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HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE NO. 1

Application for Nicolas Malaxa
Section 4, Displaced Persons Act

Washington, D. C.

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Section 4, Displaced Persons Act

House of Representatives,
Subcommittee No. 1 of the
Committee on the Judiciary
Monday, February 25, 1952

The subcommittee met at 10:00 o'clock a.m., the Hon. Francis E. Walter (chairman) presiding.

Mr. Walter. The committee will come to order. The matter under consideration is the failure of the subcommittee to include in a concurrent resolution the name of Nicolae Malaxa, which name was submitted by the Attorney General.

Mr. Carusi, if you appear for Mr. Malaxa, we will be glad to hear you point out why we were in error when we did not include his name in the concurrent resolution.

Mr. Carusi. With your permission, Mr. Chairman, we should like very much to have Mr. Berle, who, as you know, requested of this committee an opportunity to give some preliminary impressions of his own on the subject, to do that first, if that is agreeable to you.

Mr. Walter. Of course. Mr. Berle, you understand Section 4 of the Displaced Persons Act gives the Attorney General this authority?

STATEMENT OF ADOLPH A. BERLE, JR.,
APPEARING ON BEHALF OF NICOLAE
MALAXA

Mr. Berle. I understand that.

Mr. Walter. At this point I will insert that section in the record.

"Sec. 4. (a) Any alien who (1) entered the United States prior to April 30, 1949, and was on that date in the United States, or if he was temporarily absent from the United States on that date for reasons which, in accordance with regulations to be promulgated by the Attorney General, show special circumstances justifying such

absence, and (2) is otherwise admissible under the immigration laws, and (3) is a displaced person residing in the United States as defined in this section may, within two years next following the effective date of this Act, as amended, apply to the Attorney General for an adjustment of his immigration status.

"If the Attorney General shall, upon consideration of all the facts and circumstances of the case, determine that such alien has been of good moral character for the preceding five years and that such alien is qualified under the provisions of this section, the Attorney General shall report to the Congress all of the pertinent facts in the case.

"If during the session of the Congress at which a case is reported, or prior to the end of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the granting of the status of permanent residence to such alien the Attorney General is authorized, upon receipt of a fee of \$18, which shall be deposited in the Treasury of the United States to the account of miscellaneous receipts, to record the admission of the alien for permanent residence as of the date of the alien's last entry into the United States.

"If prior to the end of the session of the Congress next following the session at which a case is reported, the Congress does not pass such resolution, the Attorney General shall thereupon deport such alien in the manner provided by law: provided, that the number of displaced persons who shall be granted the status of permanent residence pursuant to this section shall not exceed fifteen thousand.

"Upon the grant of status of permanent residence to such alien as provided for in this section, the Secretary of State shall, if the alien was a quota immigrant at the time of entry, reduce by one the immigration quota of the country of the alien's nationality as defined in section 12 of the Immigration Act of May 26, 1924 for the fiscal year

then current of the next succeeding fiscal year in which a quota number is available, except that quota deductions provided for in this section shall be made within the limitations contained in the first proviso of subsection (c) of section 5 of the Displaced Persons Act of 1948, as amended.

"(b) When used in this section the term 'Displaced Person residing in the United States' means a person who establishes that he lawfully entered the United States as a non-immigrant under section 3 or as a non-quota immigrant student under subdivision (a) of Section 4 of the Immigration Act of May 26, 1924, as amended, and that he is a person displaced from the country of his birth, or nationality, or of his last residence as a result of events subsequent to the out-break of World War II; and that he cannot return to any of such countries because of persecution or fear of persecution on account of race, religion or political opinions."

Proceed, Mr. Berle.

Mr. Berle. I appear here not as an attorney, because I do not take retainers for this kind of thing, but I did know something of Mr. Malan's activities while he was in Rumania while I was Assistant Secretary of State.

I know something of his record that led to his finally getting to the United States, and I know something of the matter which has led to the questions raised before this committee.

I did appear as a witness in the hearings before the Department of Immigration, that is, the Immigration Department. And since I think the record of that committee is before this committee I will not repeat it here.

Mr. Walter. We would prefer you confine your statements to the period subsequent to 1944. We have the files for the period between 1936 and 1944, but we would like to know how this man was able to obtain the necessary exit documents from the Communist government.

In that connection I would like to point out to you that on several occasions this subcommittee has reported bills for the relief of children who are behind the iron curtain, and in no instance where that has occurred has an exit permit been granted.

We would like to know what influence this man had to enable him to leave, when there are so many other people who have been unable to.

Mr. Berle. It is difficult to realize now, but the fact was that the policy of the United States from 1944 through 1947, that is to say, until the Truman Doctrine was announced, was a policy of collaboration with Communist and pro-Communist governments.

From the time when the Germans were expelled from Rumania to about 1947, it was the declared policy of the United States to have a combined front government. That was, of course, a policy that came to an end with the Truman Doctrine, and during that period there was an attempt in the iron curtain countries of today to work out as nearly as possible cooperative solutions. This was assumed to be in consonance with the policy of the allies and with the policy of the United States.

Mr. Malam had had a difficult time. As you know, he had been imprisoned during the period when the Nazis were there. When the Russian armies took over, expelling the Germans in 1944, under the terms of an armistice they had the right to seize certain factories, a very large amount, and charge the bill for compensation to the then Rumanian government.

I think it is of record that the only factory they did seize was Malam's factory, expropriating his steel plant. I think they did that partly because they disliked him and because they wanted the steel factory.

This left Malam a claim in Rumania for his loss, a claim against his own government. The seizure of the factory and the subsequent negotiations was a subject of negotiation between the Rumanian government, which had Communist and non-Communist elements in it, and himself.

Mr. Malam did what I think everybody in the iron curtain countries were doing at the time, endeavoring to find his way as best he could and maneuver.

He did succeed largely through the non-Communist elements in the Rumanian government in getting an exit permit which took him to Switzerland.

I think part of the theory of that was that he might be of use to the Communist government outside in Switzerland. He at the same time hoped to get out his wife and child which, of course, he did not.

Mr. Walter. Where are they?

Mr. Berle. They were in Rumania at that time.

Mr. Walter. Are they still there?

Mr. Berle. No, they finally escaped on the deck of a lumber vessel.

Mr. Walter. When did he obtain his exit permit?

Mr. Berle. As nearly as I can recall, this would be in early 1946. It was partly as a result of the rather tortuous negotiations which the Rumanian government was then having with the Russian occupying force, for a very brief period of time, the party which Malam espoused in Rumania, the party of General Radescu and which he had formed.

That government was eventually overthrown, Malam with it, when Vichinsky came there and said that it was not a friendly government, and at this time General Radescu, who had formed the ministry, and Malam his principal supporter, were in the dog house.

Malam got his exit permit in 1946, and thereafter devoted himself to trying to bribe or ransom his wife and child. I mention that last because it is freely said that he gave gifts to the Communist government. This is true.

He was endeavoring to buy out his wife and his child. The gifts did not accomplish their purpose. At the end of it, with the help, I think, of some of the Americans, his wife and child finally did escape.

to Turkey, concealed under a pile of lumber on a ship. If you call that collaboration, I suppose that is collaboration.

I can only add that the United States has been refused to doing the same thing in the case of the four fliers, so you can hardly blame Malama.

You asked specifically how he got his exit visa. He got it very largely because what was left of the non-Communist elements, who were still permitted some tenuous position in the Communist government, until it was completely communized in 1947, did try to get Malama and his wife out.

It may also be added that in seeking his exit visa he was rather powerfully supported by the American embassy. I recall that Mr. Barnes was the American representative in Rumania, and that Mr. Barnes, who had worked with Malama in the earlier period after the allied armies were in occupation, tried to give him such help as he could.

