

THE CIVIL INVESTIGATIONS OF THE FBI

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The words "Federal Bureau of Investigation," in themselves, signify the role of this agency—a *Bureau to investigate* violations of *Federal* laws. The FBI, as the investigative arm of the United States Department of Justice, is charged with the duty of investigating violations of the laws of the United States, collecting evidence in cases in which the United States is or may be a party in interest, and performing other duties imposed by law.

The investigatory activity of the FBI may be divided into four major categories: (1) criminal, (2) internal security, (3) administrative and (4) civil. These categories, of course, are not rigid or unrelated to each other. Investigations may have, for example, both civil and criminal angles or internal security and criminal phases. But, for purposes of discussion, we may use these general designations.

The FBI has primary investigative jurisdiction over more than 390 different criminal statutes;¹ secondary jurisdiction over more than 15 others, specifically assigned by the Congress to other Governmental agencies for primary investigation.² Most of these statutes date from the 1930's,³ when a series of laws, known as the "Federal Crime Bills"⁴ was passed. The nation in these years was gripped by a severe crime wave, when kidnaping, extortion and bank robbery became common occurrences. With the outbreak of World War II numerous other statutes, to meet the exigencies of the times, were passed. Naturally, from time to time, the Congress has amended and extended the coverage of the older laws.

The FBI's responsibilities in the field of internal security stem from a confidential memorandum from the President in the summer of 1939 and a Presidential Directive made public on September 6, 1939.⁵ This Directive

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1. This is the number of separately numbered public laws or code sections. Many of these contain sub-sections. In addition, there are a great number of non-substantive related statutes over which the FBI has jurisdiction.

2. The FBI has the responsibility for the investigation of all alleged violations of Federal law except those specifically assigned to another Governmental investigative agency. The FBI assumes secondary jurisdiction of a statute, when in course of investigating a violation of a law over which it has primary jurisdiction, a violation is uncovered of a statute whose primary jurisdiction is assigned to another Governmental agency. For example, an individual is arrested for the interstate transportation of a stolen motor vehicle and a sub-machine gun, which has not been registered according to the requirements of the law, is found in his possession. The possession of an unregistered sub-machine gun is prima facie evidence of a violation of the National Firearms Act, a statute over which the FBI has secondary jurisdiction. In this instance, however, the FBI would assume full investigative responsibility.

3. The White Slave Traffic Act was passed in 1910; the Interstate Transportation of Stolen Motor Vehicle Act, formerly National Motor Vehicle Theft Act, in 1919.

4. These include, among others, the National Bank Robbery Act; the Federal Kidnaping Statute; and the Federal Extortion Statute. It was not until 1934 that FBI Agents were authorized to carry firearms.

5. The Directive reads:

"The Attorney General has been requested by me to instruct the Federal Bureau of

placed upon the FBI the duty of correlating internal security investigations. Thousands of German, Italian and Japanese aliens, considered dangerous in the event of war, were investigated before Pearl Harbor. An enemy spy ring was broken up;⁶ many enemy agents identified. The FBI, during the war, continued to fulfill its responsibilities: numerous allegations, for example, of sabotage and espionage were investigated; enemy spy activity carefully followed. The post-war period has not witnessed an abatement of the FBI's activities in this field. The troubled international situation and the menace of the Communist Party in the United States have brought an increase in the work of the FBI in the field of internal security.

In addition, the FBI conducts a number of investigations which may be termed administrative in nature, such as applicant and employee investigations, which have arisen as a result of war and post-war conditions. The bulk of the work derives from Acts of Congress or Presidential Orders in which the FBI is specially designated to make security, character or loyalty checks. The Atomic Energy Act of 1946⁷ and the Federal Employees' Loyalty Program⁸ have entailed the greatest number of investigations. In

Investigation of the Department of Justice to take charge of investigative work in matters relating to espionage, sabotage, and violations of the neutrality regulations.

"This task must be conducted in a comprehensive and effective manner on a national basis, and all information must be carefully sifted out and correlated in order to avoid confusion and irresponsibility.

