Trading and Development Corporation, a United States corporation organized by Mr. Ausnit after his arrival in this country to promote Rumanian-American trade, and (3) Rumanian political rivalry. As noted above, Mr. Malaxa is a supporter of General Radescu who has become the leader of the committee recently formed to represent Rumanians outside of Rumania. Mr. Ausnit has opposed General Radescu and the formation of a committee to be headed by General Radescu.

Difficulties in Resita

In 1932 or thereabouts, Mr. Malaxa and Mr. Ausnit joined in the purchase of approximately 20% of the outstanding stock of Resita, the principal Rumanian iron and steel manufacturing concern. Such stock was acquired from STEG, an Austrian corporation, and constituted the largest single holding of Resita stock. (See above under "Other Business Interests") Both Mr. Malaxa and Mr. Ausnit were elected administrateur délégués of Resita, although the actual management of Resita was conducted by Mr. Ausnit. In 1936, the Resita shares acquired from STEG by Mr. Malaxa and Mr. Ausnit were transferred to a Monacan company known as "Centrind", formed for the purpose. The shares of Centrind were in turn deposited with a bank in London under an agreement between Mr. Malaxa and Mr. Ausnit providing, in substance, that their respective Resita shares should be held together and voted as a unit, so that neither party could dispose of his shares without the consent of the other. By a Rumanian law of November 8, 1939, such holding and voting arrangements for shares of armament manufacture corporations became illegal, and Mr. Malaxa, as required by such law, applied for and received duplicate certificates for his Resita shares registered in the name of Centrind.

During the summer of 1939, ^{Gusnik} the newly appointed chairman of the board of Resita, (Marshal) Ordareanu, who was Palace Minister, discovered irregularities in the management of Resita. As a result, charges were brought against Mr. Ausnit and he was tried before the Rumanian courts for embezzlement, aiding and abetting forgery, and exporting currency out of the country in violation of regulations. Most of the charges concerned transactions between Resita (effected by Mr. Ausnit as Administrateur Délégué) and corporations owned or controlled by Mr. Ausnit, which made unlawful profits at the expense of Resita. He was convicted and sentenced to six years imprisonment, four years loss of civil rights and ordered to make restitution to Resita of a sum of about \$2,000,000. The decision

of Finance for this purpose. Mr. Ausnit's attorney in the earlier criminal proceedings, Mr. Mircea Djuvara, was appointed Chairman of the Resita Board of Directors, which he managed jointly with Albert Goering. However, when Mr. Ausnit's trial was reviewed pursuant to the above-mentioned arrangements, the court upheld the conviction notwithstanding the government's pressure for acquittal. Then a controversy arose between Ausnit and the Antonescu government as to the fulfillment of undertakings pursuant to such arrangements, and Mr. Ausnit was sent to a concentration camp. He was later freed and some months thereafter he went to Egypt on a Rumanian military plane. Mr. Ausnit returned to Rumania in 1944 after the Armistice, and pursuant to directions from the new communist Minister of Justice, Patrascanu, an order of acquittal was entered in favor of Mr. Ausnit and the management of Resita was again restored to him. He also made an official demand for the return of the shares deposited with the Antonescu government as mentioned above. At about the same time Mr. Ausnit became president of one of the ARLUS sections (Rumanian Association for Rumanian Soviet Development).

Handwritten notes:
 FBI, 21 May 1948
 "persuaded" Ausnit
 to give up Resita
 without a trial
 (1945) (see p. 19)
 Rec. FBI, 14 Apr 1948
 p. 3-19

None of Mr. Ausnit's properties were taken either by the Nazis or by the Communists until the recent general confiscations, and he was probably the only important industrialist in Rumania who managed to retain his properties intact during both regimes.

Several important political leaders in Rumania, who were opposed to the "democratic front" government of Premier Groza which was then in power, notably Dr. Maniu and General Radescu, fearful of adverse effects on the rehabilitation of Rumania from the continuance of the "feud" between Mr. Malaxa and Mr. Ausnit, advised Mr. Malaxa to "settle" all differences with Mr. Ausnit. Discussions took place between them without reaching any result.

American-Roumanian Trading and Development Corporation

Shortly after his arrival in the United States, Mr. Ausnit proposed, early in 1947, the organization of a U.S. corporation to foster trade with Rumania. (Exhibit 50) He proposed that the corporation be capitalized at \$1,000,000 of which \$350,000 would be subscribed by Mr. Malaxa, the same amount by himself and the balance by American corporations interested in Rumanian trade. Mr. Ausnit also proposed that the Rumanian Government would make available to the new corporation approximately \$50,000,000 of gold bullion, which the

corporation could use as security for loans from U. S. banks to provide additional working capital. Mr. Ausnit made repeated efforts to induce Mr. Malaxa to participate in this venture, representing that if it were handled properly enormous profits would accrue to the participants, and referring to the proposed corporation as a "gold mine". Mr. Malaxa refused to participate, on the ground, among others, that he regarded it improper for private individuals to use as capital government funds for their private benefit. After several months of unsuccessful efforts to induce Mr. Malaxa to participate with him, Mr. Ausnit formed his corporation, without Mr. Malaxa's participation, in March, 1947. During the first six months after the arrival of Mr. Malaxa and Mr. Ausnit in the United States the "feud" between them remained dormant and apparently had been left behind in Rumania. Apparently, from Mr. Ausnit's standpoint, Mr. Malaxa was a desired and sought after business associate. However, soon after Mr. Malaxa's final refusal to participate with Mr. Ausnit in his trading corporation, the "feud" was revived by Mr. Ausnit by personal attacks, the commencement of litigation and the filing of scandalous affidavits.