That, I think, is the story. It is very short and very simple. There is no grave mystery about it.

I would like to say that our then Chief of Mission, Mr. Burton Berry, under date of June 8, 1946, wrote a letter which I would like to put in the record. This is addressed to Mr. Nicolae Malama, Bucharest, and is as follows:

"Dear Mr. Malama:

"I wish to inform you that I have received a telegram from the Department of State that the American embassy in Paris has been authorized to grant you a visa for your trip to the United States as a member of the delegation from the Rumanian-American Chamber of Commerce."

I want to add that the visa was a visa to visit Western Europe as a member of the Rumanian-American Chamber of Commerce, of which Mr. Malama was a prominent member, I believe an officer at the time.

Mr. Walter. At that time was Mr. Malaxa a member of the government?

Mr. Berle. No, he was not. I would like to qualify that in this sense: All of the Rumanian economy at that time was under the government, and it may be that his office in the steel works, of which he was head, could be construed as a government office. It was not a political office of the government.

Mr. Walter. When did the Groza government take over?

Mr. Berle. The Groza government succeeded the government of Radescu. I think it would be March, 1945. I have to check with these dates because they follow closely on the military movements.

Mr. Walter. You do not seriously contend that that was not a Communist government?

Mr. Berle. I do not. I contend it was certainly a Communist government. It was a collaborationist government, united front government. That is to say, non-Communists were permitted in that government and maintained themselves, slowly being eliminated one by one for the next two years.

This was in accord or supposed to be in accord with the so-called Yalta agreement which contemplated united front governments.

The Russians compelled the appointment of the officers they wished in the government, and tolerated for a period of time the others.

Mr. Walter. You were aware of the notes of protest to the government because of the alleged violation of the provisions of the Yalta agreement?

Mr. Berle. Yes, I was in Brazil at the time. I certainly was. I was doing what little I could from the Brazilian government embassy to help along these notes.

I thought the Yalta agreement had been violated almost from the

moment the Russians came in. I would like to say that I do not think it is fair to stick a single individual with the inability to navigate that situation.

I think it is grossly and hopelessly unfair to charge him with having collaborated with the Communists at a period when our own policy was in the making.

On that basis you could exclude almost everybody in all of the Iron curtain countries no matter what their previous record had been.

I feel myself that a very gross injustice has been done. I may add I feel so more strongly because the men who really are responsible very largely for this bringing up of this point are men who themselves have equally collaborated with the previous--

Mr. Walter. Who are they?

Mr. Berle. I think Cretzianu, who appeared before the department of Justice, is really responsible for stirring this up.

You see, gentlemen, this is really nothing but a Balkan intrigue. There is the so-called Boyulist party. That is largely headed by Cretzianu, and who appears as the complainant here, and who is likewise enjoying the hospitality of the United States.

Mr. Walter. You are wrong about that. Nobody is appearing as a complainant. We have uniformly deleted from the lists of names those people who in our judgment are in the United States as a result of some sort of unholy connection with the Communist government. This is not a deviation from that policy.

Mr. Berle. I do not think so.

Mr. Walter. When you say whatever this man's name is, is a complainant you are just as wrong as you can be.

Mr. Berle. I should have qualified that, Mr. Congressman. He was a complainant before the Department of Justice. You will find in the record he appeared to give evidence. It was he who really stirred it

up on the administrative side. I do not mean he stirred it up here.

Mr. Walter. The record that you are talking about is what caused us to take the position that we took. Tell us about him.

Mr. Berle. I have nothing against these men. They are perfectly entitled to push their own point of view if they wish. This is a free country now that they are here.

There is a powerful Royalist Party. It is small. The heads of this at the moment here are Cretsianu, who was Under Secretary of Foreign Affairs at the time when Rumania joined the Axis and later when it declared war on Russia, and his brother, Alexander Cretsianu, in the Iron Guard. One of the Cretsianus is in Canada, and the other is here. There were a couple of others with him.

They are pushing heavily the Royalist cause, which they have a right to do, of course. Malan was a partisan of Radeanu, who is rather on the republican side.

All that has been going on here has been a steady endeavor by the Royalist group to drive out the more republican faction. This is all good clean sport in Rumania, but it has no business in American politics or American law.

Mr. Walter. How is Cretsianu here?

Mr. Berle. He is here on a displaced persons visa. I am not sure that he has been admitted.

Mr. Carusi. He has been approved.

Mr. Berle. It is the same proceeding here. I think this is a case where the two Balkan factions should be told the differences and try to cooperate in getting their own country back instead of indulging in these endless Balkan feuds.

I think it is pretty unfair for Cretsianu, and perhaps he has a good explanation, who was able to hold office in the Nazi government, to come forward and accuse a man of collaboration because he endeavored

to live as best he could in that twilight zone before the Truman Doctrine came about and while we were endeavoring to manipulate the situation with a united front government from 1945 to 1947.

Malenkov did nothing, really, but what practically everybody had to do; in fact, if he had not done what he did, he probably would be dead.

He did have power enough and influence enough to get out, and he spent the rest of his time trying to get his wife and son out. That is pretty nearly the story and pretty nearly all of it.

I may add my own interest in this is very largely as a member of the Committee on Free Europe. We are endeavoring to keep peace in this walled community. We do not want the principle established that one group can get up what, it seems to me, is an abuse of our procedure against another. Eventually they all have to work together if we are ever going to recover these iron curtain countries.

Malenkov was of the conservative side and of the republican side. The Royalists would like him out. I do not see we need pay any attention to that.

I feel myself there is a danger of a grave injustice being done. It is easy today to think that everything is perfectly clear. It is difficult to think back to a time when actually under the Yalta agreement there was the violation.

The men in those countries were trying to accommodate to a government of collaboration. But that was the fact, and that was the fact all the way from the Baltic to the Black Sea.

There are many and many and many men who were endeavoring to accommodate during that situation. During that period, by the way, we were working with a government in Italy which had a Communist minister of interior. It is difficult to remember that now.

I personally do not feel that the mere fact that he was able with

the direction of his influence, and his influence had been great during that brief period when Fidescu had been prime minister, to get himself out on one pretext or another, for the United States to accuse him of collaboration.

He was playing both ends against the middle to save what he could of his fortune, his life and his family. He knew as everyone else did, as the Russian way proceeded there, that these people were all taken to Siberia or death.

They were all doing what they could. I do not see it as collaboration. Certainly as far as the record of collaboration is concerned, the only collaboration that happened is that the Communist government seized his client and took it and closed it right out of there and then left him to get what he could out of a bankrupt Rumanian government. It is hardly evidence of collaboration.

Mr. Walter. Except that was a Communist government?

Mr. Berle. No. You mean--

Mr. Walter. Did not the Communist government reimburse them?

Mr. Berle. I think it was Fidescu's government that reimbursed them.

Mr. Wasserman. Fidescu entered the decree ordering that he be paid.

Mr. Carusi. He was paid by a minister who was not a Communist. When that minister was deposed, the payments were stopped.

Mr. Walter. Do you know who issued the passport?

Mr. Berle. No, I do not. You mean, the Rumanian passport?

Mr. Walter. Yes.

Mr. Berle. No, I do not. I assume that would be issued by the Rumanian foreign officer, or whatever it was. The Communist government at that time had not thrown down the gauntlet in the same sense that it did later.

It was not until in 1947 that the cold war began. They were still playing partly friendly, except in their propaganda. The cold war, as we know it, the time when any collaboration would be across the line, did not begin until a couple of years later.

Mr. Wasserman calls my attention to something I ought to have said, too. The government of Rumania was still the government of the King until 1947.

Mr. Walter. Theoretically!