"To this end I request all police officers, sheriffs, and all other law enforcement officers in the United States promptly to turn over to the nearest representative of the Federal Bureau of Investigation any information obtained by them relating to espionage, counterespionage, sabotage, subversive activities and violations of the neutrality laws."

6. In the Frederick Joubert Duquesne espionage case, thirty-three German agents were sentenced in Federal Court, Brooklyn, New York, in December, 1941, to more than 300 years in prison and were assessed fines amounting to \$18,000.

7. 42 U. S. C. §§ 1801-1819 (1946). This Act, approved by the President on August 1, 1946, gives the FBI responsibility for investigating "the character, association, and loyalty" of all Atomic Energy Commission employees and applicants, and of all other persons having access to restricted Atomic Energy data. The FBI is also responsible for investigating all alleged criminal violations of the Act.

FBI investigations under this Act are not made for the purpose of "clearing" or not "clearing" individuals, or passing upon the question of access to restricted data of the Atomic Energy Commission. The FBI does not make recommendations as to whether the individual in question should or should not be employed. These are matters for the decision of the Atomic Energy Commission.

The FBI has absolutely nothing to do with the physical protection of Atomic Energy installations or with the guarding, handling or protecting of Atomic Energy security data, materials or products or the prevention of "leaks" concerning highly restricted information. These are the responsibilities of the Atomic Energy Commission. While the misfiling and loss of secret documents are the primary responsibility of the Atomic Energy Commission, the FBI will investigate where there is an allegation or evidence of theft or misappropriation of such data.

8. On March 21, 1947, the President signed Exec. Order No. 9835, 12 FED. REG. 1935 (1947), outlining procedures for the administration of a Loyalty Program covering all civilian employees and applicants in the Executive Branch of the Government. The order was based on recommendations made by a temporary commission on employee loyalty which the President had created a few months before. It was implemented by a Congressional Act on July 24, 1947.

Under the order, the FBI is required to search through its files the names and fingerprints of all employees and applicants for positions in the Executive Branch of the government, and to report any information indicating disloyalty to the American form of govern-

addition, the FBI, during the 1949 fiscal year, which ended June 30, 1949, for example, conducted applicant investigations of a security nature for a number of other government agencies.⁹

The fourth category, civil investigations, plays an important role in the over-all work of the FBI. The majority of the FBI's activities in this field have arisen as the result of the wartime actions of the Government. Some of the civil statutes, of course, are of long time standing, but the claims, for example, arising from the Government's numerous wartime contracts, the renegotiation statutes, and the disposition of surplus property, have greatly increased the FBI's work load.

Civil investigations, as a general rule, are performed by Special Agents trained in accounting work. These investigations are usually complex, involved and require specialized knowledge. In some instances, for example, the books of a corporation or private individual must be audited, the validity of a claim determined through cost accounting, the value of property ascertained from intricate and often confusing arrays of statistics. The individual, untrained in accounting procedures, would be unable to handle the assignment.

The standards of the FBI, in the selection of its Special Agent personnel, are extremely high. At present, an applicant must be a graduate either from a resident law school and a member of the bar or from an accounting school and possess a Certified Public Accountant's certificate.¹⁰ In addition, before being assigned to field duty, the Special Agent is given a 14-week period of training designed to equip him to handle, quickly and effectively, his obligations as an officer of the law. Special Agents with accounting backgrounds periodically are given specialized training to keep them abreast of current developments in their field.¹¹

ment which is found. If a search discloses information of this type, the FBI conducts full field investigations and submits complete reports.

The FBI has nothing to do with the hiring or firing of employees in other agencies. In the Loyalty Program, as in its Atomic Energy investigations and all other work, the FBI is strictly a fact-finding organization. The facts collected are reported without bias, conclusions, or recommendations. It is the responsibility of the employing agencies and the Loyalty Hearing Boards to weigh the facts and take or decline administrative action.