*Malaxa built
corporation
with state funds
(State work)*

*Malaxa, of Rumania
in U.S. in 1947
to do business
with Ausnit
for purpose of
trading - H. 1-1-47*

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*- FBI
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Ausnit Litigation

In June, 1947, Mr. Ausnit commenced an action against Mr. Malaxa in the courts of New York obtaining a warrant of attachment and an order for taking of Mr. Malaxa's testimony before filing of a complaint. In his affidavit in support of that unusual order, Mr. Ausnit stated that Mr. Malaxa was about to leave the United States and that extraordinary relief was therefore necessary. A complaint in that action was never actually filed, but contracts were entered into under date of July 7, 1947, providing for the settlement of the pending action and also providing for the sale by Mr. Malaxa to Mr. Ausnit, through corporations controlled by them respectively, of certain lumber and steel tubes exported or to be exported from Rumania under export licenses obtained or to be obtained. The lumber to be sold pursuant to such agreement was delivered, but the steel tubes were not delivered as a Rumanian export license therefor could not be obtained. In March, 1948, Mr. Ausnit commenced a further suit against Mr. Malaxa claiming damages for failure to deliver steel tubes pursuant to the above-mentioned contract. Mr. Malaxa also commenced a suit against Mr. Ausnit based on failure fully to pay for the lumber delivered pursuant to the contract. Both actions are presently pending in the Supreme Court of New York, examinations before trial of both Mr. Malaxa and Mr. Ausnit being in progress.

Winchell

Winchell's article (Exhibit 51) is entitled "A Balkanazi on Broadway". It is clearly intended as a sensational "smear" and, although obviously false to anyone having any knowledge of the facts, it has achieved its objective of creating suspicion and doubt and, in the minds of many, traducing the name of Malaxa. In the light of the facts set forth in this memorandum, the Winchell canards are shocking indeed. For example, and among the more glaring of his misstatements, Winchell states that Mr. Malaxa "demanded the nazification of the steel industry" and "offered to sell the Nazis his factories". The facts are exactly the opposite. Again, Winchell says that upon the liberation of Rumania, Mr. Malaxa "at once offered his services to Moscow" and "received the complete confidence of the Communists". Whoever received the "complete confidence of the Communists", it was obviously not Mr. Malaxa. In addition to gross falsehoods, Winchell resorts to snide innuendoes, as for example he writes: "Malaxa succeeded in freeing a million and a half bucks in an N. Y. bank, a real feat. *** In any event, Sullivan & Cromwell, the firm of John Foster Dulles, withdrew as his attorneys months ago, as did distinguished Washington counsel." The issue of a treasury license under the freezing order in conformity therewith is hardly a "feat", but Winchell intends sinister implications. The reference to attorneys and the innuendoes created are particularly vicious. Sullivan & Cromwell did represent Mr. Malaxa in one matter, but they did not withdraw and the implications intended by Winchell are wholly unfounded. Mr. Allen Dulles of that firm was the partner in charge of that matter and will gladly confirm to anyone having a proper interest the facts with respect thereto stated herein. The "distinguished Washington counsel" whom it is alleged "withdrew" are unknown to Mr. Malaxa.

The Winchell attack is regrettable, but it serves no useful purpose to repeat his assertions in detail, simply to deny them or correct them. The facts speak for themselves and are fully set forth in their appropriate places in this memorandum.

The Malaxa Prizes

Mr. Malaxa, before the war, was very anxious to create certain prizes, modeled upon the Nobel Prizes, to reward outstanding research and accomplishments in the fields of Philosophy, Pure Mathematics, and Applied Science which were

not covered by the Nobel awards. As a start in his plans for the creation of such awards, Mr. Malaxa, in 1938, set aside funds for the award of the "Malaxa prizes" to be awarded by the Sorbonne for work in the solution of differential and integral equations. A jury of award, including two outstanding French mathematicians, Messrs. Levi-Civita and Villat was appointed, and in 1940, the prize, in a substantial amount, which it was hoped would be the first of a long series, was awarded to Professors Leray and Schauder on account of their outstanding mathematical work. (Exhibit 52)

The war interrupted Mr. Malaxa's plans and, as a consequence of the confiscation of his plants and of his fortune by the Communist Government in Rumania, he has been unable to revive them.