Mr. Berle. Yes. But the point was that a good deal of the administrative processes were still in the hands of the old group, and it was not thoroughly cleaned out until 1947.

Mr. Walter. There were only these Communist stooges attached to the government of the King?

Mr. Wasserman. The reason I mention that is that I had the feeling from speaking to a number of Rumanians that as long as the King was in office they still hoped for a return to the democratic process.

Once the King abdicated they felt that Rumania was definitely lost to the Communists.

It may well be that the actual situation is as you indicate. But there was still this hope among the Rumanians until the King abdicated. There was testimony in this administrative record.

Mr. Berle. It was a progressive thing. The ministry, that is, the Communist minister came right in after Radescu fell, and it was a slow process of seizure of the government, which became complete in 1947.

Mr. Walter. The thing that interests me about this whole thing is this man that you described as a complainant. The record does not disclose any Nazi affiliations whatsoever. I am just wondering how his status was adjusted.

Mr. Carusi. It is in the testimony.

Mr. Berle. That I cannot understand. I can only say during 1940 and 1941 he was under secretary of state for foreign affairs. That would be, I think, the technical title. It would be secretary general of the foreign office, which would correspond to under secretary of state. He was under secretary of state, and then later secretary general.

This was the period during which, and I am not particularly blaming him for it, because likewise the Nazi compulsion was considerable during that period, June 27, 1940, Rumania gave Bessarabia to Russia under the Stalin-Hitler pact, and still later on July 2, 1943 adhered to the European order of Hitler, the new order, and still later, as you may recall, Rumania declared war on Russia, and on November 23 Rumania adhered to the Tripartite Pact.

I think it is fair to Mr. Cretianu to say that they had a German gun at their heads.

Mr. Walter. That is not the point. The thing that seems so strange to me is that the record is entirely silent as to that phase of his activities.

Mr. Berle. That I cannot say. I have no desire to interfere with Mr. Cretianu's status. I would say that since obviously some mantle of charity has been vouchsafed to him, a similar mantle of charity might be vouchsafed to a man who is saving his wife and family's neck from the Communist regime.

Mr. Walter. I do not think that follows;

Mr. Berle. I do not know that it needs to follow.

Mr. Walter. Two wrongs--

Mr. Berle. Two wrongs do not make a right. I merely mean to say that if the argument of compulsion is applied here, it ought to be applied equally. That is all I have to say.

In Malcom's case I do not see anything that he did that amounts to collaboration except to the extent that paying blackmail may be considered as collaboration.

That is a problem for this committee. But we have not been so considering it. I think that is really the story, Mr. Walter. I feel the Department of Immigration, who sifted this thing with very great care and heard all parties, came to the right conclusion.

I feel that since this committee sits in the nature of an appellate tribunal, unless there is some very real reason for overturning their finding, there is no charge here that it was not made in good faith, then that finding ought to stand, except publicly some of the people who, as you know, made charges have rather handsomely retracted them.

So that I feel that the record as it now stands is such that this committee might well support the recommendation of the Attorney General.

Mr. Walter. Mr. Graham? Miss Thompson? Mr. Keating?

Mr. Keating. Mr. Berle, you were Assistant Secretary of State during that period?

Mr. Berle. I was Assistant Secretary of State from 1938 to the end of 1944.

Mr. Keating. After that--

Mr. Berle. I was Ambassador to Brazil until 1946.

Mr. Keating. And you left the Department in 1946?

Mr. Berle. Yes, I came home after the war.

Mr. Keating. Your statement of American policy after 1944 is based upon what came to your attention as Ambassador to Brazil?

Mr. Berle. Yes. But a little more than that, sir. I had had a great deal to do with the so-called underground movements in the iron curtain countries. When I left for Brazil there was a considerable amount of correspondence that came with me in relation to those movements which would not be technically part of the Brazilian embassy.

Mr. Keating. You took those records with you?

Mr. Berle. No; just correspondence that people would bring to me about various things. I also can add that the King of Rumania had taken refuge--not this King, but Carol--in Brazil.

Mr. Keating. After 1946 did you continue to be conversant with the policy of our government?

Mr. Berle. As much as a private citizen can do, Mr. Keating, yes, sir.

Mr. Keating. No more than that?

Mr. Berle. No.

Mr. Keating. As I understand your argument, it is, in general, as borne out by what you have said in this hearing, that a man should be stigmatized as collaborating with or being sympathetic with the Communists or Communist government because they were endeavoring to follow the then policy of the government which was transmitted through regular diplomatic channels as well as through regular information channels?

Mr. Berle. That is right.

Mr. Keating. That would be a fair statement of your position?

Mr. Berle. Yes. I should like to add here to that, obviously a man could collaborate with the Communists within that policy and do so because he felt like it. But that that of itself, the mere attempt to follow the American line, it would not prove anything, prove collaboration in the sense that it is used in this proceeding.

Mr. Keating. You do not contend that any American authority or American official ever gave any advice to any Rumanian in favor of collaboration with the Communists?

Mr. Berle. I do not think that I could squarely deny that, Congressman Keating. From 1944 on, that is, after the Russian armies were there, unquestionably the policy of the United States was to maintain

the cooperative alliance, which did continue until V-J.

I am inclined to believe that the line taken by the American representatives there was to endeavor to maintain a cooperative working arrangement with all sides.

So, I could not contend that they had never done it.

Mr. Keating: I am sorry. I should have had a time limit on my question. I meant after the middle of 1944.

Mr. Berle: I cannot say when the policy was reversed, changed. No, I do not think they did change the policy immediately after V-J. I think there was a period in there during which it was still hoped that the cooperative relationship of the war would be continued.

Mr. Keating: When was Mr. Malan paid for his factory?

Mr. Berle: Mr. Wasserman, you have the date. I think it was late in 1946.

Mr. Walter: It was July, 1946, according to the record that the Senate committee sent to me. Incidentally, in that connection, do you know of any United States or British firms who were accorded the same kind of treatment?

Mr. Berle: No, I do not. I know they were compensated in black Rumanian currency, if you call that payment. Whether the payment actually was got out I don't know. There were three or four American concerns that did get compensation in Rumanian lay, but getting it out of Rumania is a problem I will not take up.

The compensation was done under the terms of the armistice. The armistice provided that seizures might be made by the Russians by way of reparations.

Under the classic arrangement, the Russians took in kind and left it to the Rumanian government to settle the bill. Those bills were settled in black lay.

Mr. Malan got his; others got theirs. Mr. Malan was able to get

his out in greater or lesser degree. I do not think I can testify that the American interests got theirs out or not.

I think probably some of them have block ley balances there now, if they can get them out.

Mr. Keating. To answer the Chairman's question, you are not able to give us a parallel to the Malama case, where they got paid?

Mr. Berle. I cannot. That is not to say it does not exist; it is to say I do not know about it.

Mr. Walter. He was paid in Rumanian currency also?

Mr. Berle. Yes, Rumanian ley. I think he had to find the best way he could to realize on those ley.

Mr. Keating. He did realize on them, did he not?

Mr. Wasserman. Yes.

Mr. Berle. I think as a practical matter I could only testify to what he told me.

Mr. Carusi. It is in the record.

Mr. Berle. I think you will find he was able to make a sale to Jewish relief, and they paid him a part of the balances.

Mr. Walter. In Swiss francs?

Mr. Berle. Yes.

Mr. Keating. You are familiar with the name of George DeJ, are you not?

Mr. Berle. Yes.

Mr. Keating. He was a leading Communist of the Communist government?

Mr. Berle. He was unquestionably a Communist. How much a leader he was, I do not know. I do not know enough about the Communist hierarchy to know.

Mr. Keating. You know from your wife's experience in this type of work that he was known as a leading Communist of that country?

Mr. Berle. That is true.