9. For example:

- European Recovery Program
- Voice of America Program
- National Security Resources Board
- Greek-Turkey Aid and Post UNRRA Bills
- Institute of Inter-American Affairs
- Central Intelligence Agency
- Delegates to International Labor Organization
- Delegates to World Health Organization

10. Before an appointment is made, the applicant, providing he possesses the proper basic qualifications, will be investigated with the object of securing additional proof of his qualifications and fitness for the position, and evidence as to his scholarship, employment, conduct, honesty, character and habits.

11. Legal and accountant trained Agents, in their 12 weeks of initial training, receive identical instruction. After reporting for field work, however, accountants are first assigned to general investigative work. They then assist experienced accountants on accounting cases until they are qualified to handle the work without assistance. General investigative

Civil cases, like all other types of cases, require careful, accurate and meticulous investigation. The function of the FBI is solely and exclusively that of investigation—to obtain, completely and accurately, the facts. The FBI, in most civil investigations, follows specific instructions of the Department of Justice as to the character and extent of the inquiry. At no time does the FBI evaluate, make recommendations or draw conclusions from the results of its investigations. The facts obtained are submitted to the Department of Justice, which decides what action, if any, will be taken.

COURT OF CLAIMS

Suits arising in the Court of Claims of the United States represent, from the point of view of time, some of the earliest civil investigations of the FBI. Today, these suits represent a major share of the FBI's work in this field. Savings to the Government in the amount of \$21,805,750 resulted from decisions in Court of Claims cases investigated by the FBI during the 1949 fiscal year.

The Court of Claims of the United States was authorized by an Act of Congress, approved February 24, 1855,¹² as an administrative court where citizens of the United States might present claims against the United States for damages caused by the United States, its officers or its agents arising from express or implied contracts between them or from regulations of an executive department. Subsequent Acts of Congress have increased the powers of the Court of Claims.¹³

Most of the recent cases have arisen as an aftermath of World War II, that is, claims against the Government brought by war contractors and others who sold goods or built facilities under Government contract. They may be divided into two general classifications: (1) those involving the construction of roads, dams, barracks of war workers' housing projects, airfields and other facilities, and the procurement of war materials, etc., and (2) those involving the government's requisitioning of vessels during hostilities. The claims in general charge the United States with having contributed to delays which resulted in increased costs or with having given inadequate compensation for property seized under emergency proclamations.

The Lucas Act, approved August 7, 1946, resulted in a decided, but temporary, increase in the FBI's work in Court of Claims cases. Under this

experience is absolutely necessary as in many cases books and records are incomplete, have been altered, or even lost or purposely destroyed. The successful investigation of accounting cases requires not only accounting ability, but likewise investigative ingenuity and imagination necessary to bridge the gaps caused by missing records. Many individuals guilty of Federal violations give little thought to the fact that books and records are frequently reconstructed through the availability of collateral records in the possession of individuals not personally involved in the irregularities.

12. 10 STAT. 612 (1855).

13. The general jurisdiction of the Court of Claims was extended concurrently to the District Courts of the United States in cases where the amount sought as damages was not in excess of the sum of \$10,000 (Tucker Act, 28 U. S. C. § 1346 (Cong. Serv. 1948)).

Act, departments and agencies of the Government were authorized, within sixty days of the date of approval, to consider, adjust, and settle equitable claims of contractors, including subcontractors and material men performing work or furnishing supplies or services to the contractor or another subcontractor, for losses incurred between September 16, 1940 and August 14, 1945, without fault or negligence on their part in the performance of such contracts or subcontracts. Settlement of such claims, according to the Act, shall be made or approved in each case by the head of the department or agency concerned or by a central authority designated by such head.

The Act specified, in arriving at a fair and equitable settlement of claims, the respective departments and/or agencies shall not allow any amount in excess of the amount of the net loss on all contracts and subcontracts held by the claimant under which work, supplies, or services were furnished for the Government between the above designated dates.