Mr. Keating. Are you familiar with the fact that he received a Cadillac automobile from Mr. Malaxa?

Mr. Berle. I certainly am.

Mr. Keating. On what date was that?

Mr. Berle. I do not know. It was after 1946.

Mr. Keating. It was in 1947 or 1948, was it not?

Mr. Wasserman. It was before Malaxa was able to get his wife and child out of Rumania, prior to 1948.

Mr. Berle. I said earlier that Malaxa had made gifts.

Mr. Keating. You know the name "Anna Pauber"?

Mr. Berle. Of course.

Mr. Keating. And you know he gave her jewelry?

Mr. Berle. He did.

Mr. Keating. Along in 1947. What was the date of that?

Mr. Wasserman. I would like to say that my recollection of the testimony in the record is that there is nothing to show that he gave a gift of that character to her at all.

One witness said he thought that he gave a gift to Anna Pauber.

What actually occurred--

Mr. Keating. Mr. Berle has said that he did.

Mr. Berle. This is the story, actually. He gave various gifts to various people. These were not direct gifts. They were to be employed to try to get an exit visa for his wife and for his son.

Mr. Walter. Among the gifts was one to the representative of the Communist government here in Washington?

Mr. Berle. Yes. The entire attempt was to help these accompanying negotiations he had, by which he hoped to get exit visas for his wife and son.

This was blackmail, to put it bluntly. He was trying to buy his wife and son out of there.

Mr. Carusi. In that connection I think we ought to go further and not limit ourselves to the Cadillac and jewelry. He tried to give his entire plants to the government, \$30 million, and did it by direct act. He even employed Thomas Finletter, and called it to the attention of the State Department as to what he was trying to do. The gifts are small business.

Mr. Wasserman. When the matter came up at the hearing, and it was indicated that he had given some jewelry and the Immigration Service did not know all the gifts, we affirmatively brought forward his complete account with Cartier's and submitted it in evidence.

Mr. Keating. Will you be able to tell us whether he did make gifts to Anna Fauber?

Mr. Wasserman. What happened on that is he gave these gifts to Hales, who was the ambassador here in Washington, with instructions that he could use it and give these gifts to whom he saw fit, with the purpose of getting his family out.

We have no knowledge that any of these gifts eventually reached Anna Fauber. They might have. We have no knowledge. And there is no evidence in the record to show that.

Mr. Carusi. We can say this about Anna Fauber: There is only one witness, he was the consul general under this Gross government, representing what we call sometimes the Communist government and sometimes the coalition government--we know what we are talking about; it is the same government--he said, when asked to testify about these gifts, "These were gifts that were given to Mr. Hales."

The examiner asked him, and I wish it was still in the record, who they were for. He said, "For different people over there." He said, "I think maybe Anna Fauber." And the examiner said, "I don't care what you think. What do you know. Strike that out." And that colloquy disappears completely.

He said he did not know and so the colloquy disappeared. I wish it were still there.

Then that same witness in cross examination was asked about it. And he said later that Balan had told him that he had been given some of these gadgets. They were compacts and bracelets and whatnot.

By the way, they keep referring to Cartier's and Cadillac. If they referred to Dunhill, it would probably be less glamorous.

He said he had been given these things, that he had given some of these things to Anna Parker; if he did that was all right, because if Anna Parker was the one to be bought off to get the family, she should have the gifts.

The inference is that it was a friendly gift to the Communists for a sinister purpose. When we checked the man on cross examination those inferences disappeared. He admitted that he had bought the Cadillac with Mr. Malan's money and sent it over. He said he knew about the gifts from Balan.

He also said he would have done the same thing. He said there was nothing improper about the gifts, that there was only one thing wrong with it, they were too small. That you could not buy Communists that cheaply. He said it was too small.

That is how the cross examination changed what this fellow was saying directly. We said, "All right. If Anna Parker got the gifts, there isn't anything in this record to show that she got the gifts. The nearest thing to that is the fact that Balan said, 'I gave these things to Anna Parker.'"

Mr. Walter. Or he kept some of them himself.

Mr. Carusi. We are willing, as far as our argument is concerned, to assume that she got them all.

Mr. Wasserman. The record does not disclose it.

Mr. Carusi. And the witnesses do not know.

Mr. Berle. I think the conclusion is that he was making gifts hoping that these gifts through his intermediary would be used to buy out his wife and son.

I think we can assume that it is fairly foreseeable that Anna Parker was likely to get some of them. She is the worst grafter in Europe, and everybody knows it.

What was going on here was perfectly plain, through an intermediary he was making gifts where he could so he could get his wife and son out of there.

Mr. Walter. I think Mr. Carusi knows better than anybody here that that practice is quite a common one, particularly in the displaced persons program.

Mr. Carusi. It is quite common. The trouble with this case is we are dealing with a rich man and we are dealing with Cadillacs and jewelry.

If he sent over a packet of money, we probably would not know about it.

Mr. Keating. These were made about a year after he had gotten compensation for his factory from the Communist government. Is that right?

Mr. Berle. That is about right, yes.

Mr. Keating. You have read, have you not, Mr. Berle, the book "Speaking Frankly," by former Secretary of State James Byrnes?

Mr. Berle. Yes, I have.

Mr. Keating. Do you remember that Mr. Byrnes complained in that book that the Russians had taken oil drilling equipment belonging to American oil companies in Rumania and had refused to pay any compensation?

Mr. Berle. I do not recall it in the book, that I know that was done, yes, Mr. Keating.

Mr. Walter. When did he sever his connection with the Communist government?

Mr. Berle. Who?

Mr. Walter. Malasa?

Mr. Berle. He never had any connection with the Communist government.

Mr. Carusi. He never was in it.

Mr. Berle. From the moment that his factory was expropriated he had no office of any kind, if he had any office. If you could call it that, it would only be as president of a Russian corporation.

Mr. Walter. The only reason I asked the question--

Mr. Berle. I do not think he ever had any office.

Mr. Walter. We had some information in connection with a private bill that Governor Lodge of Connecticut introduced on his behalf.

I believe it was in the Eightieth Congress, when John Lodge was a member of the House. I think at that time we had information that this man had some official connection with the Communist-Rumanian government.

Mr. Berle. No, I think not.

Mr. Wasserman. No such charge was ever made in the administrative hearing.

Mr. Walter. That is not the fact?

Mr. Wasserman. It is not the fact, to our knowledge.

I might say that he lost his Rumanian citizenship by special decree in 1948.

Mr. Helf. Is the record clear that this man was never a member of the Communist party?

Mr. Berle. Yes.

Mr. Helf. There is no evidence about that?

Mr. Karasi. Not even a charge.

Mr. Wasserman. The sole charge, as we understand it, is one of affiliation.

Mr. Karasi. By contact. There is no charge that he was a member of the party, Nazi or Communist. There is no charge that anybody heard him say something which is consistent with their policies.

Mr. Walter. This bill that was introduced by Governor Lodge in August of 1948 fixed the date of his entry as the 29th of September, 1946, the date he entered the United States for a temporary stay.

I am not certain but I believe Governor Lodge told me the reason why he did not want to press this bill was because he was informed that this man had been sent to the United States by the Rumanian

government for the purpose of arranging for some finances.

Mr. Carusi. That is correct. That was one of the things he did while he was here.

Mr. Walter. When he came here in September, 1940, he came as a representative of the Rumanian government for the purpose of arranging financing in the United States?

Mr. Carusi. He was one of a delegation of businessmen, including some of the complainant witnesses who participated in this thing, and whose cases have been approved here.

Mr. Walter. You say "complainant witnesses."

Mr. Carusi. There is no question about their complaining.

Mr. Walter. Our records do not show that. When you talk about "complainant witnesses--"

Mr. Carusi. I mean, in the administrative hearing. Let us say "hostile."