A claimant, whenever dissatisfied with the action of a Governmental department or agency in either granting or denying his claim, had the right within six months to file a petition with any Federal district court with competent jurisdiction, asking for a determination by the court for the equities involved for such claim. Upon the filing of such a petition, the court, sitting as a court of equity, shall have jurisdiction to determine the amount, if any, to which such claimant and petitioner may be equitably entitled and in turn enter an order directing the Government department or agency to settle the claim in accordance with the finding of the court.

Court of Claims investigations are instituted by the FBI upon specific request from the Department of Justice. These requests may be classified as general and specific:

- (1) General requests include a complete investigation of the books and records of the plaintiff together with an auxiliary examination of the records of Government departments and agencies for the purpose of preparing a complete factual defense of the case.
- (2) Specific requests include the locating and interviewing of certain witnesses; the locating of certain records, the ascertaining of certain basic information with reference to some particular feature of the case at issue.

In one case, rather typical of many, a claim for over \$30,000 was filed in the Court of Claims by a construction company, which had entered a contract for the redesigning and completion of certain Army barracks. The company desired additional compensation. The claim alleged that traffic regulations on the Army base, which required trucks to halt while drilling troops crossed the road, caused both a loss of trucking time and a loss of time to other workmen waiting for the materials on the trucks.

Investigation by the FBI disclosed that, though traffic regulations had been tightened on the base, the alleged loss of time resulting from the

specified points had been grossly exaggerated by the contractors. Records maintained by the company failed to substantiate the claim. The United States Court of Claims, after a hearing, dismissed the plaintiff's petition, which resulted in a substantial savings for the Government.

In another Court of Claims case, arising out of the first World War, and requiring investigation lasting almost two decades, the Government was called upon to defend itself against a claim involving \$15,000,000. The final decision was rendered by the Court of Claims in the Spring of 1949.

On January 6, 1930, a bill was introduced into the United States Senate making a grant of \$15,000,000 to the American Transatlantic Company for the injury sustained by it as a result of the alleged illegal seizure and condemnation as prizes of war by Great Britain of three ships owned by this firm. The seizures in question occurred in October and November, 1915.

The asserted obligation of the United States to compensate for the British seizures was, according to the bill, to be on the basis of an arrangement effected by an exchange of notes between the United States Government and the British Government dated May 19, 1927, by which exchange, the bill said, the United States Government became responsible to its nationals who had been injured by Great Britain.

The Senate, by resolution of May 22, 1930, referred the bill to the United States Court of Claims for hearing and report as to the facts and the amount of money, if any, legally or equitably due from the United States to the claimant.

The pertinent question of fact in the case was this: in October and November, 1915, when the three ships in question were seized by Great Britain, were they owned in substance and reality, though not in form, by Hugo Stinnes, well-known German financier, or were they really the property of their formal owner, the American Transatlantic Company? The legal question revolved upon this point—even if Hugo Stinnes was the real and substantial owner of the ships, was Great Britain justified by international law in seizing them, in view of the fact that they possessed American registry and flew the American flag?

The Department of Justice defended this case in the Court of Claims and called upon the FBI to determine the actual facts and collect evidence supporting the Government's defense. Special Agents of the FBI were required to review thousands of pages of testimony and hundreds of exhibits. In addition, books and records located in Sweden, Denmark, Germany and Holland had to be examined. The investigation was further complicated by these factors: four foreign languages had to be used; numerous transactions were reflected by exhibits, designed solely to conceal their true nature; the complexity of analyzing monetary problems arising from the use of five different currencies, the Norwegian kroner, Danish kroner, Dutch guilder, German mark, and the American dollar.

Continuous and unrelenting investigation, step by step, brought forth the facts. Stinnes, during the pre-World War I period, owned large interests in coal mines and coke ovens. He was the director of many companies and carried on business under various names in Germany, Italy, Russia, Great Britain, the Scandinavian countries and other parts of the world.

The resident manager of one of Stinnes' holdings in Denmark, shortly after the outbreak of World War I, purchased a number of ships. He experienced difficulty in obtaining Danish registry and thereafter made arrangements with an American, whereby the latter would form a corporation to which the purchased ships, bought with money advanced by Stinnes, could be transferred. In 1915 the American Transatlantic Company, the plaintiff company, was organized under the laws of the State of Delaware. Complicated financial transactions then followed. Subsequently, after some difficulty, the new company secured American registry for eleven ships. Shortly thereafter three of the registered vessels were seized on the high seas by British men of war. They were proceeded against as British prizes of war in the High Court of Justice in London. In February, 1918, the High Court decided that the three ships registered in the name of the American Transatlantic Company were lawful prizes of war, as in the court's opinion, they belonged to Stinnes.

Investigation disclosed that the remaining seven ships¹⁴ of the American Transatlantic Company operated profitably. The German Central Purchasing Agency, a branch of which was maintained in New York City, at first used some of the ships of the American Transatlantic Company to transport commodities purchased or arranged for by that agency in this country to Germany, directly or indirectly. The German manager of the New York branch of the Central Purchasing Agency regarded the fleet as "Stinnes' ships" and so referred to them in his communications with Berlin.

Later, after America's entry into the war and the enactment of the Trading with the Enemy Act of October 6, 1917, the United States Alien Property Custodian seized the stock of the American Transatlantic Company on the grounds that the real interest in the stock was owned by a German. In the meantime, the remaining vessels of the fleet were taken over by the United States Shipping Board Emergency Fleet Corporation.

The Court of Claims, after hearing the evidence and reviewing the numerous exhibits, rendered a decision, in May, 1949. The Court concluded that as a matter of law the American Transatlantic Company had no legal or equitable claim against the United States. The petition for \$15,000,000 therefore was dismissed.

14. The eleventh ship, at time of registration, was in the hands of the French Government. The French Prize Court, however, refused to release the ship because of statements of the American Government at the time of seizure that the vessel was owned by German interests.

TORT CLAIMS

The establishment of the Court of Claims, shortly before the Civil War, represented for the first time a judicial remedy, though restricted in nature, for claimants against the United States. The framers of the Constitution accepted, and the Courts have since upheld, the common law doctrine that the sovereign is not subject to suit in his own courts. Therefore, unless Congress waived the sovereign immunity and consented that the Government be sued, no suits could be successfully maintained.

Tort claims, however, lay outside the scope of the Court of Claims. Not until 1946 did the Congress pass an act, the Federal Tort Claims Act, allowing the United States Government to be sued in tort. The passage of this Act has resulted in a decided increase in the FBI's civil cases.

The Federal Tort Claims Act,¹⁵ with certain exceptions,¹⁶ made the sovereign amenable to suit. Section 2674 provided that the United States shall be liable for tort claims in the same manner and extent as a private individual under like circumstances.¹⁷ The Act also authorized administrative adjustment of tort claims where the total amount of the claim does not exceed \$1,000.¹⁸

The FBI, at the request of the Department of Justice, has assumed juris-

15. 28 U. S. C. §§ 2671-2680 (Cong. Serv. 1948).

16. In 28 U. S. C. § 2680, a number of exceptions are listed, wherein the provisions of the Federal Tort Claims Act do not apply. Those most directly related to the FBI's work are as follows:

- (1) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.
- (2) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of the Trading With The Enemy Act, as amended.
- (3) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

17. 28 U. S. C. § 2674, Liability of the United States:

"The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages. If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof."

18. 28 U. S. C. § 2672 as amended by Pub. L. No. 55, 81st Cong., 1st Sess., § 2 (b) (April 25, 1949), 63 STAT. 62, reads in part as follows: "The head of each Federal agency, or his designee for the purpose, acting on behalf of the United States, may consider, ascertain, adjust, determine, and settle any claim for money damages of \$1,000 or less against the United States accruing on and after January 1, 1945, for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred."

Pub. L. No. 55 extended the Statute of Limitations to two years in the filing of a claim against the United States after the claim accrues, or within one year after the date of this Act.

diction for the investigation of all claims or potential claims in excess of \$1,000 except:

- (1) suits brought against government employees in state or local courts and
- (2) special investigations for Congressional committees which are considering legislation for the relief of the plaintiff.