Mr. Walter. The hostile witnesses came on the 27th of September with this man on the same mission?

Mr. Carusi. No, no.

Mr. Walter. And that since has been adjusted?

Mr. Carusi. Yes.

Mr. Besterman. Who was that?

Mr. Carusi. His was not adjusted in this proceeding. He was admitted as an immigrant under quota. The other whose case--

Mr. Walter. What is that name?

Mr. Carusi. Stenskov. He was the consul general in those governments we are talking about and, as such, did the paper work.

The loan was one approved by the State Department. The President ordered money to be sent to Rumania. The Red Cross went in and this loan was the means by which Rumania was going to help itself. It was worked out by Chase National Bank, who advanced the money.

That was his only function, you may say, on behalf of his government, which, while we may draw fine lines about the actuality of communist domination, so far as the Rumanians were concerned was the government of King Michael.

Mr. Berle. We were collaborating with it. We supported that loan.

Mr. Carusi. When that was finished, he never went back to Rumania and has remained here ever since.

Mr. Walter. The most I see that this man has done is engage in glorified blackmail to get his wife and child out of Rumania.

Mr. Berle. Yes, sir, that is right.

Mr. Vasserman. I would like to say in that respect that even the hostile witnesses in this case testified that Malaxa would be subject to persecution if returned to Rumania today. They are all uniform in the thought that he has been actively anti-Communist during his five year or more stay in the United States.

Mr. Walter. Who can testify to that?

Mr. Berle. I can certainly testify to that from my own knowledge. I have that from Radio Free Europe, which I have organized. Malaxa has endeavored to work with General Hadescu, who is also a fugitive here. During that period he gave considerable amounts of money to support General Hadescu and provide information for Radio Free Europe.

It was Malaxa's money that arranged for the escape of General Hadescu. Actually, he has aided in the escape of a good many other people who are here.

The only novel thing about this case is that perhaps Malaxa happens to be a millionaire. Rising to a word of personal privilege, I have appeared before the Department of Justice for many people who did not have two cents to rub together, and it is a privilege to be able to appear for a man of means.

The amounts ran larger, and the blackmail ran larger. Malaxa,

since he has been here, has occupied his time to maintain the ground around General Radescu.

He has contributed to General Radescu's support. This has been one of the three or four factual points concerning anti-Communism.

I do not think that reflects on the collaborationist qualities of Malaxa himself.

Mr. Chalf. You said a while ago that since he has been in the United States since 1946 he has been more or less all-out anti-Communist and has done, from what you have stated, much to help the fight against Communism.

That is his record actually during the time he has there? I am concerned about that.

Mr. Verle. Malaxa was the chief steel industrialist of Rumania. He was no more a Communist than U.S. or Tom Ardler. In fact, he could class with those groups.

He was the man who had organized the Rumanian steel industry. Actually, he had been a bitter foe, first, of the Nazis as they came in in seeking to maintain the integrity of his own steel plant. And he then supported General Radescu's stand, who was the principal anti-Communist at the time the Russian armies came in.

So much so in fact that the Russian government forced the resignation and eventual flight of General Radescu, and Malaxa went out with him.

This was the one group who most consistently supported the independence of Rumania against either side.

It would be laughable in Rumania to cite Malaxa as a Communist. You might eventually cite John D. Rockefeller as a Communist. It would be just about as bizarre.

He never had anything to do with the Communist government until actually the Communists seized his plant, Radescu deposed his coup-

ation, and then you get this attempt to get out his wife and children and get himself out and save whatever he could of his fortune.

Mr. Keating. Mr. Berle, you do not seriously contend that the Gross government which took over in March, 1945 was not a Communist government?

Mr. Berle. No, sir, I do not contend that it was not fully a Communist government. The Communist strategy on that has always been the same in a number of instances.

They take over certain key points and then gradually move in and step up the process. It usually takes a couple of years.

Mr. Keating. From the time they went in until and after the time when Mr. Malzra was paid this large sum for his factory, he is the only one we know who was so paid.

Mr. Berle. No, that is not true. Others were paid. The question is not whether they were paid, because they were, but the question is whether they were able to get their exchange paid.

Mr. Keating. Paid, in effect, in foreign currency. That is what I meant to say.

Mr. Berle. He was not either. He was paid in local currency and converted it.

Mr. Carusi. After he left the country he got paid and converted it.

Mr. Keating. He had to do that with the cooperation of the Gross government?

Mr. Berle. No. What he had to do was find a way—I do not know that I would call it "bottling"—he had to find a way to maneuver lay outside of Russia.

Mr. Keating. That provided the—

Mr. Carusi. Just a moment—

Mr. Keating. Just a moment with you, Mr. Carusi. I am asking

Mr. Berle a question.

Mr. Berle. I cannot answer that, Mr. Keating. Finding loopholes in foreign exchange is a highly technical business. My impression is what he actually did was to offer this to the Jewish organization which was seeking to finance Jewish refugees to Turkey, and that having done that he left it up to them to arrange to get the exchange out.

That is the story as I get it. I think that is supported by the record.

Mr. Keating. It did require the cooperation of the Cross government at some point?

Mr. Berle. The Cross government then would have to collaborate, if you choose, with the Jewish organization. The then declared policy of the Cross government was to permit a limited amount of Jewish immigration or refugees to Palestine, provided the Jewish organization would pay the expenses of it in ley.

It was up to them to find the ley. Those negotiations, if any, I should assume, although I am only speaking inferentially, I was not there, would be handled by the Jewish organization.

Mr. Keating. It is your contention that the Cross government did not know the reason for getting these ley out of the government?

Mr. Berle. I cannot say as to that. Unquestionably as it started they did not; as it went on they would find out.

That is the usual course of these things. I am speaking inferentially and I could not answer that.

Mr. Keating. I do not understand that you contend that this policy of our government to encourage collaboration with the Communist governments had anything to do with his getting his money out of Rumania. He was not then acting at the instance or urging of our government officials, was he?

Mr. Berle. I do not think that at all. And in saying that we

urged collaboration, I want to be strictly understood. This was the end and as it turned out wholly futile attempt—if I may add, I thought it was a mistaken attempt—to try to maintain the war cooperation after the war was over.

I do not think that his exchange operations by which he got this out had very much to do with that. I think he maneuvered as best he could, as many, many had likewise.

Mr. Keating. Are you familiar with the many, many official notes sent by our government to the Gress government in 1946 bitterly condemning or some of their acts?

Mr. Berle. I am familiar with some of them, because some of them at least I helped to stimulate.

If you mean that the Gress government was treating men fairly at that time, I am prepared to state they were not. Men having Rumanian ley maneuvered as best they could. Some men were able to do it better than others.

It never got far for the American interests, through American government channels, the kind of treatment which I should regard was in accordance with international law.

Mr. Keating. President Truman called the Gress government regime a totalitarian regime forced upon Rumania against the will of the Rumanian people, did he not?

Mr. Berle. Yes, it was so.

Mr. Walter. When was that?

Mr. Keating. March, 1947, in his message to Congress.

Mr. Berle. It is fair to say that that was accomplished in two stages, Mr. Keating.

Mr. Walter. That was six months after this man got this currency?

Mr. Berle. The first was still a collaborationist government, part Communist and part non-Communist. The second was when they began

what they called the purge and fired out substantially all the non-Communist elements. It is the standard practice in Russian technique.

Mr. Keating. This Mr. Cretianu who was under secretary of foreign affairs lives in Canada, did you say.

Mr. Berle. No, it is his brother. His brother was minister of finance. This Cretianu was the secretary and later became secretary general.

Mr. Keating. There is one Cretianu who testified. Which one is that?

Mr. Berle. The under secretary of foreign affairs.

Mr. Keating. In 1940 and 1941?

Mr. Berle. Yes.

Mr. Keating. You spoke of him as a complainant. The fact is he was subpoenaed to appear before the immigration authorities, was he not?

Mr. Berle. Mr. Keating, I think that probably is true. But it must be a matter of common knowledge that Cretianu had been getting propaganda against Malaxa for a couple of years.

I think Mr. Wasserman can tell you why he was subpoenaed. But he had volunteered a great deal of information to the Department of Immigration calculated to prevent Malaxa from getting his immigration visa.

Mr. Wasserman. That is right.

Mr. Berle. As a result of that he was subpoenaed. As in every one of these immigration cases, he had first made a voluntary statement to the immigration officer or investigator.

The idea that he did not volunteer would hardly be consonant with the facts. I do not think Cretianu would claim that. I have nothing against Cretianu. He is entitled to push his Sovietist politics any way he likes, but I do not think he needs to interrupt the orderly processes of the American Immigration procedure.

Mr. Walter. Are there any questions by the members of the committee?

Thank you. Is that everything?

Mr. Berle. I should like to thank the committee for their courtesy. I ought to say one of the reasons that I hope something can be done here is that I feel that this committee is in the singular position of being almost like a public court.

This is a case where the highest considerations of justice have to apply. My fear about this case is less for Malama who, after all, is only one individual whom I happen to know, but it is a fear that all of the intrigues of this so-called community, which has its storms and stresses and reflects the Balkan problems from which it comes, can suddenly change the procedure and become a procedure in politics.

Mr. Walter. I assure you that disturbs us. If it is at all possible to prevent that sort of thing from being done, I can assure you that this committee will do just that.

Mr. Berle. I am very sure of that. For that reason I thank you for the courtesy, because I hope that a precedent can be established that will discourage this kind of thing happening in other cases where the interest is less spectacular.

Mr. Telf. There were no bribes offered or attempted to be given to any of our men?

Mr. Berle. There is one suggestion made. Malama has known slightly Mr. Graham. Graham had visited one of Malama's hospitals attached to one of his plants. When he came here he re-established somewhat that acquaintance. Graham filed a statement in the Immigration proceeding testifying to what he knew of Malama's character.

No money passed and no money is likely to pass, so far as I know. I can state if there is any thought of that, that it can simply be eliminated from this proceeding because I do not think

there is the slightest thing in it.

Mr. Keating. Did Mr. Graham's statement have to do with what he had known of Malaxa since he was in this country?

Mr. Berle. I think that Mr. Graham's statement, which I am not familiar with--

Mr. Walter. Is more of a character reference?

Mr. Berle. Yes.

Mr. Keating. You do not know whether or not Mr. Graham had ever treated him as a physician?

Mr. Berle. Yes, I think he had, here in this country. This is the exhibit: "I have come to know Mr. Malaxa quite well and I do not hesitate to state that I believe him to be a gentleman of integrity, good moral character and of extremely high purpose."

Mr. Keating. Did the affidavit reveal that Mr. Graham had treated him as his physician?

Mr. Berle. I do not recall.

Mr. Wasserman. By recollection is it was a letter and it did not state anything about having treated him as a physician.

Mr. Keating. That was not revealed in the Immigration hearing?

Mr. Wasserman. It did not come up.

Mr. Keating. It was not asked by anyone in the Immigration hearing?

STATEMENT OF HON. PATRICK J. HILLINGS,
A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Hillings. If the committee would agree, I wonder if I might ask one or two questions?

Mr. Walter. This is Congressman Hillings.

Mr. Hillings. My only interest is that all the facts be brought out in this case, all of the facts.

I know it is controversial. From what limited knowledge I have

it seems to me it is extremely important that opportunity is properly given to Mr. Malaxa and those people who are testifying in his behalf to present their case.

I think the committee has been very indulgent in bring in that about. I wanted to ask whether or not you had testified as to the fact that Mr. Malaxa was actually under arrest by the Nazis at the early stages of World War II?

Mr. Berle. I had not because that had not come up in this proceeding.

Mr. Hillings. Is it not true that he was imprisoned by the Nazis?

Mr. Berle. Yes.

Mr. Hillings. What were the circumstances of that arrest?

Mr. Berle. The circumstances were that he had resisted the nazification of his plant. The circumstances were that a minority interest in his plant had been owned in Czechoslovakia.

When the Germans seized Czechoslovakia, they had nationalized and turned over to Goering's brother this minority interest.

Goering's brother then applied to have directors appointed. They were looking toward the taking over of that plant. He resisted that. And later he resisted the Iron Guard bands that were taking over.

When the German sweep was complete, they demanded his turning it over and when that did not happen they put him in jail.

Mr. Hillings. During World War II where did Malaxa spend his time?

Mr. Berle. It was all in jail or a house arrest.

Mr. Hillings. Did he operate his plant at all during the war?

Mr. Berle. Not except--no. He was in jail and they were, I think, endeavoring to put pressure on him to join in operating that plant for German war purposes, and Malaxa resisted that.

Mr. Hillings. Are you familiar with the manner in which Malaxa's wife and child escaped from Rumania?

Mr. Berle. Yes. I have already stated here that bribes or gifts having failed, eventually they were concealed under a pile of lumber on a sailing ship crossing the Black Sea and going to Turkey.

Mr. Hillings. On the question of the charges that Mr. Malaxa may have presented certain bribes to Rumanian officials, which I think he basically admitted, is it not true that our own government actually adopted a similar policy in the case of the American fliers imprisoned in Hungary recently?

Mr. Berle. God forgive us, yes. I do not know if we could have done anything else, but that is the fact.

Mr. Hillings. Would you not say that the real controversy which has brought about the wide-spread discussion, and attention which has been focused on this case, has been due to the conflicting factions of the Rumanian government in exile and their various supporters in this country today?

Mr. Berle. I am perfectly certain that is true. This is an attempt to take some Balkan politics over here in the United States where it has no place, Mr. Hillings.

Mr. Hillings. It is true that an advertising organization was retained by one of the factions of the Rumanian government in exile opposed to Mr. Malaxa, to attempt to discredit him in this country?

Mr. Berle. I understand that is the fact.

Mr. Walter. What is the name of that?

Mr. Hillings. I do not know.

Mr. Berle. It is a company in New York. I have the name.

Mr. Wasserman. I have the name, but I do not recall at the moment.

Mr. Berle. I would be glad to find that out and put it in the record.

Mr. Walter. I think that is important. If that is the fact, I think this committee ought to subpoena these people and find out just exactly what is happening.

Mr. Hillings. Their purpose, in your opinion, is to discredit Malaxa? Then the other faction of the government in exile could have control of this money?

Mr. Merle. I think the primary attempt was to eliminate the Radescu faction and leave the Royalist faction in control of the Rumanian politics.

Secondarily, of course, is the problem or the fact that the Royalist group has funds which were formerly funds of the Rumanian state.

They claim to have that under title of right, that is, they claim to have it as being the successor of the now abdicated Royalist government.

The legality of that claim I do not undertake to pass on here. Obviously, the Radescu government was the last non-Communist government and the last group who would challenge that, as far as it is apparent now.

Mr. Hillings. That is all I have. I want to thank the chairman for letting me ask these questions.

Mr. Messerman. I can find out what agency that is with a phone call.

Mr. Walter. Just see it gets in the record at this point.

(The material is as follows:)

Mr. Westerman. I will supply the name to Mr. Westerman.

STATEMENT OF MONT CARUSI, ATTORNEY
FOR NICOLAE MALAZA

Mr. Carusi. I think in view of the things which have already been discussed this morning I should limit myself to perhaps a slight clarification of the one that caused much of the conversation and give you some of the positive sides of this thing.