The function of the FBI, in tort claim cases, as in other civil investigations, is to supply the United States Attorneys, who handle the various suits, with facts necessary to conduct a defense of the Government against the claim. Investigation, in many instances, discloses that the claims have been grossly exaggerated or are false in nature. The full facts, after the investigation has been completed, are furnished by report to the United States Attorney. The case goes to trial in the United States District Court unless by previous agreement of the plaintiff and defendant, a settlement is reached and the suit is compromised. In the 1949 fiscal year, savings to the Government in tort claim cases investigated by the FBI amounted to \$5,981,642.

Tort claim investigations, in the truest sense of the word, involve a vivid cross section of everyday American life. The Government, in fact, may be likened to an individual, extremely busy, with many employees, becoming involved in suits arising out of his daily business: automobile accidents; the killing of chickens, turkeys and minks; injuries sustained by slipping on wet steps or tripping over holes in a sidewalk. Sometimes the tort claims involve highly unusual and out of the ordinary circumstances. For example, in one case a fur ranch sued the Government claiming the loss of a number of silver and mutation fox pups, allegedly destroyed by adult foxes which had become frightened by the flying overhead of military aircraft.

A typical tort claim, for instance, was filed recently in a mid-western state. The plaintiff, suing for \$10,000, claimed damages for physical injuries, medical expenses and loss of services, sustained as the result of a fall down the steps of a post office. She alleged that the steps were dangerous, wet, slippery and covered with debris. The subsequent investigation required, among other things, the following: interviewing and obtaining of signed statements from the Postmaster and building custodians; obtaining certified copy of weather report for the pertinent period; interviewing of other individuals who had occasion to use the steps; taking photographs of the stairs; interviewing of plaintiff's superiors at her place of employment; interviewing the doctors who had treated the injuries. The Federal District Judge, hearing the case, found that the defendant, the United States of America, was not negligent.

National disasters, such as explosions, fires, and floods,¹⁹ where the pos-

19. For example, in the Texas City, Texas, explosion, approximately 280 civil suits aggregating more than \$200,000,000 and involving around 4600 plaintiffs have been filed against the United States Government. Legal proceedings, designed to determine whether

sibility exists that the Government might be at fault, also give rise to tort claim cases. In these instances, many suits may be filed, amounting to large sums of money.

The World War II period, especially the Government's efforts to wind up and settle war contracts, caused passage of a number of statutes. Among these matters, which have entailed numerous civil investigations by the FBI, are the following: the Renegotiation Acts; False Claims Statute; Contract Settlement Act; Surplus Property Act; National Service Life Insurance Act; Admiralty Matters; and Alien Property Custodian Matters.

RENEGOTIATION ACTS

The purpose of the Renegotiation Acts is to allow the Government, through certain defined procedures, to reclaim from contractors excessive profits.

The Renegotiation Act of 1942²⁰ was passed on April 28, 1942, and applies to fiscal years ending prior to June 30, 1943. This Act applies to companies whose total contracts exceeded \$100,000 or in the case of brokers whose sales volume for the year exceeded \$25,000. This Act covers contracts and subcontracts with the War Department, Navy Department, Treasury Department, Maritime Commission, Reconstruction Finance Corporation and subsidiaries. The date of April 28, 1942 is of prime importance because the Renegotiation Act of 1942 provides that there shall be renegotiation with respect to all contracts and subcontracts unless final payment pursuant to such contract or subcontract was made prior to this date.

The Renegotiation Act of 1943 was applicable to fiscal years ending after June 30, 1943, and by subsequent amendment was extended until December 31, 1945. The 1943 Renegotiation Act became effective February 25, 1944. Under this Act if the sales volume for a year under war contracts or subcontracts was in excess of \$500,000 or in excess of \$25,000 in the case of brokers then it is subject to renegotiation.

In 1948 the Congress, as part of the National Defense Appropriation Bill for the fiscal year ending June 30, 1948 (the bill being approved May 21, 1948), passed the Renegotiation Act of 1948. This Act was different from its predecessors in that the monetary amount of contracts subject to renegotiation was lowered to \$1,000 and, in effect, the Act specifically stated that renegotiation was applicable only to contracts paid by funds appropriated under the National Defense Appropriation Bill. The Bill stated specifically (Section 3 (a) of the National Defense Appropriation Bill):

"all contracts in excess of \$1,000 entered into under the authority of this Act, obligating funds appropriated hereby, obligating funds con-

the Government was negligent in this instance were started in United States District Court, Houston, Texas, on April 25, 1949 and continued until December 15, 1949. At the time of writing the Judge has not yet rendered a decision.

20. 50 U. S. C. APP. § 1191 (1946) (Passed as § 403 of the Sixth Supplemental National Defense Appropriation Act of 1942).

solidated by this Act with funds appropriated hereby or entered into through contract authorization herein grant and all subcontracts thereunder in excess of \$1,000 shall contain the following article:

'Renegotiation Article:

This contract is subject to the Renegotiation Act of 1948 and the contractor hereby agrees to insert a like article in all contracts or purchase orders to make or furnish any article or to perform all or any part of the work required for the performance of this contract.' ²¹

The 1949 Renegotiation Act, in substance, was the same as the 1948 Act, except that it eliminated the concept of appropriated funds. In addition, the Act re-enacted the basic concept established in the 1942 and 1943 Acts in that contracts or subcontracts with the aforementioned Governmental departments were subject to renegotiation.

Renegotiation Act investigations arise from actions filed by contractors against the "Secretaries" or the War Contracts Price Adjustment Board in the Tax Court of the United States. These suits pertain to instances where a unilateral determination has been made by the Government (through the War Contracts Price Adjustment Board or the Secretaries) as to the amount of excessive profits received by the contractor under renegotiation.

The Department of Justice, in those instances, refers the case to the FBI for investigation. The Department usually furnishes, along with its request, the War Contracts Price Adjustment Board's file, certified copies of all pertinent tax returns and copies of the petitions and answers filed in the Tax Court. In the majority of cases a preliminary investigation is made by the FBI of these records and a report submitted.

After the Department of Justice has received all the pertinent documents, immediate contact is made with the petitioner, to determine if the contractor intends to proceed with his suit in the Tax Court. These contacts or conferences are made before and during the period the FBI is conducting the preliminary analysis of the documents. If the petitioner still intends to proceed with his suit in the Tax Court, the Department attorney to whom the case is assigned suggests to the petitioner that he make a formal request to verify the figures submitted to the Price Adjustment Board. If such a request is then made by the petitioner, the Department will, at this time, request the FBI to conduct a full field audit of the petitioner's books and records.

This investigation, almost exclusively accounting in nature, may be long and involved. The FBI Agent, for example, will attempt, among other things, to determine what percentage of the sales are actually renegotiable and whether the expenses claimed by the petitioner are legitimate and valid

21. It is to be noted in the National Defense Appropriation Bill that for the purpose of administering this Section the Secretary of Defense shall have the right to audit the books and records of any contractor or sub-contractor subject to this Section.

and properly chargeable against renegotiable income.²² The Government is primarily concerned with the profits made on the petitioner's renegotiable business. However, unless total sales are broken down between renegotiable and non-renegotiable sales no determination can be made as to the amount of excess profits earned by the petitioner for the year under review. The period from 1936 to 1939 was established to serve as a guide in determining what percentage of profit the petitioner should be allowed in the renegotiable year under review. For this reason balance sheets must be prepared from the company's books and records for each of the years from 1936 through 1939 and another balance sheet should set forth the average of the various accounts for the four years. For the same period comparative profit and loss statements must be prepared. This, of course, takes into consideration the fact that the company was in existence during these years.

The FBI, upon completing its investigation, submits a report to the Department of Justice. Another conference between Government Attorneys and the petitioner is held in an effort to reach an agreement on the accounting and other factual information. After this series of conferences the matter is then ready for the Tax Court.²³ The FBI Agents, conducting the investigation, in such instances, would testify as to the results of their work.