The main inferences, I think, are that Mr. Malaza was paid a large sum of money for a plant taken under the reparations convention, and that it may be claimed that he was the only one so paid. I am quoting these words, "he got his money out of Rumania," which presupposes some assistance, knowledge or collaboration, or what have you, with the Communist government.

Mr. Walter. I think we understand that, Mr. Carusi. I think we understand what happened.

Mr. Carusi. Perhaps you do, but it did not come out the way it happened, and I think we owe it to an understanding of this to continue.

There is in evidence the complete convention of reparations, a printed copy of it in Rumanian, and translation, which specifies the terms under which these properties should be taken.

It is signed by the witness who testified about it, with a witness who said that Mr. Malaza was the only man to be paid. It is signed by him. There is an appendix to that convention, which is in evidence, which lists the names of all the people and all the kinds of property, who were paid and which was taken, including Mr. Malaza, and including a lot of other people, totalling payments equivalent of \$50 million, American dollars, for six years, a total of \$300 million, under the terms of the reparations.

When that man under cross examination was then shown this thing, "Yes, I signed the convention. I knew about that, but I did not sign the appendix," which appendix was incorporated by reference in the

body of the main thing, which is our practice in this thing. But he disclaimed what was in the appendix.

When it was pointed out to him, "Don't you say that so-and-so got paid?" "Yes." "So-and-so got paid, too?" "Yes." "And all these other people got paid?" "Yes." "Then do you say that only Mr. Malaxa got paid?" "Yes."

I cannot figure that out, but I leave it to you as to what must have been in the head of that chap.

As for getting the money out of Rumania with the implication that the Cross government might have helped him, he was in this country when the money was put to his credit.

Mr. Jacobson of the Distribution Committee had a lot of work to do in Rumania and needed a lot of money and could not get it.

He did not go to Malaxa or Malaxa to him. He went to the officers who were still in Rumania and arranged an exchange of credits to him by which Malaxa came in control of funds through the AJDC in Switzerland and the AJDC came in control of the Malaxa lay credits in Rumania. There was no getting out of money at all.

As far as Malaxa was concerned, he had nothing to do with it. If there was collaboration, which we do not concede, he was over here and it was done between Jacobson and the Malaxa representatives in Rumania. Jacobson's affidavit is in the record saying that in so many words. The inferences are completely groundless.

Further, with respect to Visciani, he talks about the fact, and there is slight reference to it here, that a Communist, he called him a very important Communist friend of his, in Rumania, at the time Visciani was still in Rumania, told him that Miss or Mrs. Parker and this Gheorghiu-Dej had told the Communists--it is three-handed hearsay--that they were going to give Malaxa some of his confiscated plants back because they expected to get one-half of some compensation that was due him, going to get one-half of it as a pay-off.

That is all he knew about it, what somebody said some man told him, a three-handed hearsay matter. It calls for a complete denial. As a matter of fact, a man who was one of the arbitrators of that compensation basis submitted an affidavit which is here, to the effect that little by little the Communists cut down the amount that was due him for the use of his plants, that was the compensation involved—not the 12 million item—cut it down so that the Russians claimed they had spent that to keep the plants going while in confiscation. So he got nothing out of it.

There was nothing to split in the first place. He do not know who the Communist informant was because Visciani would not give his name because he said he did not want him hurt. He said he was a good Communist, like Tito. I think those were his words.

Be that as it may, there are those inferences but no direct evidence of any kind. Certainly nothing happened that confirms it, and the man who knows, because he was one of the arbitrators, is in this country and says that is exactly what happened.

So we get hearsay upon hearsay upon hearsay upon Communists, and we are supposed to believe all of that.

The gift thing we have gone into pretty thoroughly. He would be willing, even though the facts do not justify it, to say he sent truck loads of gifts over there to get his family out, and we would say that was not collaboration.

As to what actually happened, which we say is completely inconsistent with Communist collaboration, we say this: Point No. 1. He came to this country on this wheat deal, which has been said was completely with the knowledge of the American government. The money was borrowed from Chase National Bank. All above board. All the Russian officials who were in this country participated in it, American law firms participated, the Government of the United States participated, the President sent a contribution direct, the Red Cross

went in and helped, it was all to relieve this famine in Rumania, which any Rumanian should have done.

While he was here he immediately set about to help Iadescu in this Communist fight. He had already helped the government back when it was pretty dangerous to do it.

We have all kinds of affidavits as to how he helped these anti-Communist refugees, gave them money and helped them get out.

His son and wife were not only put under blankets, they were crated on a freighter and sent out in a crate, which does not suggest collaboration.

But further, he by official decree, when he refused to return to Rumania, lost his citizenship. He tried to make these negotiations to turn over his plants, and they kept adding and adding and finally the last thing the Communists insisted on to get his wife and child out before he left was that not only should he turn over the entire plants but the money he had outside of Rumania. That he declined to do, and it became necessary to smuggle his family out.

In other words, his treatment at the hands of the Communists was completely opposite, inconsistent, adverse to the idea of collaboration. He was a victim of it.

He lost his citizenship, lost all his property, because when they did not take the property as a gift they took it from him by confiscation, which they knew they could always do, and which he knew, I suppose.

His own sister, who is the only surviving member, is still in Rumania in prison. We got that information at the time of the hearing.

He was asked by the examiner if he had any family left in Rumania and he said that he had one sister. "What is she doing?" "The last time I know she was in jail. I don't know what has happened to her since."

Since the hearing he got word from a Jewish refugee who got to Israel and who used to be one of his employees how she was convicted of having some dollars in her possession or buying something with dollars.

First she was acquitted, and then there was a furor that she was this man's sister, and she was retried.

Mr. Walter. Where are his wife and son?

Mr. Carusi. His wife and son by steady jumps went from Turkey to Switzerland to Brazil to the United States. They are now in New York, both of them.

Mr. Wasserman. His son-in-law and daughter have had their status adjusted under Section 4 of the Displaced Persons Act.

Mr. Graham. How much real financial loss did this man suffer by the confiscation of his plants?

Mr. Carusi. Between \$30 and \$50 million. Those are the principal effects of what has happened to him under the Communists. They are quite different from the suggestion of collaboration, because if he were a Communist friend or Communist collaborator it would not have been necessary for them to take his naturalization away, it would not have been necessary to give his entire fortune to get his family out. That would have been a matter of courtesy and he would not have had to worry about it.

Kind you, the things that we are saying are all proved by official documents, decrees of the government authorizing the doing of these things to him, and have been put into the record.

This other business about getting his money out and being the only one paid was not only hearsay upon somebody else's hearsay, but you must remember who are making those statements, in the light of what Mr. Barile has said.

And we must remember there is nowhere any charge or accusation that this man was a Communist or talked Communist ideology or anything of that sort, or openly worked with the Communists, or even undercover worked with the Communists. There is nothing of the sort. These are the inferences we have to draw from this hearsay from the documentary evidence.

There has not been anything raised about alleged Nazi collaboration, and I will not burden you with it. It is all in the record, except to say in that case every witness who testified on anything of that sort, and I will mention the Iron Guard particularly to give you an example of the kind of evidence it is, has testified from hearsay, and has testified in direct violation to the proved documentary facts or witnesses who saw what happened.

To give you an idea we will take that business that we hear about his having worked with the Iron Guard. There was a three-day armed feudal insurrection on the part of the Iron Guard. There were claims by two witnesses.

The witness Novotny and the witness Cristianu testified. Here is what Novotny said: "I went to Mr. Malaxa's house. When I came out I saw some Iron Guards outside. I went about my business. I don't know what happened after that, except a secret policeman, whom I will not name, later told me that right after I left Mr. Malaxa invited those people into the house and gave them a lot of guns, and then they went about their shooting."

The fact is, a fact which may be an error, we do not know, of course, whether the secret policeman told him that, and if he told him whether he was telling him for the secret police's purpose.

We know Novotny said that he was trying to dig up all the information he could about Malaxa, that was in the testimony, to use against him in competitive business in which the then Czech, and now American, witness was working.

As a matter of fact, he occupied that position under Coering's brother for two or three years, and was the man who introduced Coering's brother to Malaxa when Coering's brother asked him to introduce him to a prominent businessman.

He went out, dug up Malaxa, and introduced him. The claim was that Malaxa collaborated with the Nazis because he was negotiating with Coering to put certain directors on his company.

In the first place, Gearing was entitled to put on the directors. The fact is he did not acquiesce; he resisted it and wound up in jail.

Mr. Walter. I think the record is abundantly clear on that.

Mr. Casuel. Novotny was one of the three directors that Gearing wanted to put on.

I was going to tell you about the mistake. It so happens that the entrance into Malaxa's home was three days later, not shortly after Novotny left. That is proved by documents.

Then the witness Crețianu said he was one day talking to Antonescu in his ministry, the dictator general, and he picked up a piece of material and said, "I have the material here that will convict Malaxa of Iron Guard support."

Crețianu said that he did not know anything about Malaxa's participation except that Antonescu said, "I have the material right here." He did not see the paper. He did not see what was on it. He so testified.

That is all the evidence to suggest that Malaxa supported the Iron Guard. It is hearsay in both instances. Then what are the facts?

In the first place, the entrance was three days later. The people who did enter were convicted of breaking and entering.

In the second place, Antonescu having arrested Malaxa, appointed a commission, at which I think the minister of justice was the head of at least one of them to inquire into his guilt.

They came out and said that he was guiltless. That was not good enough—the official reports are here; they found him guiltless—so he appointed a second and third commission, and they found him guiltless. Then I suppose he gave up.

But that is an example of how a little bit of hearsay is used to make it sound like something. And when you read the official documents, you find the exact opposite is true.

I will wind up by saying that is true all the way up and down the way, whether it is Communist or Nazi, which, by the way, are inconsistent each with the other.

I think there is one expression of Crețianu when he was trying to show that Malaxa was a collaborator which is informative. He used this expression, "I believe the idea was that he did so-and-so." That is how definite he was on that.

When he was checked on that later, he said one of the men that Malaxa saw on a nefarious mission, which did not take place according to the evidence, was Albert Goering.

When it was pointed out to him that Malaxa had not met Goering until a year and a half later, he said, "I only said I believed it." That is the kind of evidence there is.

I conclude by saying there is positive evidence there is positive hostility between the Nazis and Malaxa and the Communists and Malaxa.

All they did is arrest him for trying to get his business, causing him to have to smuggle his family out of Romania and have the only surviving member of his immediate family in prison, and others disappeared, except two whom he helped escape.

I think that argues very strongly for the idea that we should look at the positive things and not look at the hearsay, opinion evidence of people who, according to Mr. Burke, and according to the whole record of the case, according to their mission are political rivals and enemies.

Mr. Keating. Do you know whether or not Mr. Malaxa has been denied permanent residence in England?

Mr. Carusi. I understand that he asked for a visa and did not get it.

Mr. Keating. And he did not get a visa to Canada, did he?

Mr. Carusi. He testified--no, he did not ask for a visa to Canada. Some of his friends went over there to inquire about it without his knowledge.

Mr. Keating. But he was not admitted to Canada?

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Mr. Carusi. He did not try to be admitted. The inference is bad.

Mr. Keating. Did not his friends say he would be persona non grata?

Mr. Carusi. No.

Mr. Walter. Are there any questions of Mr. Carusi?

STATEMENT OF JACK WASSERMAN,
ATTORNEY FOR NICHOLAI MALAXA

Mr. Wasserman. I would like to point out that I believe, as Mr. Berle does, that you are sitting here more or less as an appellate court, and you should ask yourselves the questions:

Was the decision below clearly erroneous, and was it supported by substantial evidence?

In that connection I would like to point out we had seven days of hearings in July, 1951, 15 witnesses presented oral testimony, and some 75 exhibits were introduced, about 60 of which were supplied by the applicant.

After three weeks of study the hearing examiner concluded that a favorable recommendation was warranted. Then the matter was turned over to the central office.

We had an oral argument there, and they studied the record for about three months and they came to the same conclusion.

I think from what Mr. Carusi has said and what you have been able to glean from the record, you can readily feel, as we do, that the case against Malaxa was built up just the same as the case against Ellen Kasuff, upon hearsay, surmise and suspicion.

In one respect we are better off than Ellen Kasuff, that is, we were able to bring witnesses who knew Malaxa, documentary proof to disprove the charges against him.

We had trustworthy and reliable witnesses: General Rodescu, Captain of Romania, Captain of Romania, Kakich, who is the United States Commercial attaché in Romania, Mrs. Guntner, who is the widow of our minister to Romania who knew Malaxa, Adolph Berle, a man by

the name of Hoyt who is the Executive Vice President of International Harvester, William Dwight Whitney, a well known attorney in New York. Witnesses of that character who testified as to Malan's good character, his opposition to Nazism and his opposition to Communism.

I think the single issue here is not collaboration as we use the term. Technically we use the term "affiliation."

Mr. Chairman, in a letter addressed to the Attorney General on November 17, 1950, you indicated that this committee has a good grasp of the meaning of "affiliation," and that you had that meaning in mind when you drafted the Internal Security Act of 1950.

You said, "According to United States v. Kaiser, 79 Fed. 2d, 115—and you even referred to the Immigration Manual itself—affiliation is defined as a working alliance to bring to fruition the prescribed program of an organization as distinguished from mere cooperation with the organization in its lawful objectives or in the attainment of its wholly lawful aims.

"The word imports less than membership but more than mere sympathy, and includes an element of dependability upon which the organization can rely."

I submit to you that within that meaning of the term "affiliation" there is not the slightest evidence to support the charge that Malan was affiliated either with the Communists or with the Nazis.

Apart from the definition of affiliation I think you should be rightly concerned and ask yourself this question: What kind of man is Malan? Is he the type of man you would want to give permanent residence to?

In that respect you have the affirmative evidence of his activities combating Communism here in the United States. You have the feeling that there is nothing to worry about in having this man turning into a Communist, if there was a suspicion to that effect, because he

has already demonstrated in the United States he is actively anti-Communist.

In addition, looking at the man from his personal point of view, you have a man who is a brilliant engineer and a great industrialist, who will definitely contribute to the welfare and economy of the United States.

I might say that Malaxa has already made contributions to Johns Hopkins University; a group of mathematicians meeting in Cambridge, about 33 of them, known as the International Congress of Mathematicians, signed a resolution asking that Malaxa be permitted to remain here because of his contribution in the field of mathematics, in which he is deeply interested.

So I say that you have a situation where you have a man who is able to demonstrate that he is anti-Communist, he is able to demonstrate that he will help the United States in its economy. This is the type of man whom I say we should permit to remain in the United States.

I do not use this as an argument, but I do feel you might want to consider it. I think nothing would please the Communists more than to see Malaxa deported from the United States, and I do not think we ought to give them that kind of satisfaction. But that is not the controlling factor.

The controlling thing is the type of man you are dealing with. I feel on his record he has demonstrated that he is worthy of residence in the United States; he is worthy of the type of person who will make a good American citizen.

Mr. Walter. Mr. Keating, do you have any questions?

Mr. Keating. No.

Mr. Walter. Are there any other questions? Thank you very much, gentlemen. The meeting is now adjourned.

(Whereupon, at 11:50 o'clock a.m., the hearing was adjourned.)