Renegotiation Act cases investigated by the FBI in the 1949 fiscal year were settled in favor of the Government in amounts totaling \$44,541,305, an increase of 117.2 per cent over the previous fiscal year.

FALSE CLAIMS STATUTE; CONTRACT SETTLEMENT ACT; SURPLUS PROPERTY ACT

Civil actions for false claims against the United States may be brought under Title 31, United States Code, Sections 231-235; Title 41, United States Code, Section 119; and Title 41, United States Code, Section 239.²⁴ The majority of these cases arise out of Fraud Against the Government investigations in which criminal prosecution has been completed.

The False Claims Statute (Section 231) asserts that an individual committing an act prohibited thereby "shall forfeit and pay to the United States the sum of \$2,000, and, in addition, double the amount of damages which the United States may have sustained by reason of the doing or committing such act, together with the costs of suit . . ."

22. Renegotiation regulations indicate that foreign sales except those paid for by the War Department, Navy Department, Treasury Department, Maritime Commission, Reconstruction Finance Corporation, or subsidiaries have been excluded from renegotiable sales.

23. The Department of Justice is authorized to make an equitable settlement with the petitioner. However, not only can the amount, as determined by the Price Adjustment Board, be compromised, but it can be increased. It is the policy of the Department of Justice in making such agreements not to vary the percentage of retained profits, after renegotiation, as previously determined by the Price Adjustment Board.

24. These statutes relative to false claims actions provide for recovery in excess of provable damages. In addition, the United States has the same right which is given to every individual to bring a common law action for actual damages arising out of fraud

The following elements must exist to constitute a cause for action under Title 31, United States Code, Sections 231-235:

- (1) Persons liable to suit must be civilians.
- (2) A claim must be present.
- (3) The claim involved must be upon or against the Government of the United States, or any department or officer thereof. (In conspiracies to defraud the United States, there is no requirement that the claim, whose payment or allowance the conspiracy seeks to achieve, be upon or against the United States.)
- (4) A claim must be false, or fraudulent, or fictitious. (If the claim itself is not fraudulent, the enumerated documents used to aid in obtaining the payment of a claim against the United States must contain a fraudulent or fictitious statement or entry.)
- (5) Knowledge of the false, or fraudulent, or fictitious character of the claim or supporting documents.²⁵

The False Claims Statute, in regard to civil recoveries, served as a pattern for the Contract Settlement Act and the Surplus Property Act. Congress passed the Contract Settlement Act of 1944, effective July 21, 1944, to meet the exigencies caused by the necessary cancellation of some Government contracts. The protean character of war, with its constantly changing needs and requirements, meant that a few contracts already signed and in operation had to be cancelled from time to time. The Act possessed two fundamental principles:

- (1) Businessmen shall be paid speedily the fair compensation which is due them for the termination of their war contracts; and
- (2) The Government when paying out such fair compensation should be carefully protected against waste and fraud.

The pertinent portion of the Contract Settlement Act is Section 19

against it. There is no statute of limitations on the bringing of such action by the United States.

25. The False Claims Statute provides for the bringing of suits by informers, as well as by the United States. When a private party files a suit under the False Claims Statute, service must be made upon the United States Attorney by the United States Marshal. It is also required that a registered letter be sent to the Attorney General and the Attorney General will have sixty days within which a decision must be made as to whether the Government will take over the suit. Such decision will be made by the Fraud Section of the Claims Division, Department of Justice. If the Fraud Section decides to enter appearance in the suit, it is carried on solely by the United States and the Government proceeds in all respects as if it instituted the suit initially. If an award is made, the maximum amount which the court may allow the initial person who filed the suit is ten per cent of the award. The balance goes to the Government.

If the Fraud Section decides not to join the suit and so advises the Court, the person instituting the suit may carry it on and subpoena whatever records are necessary. If an award is made in such case, the maximum amount which the court may allow the person bringing the suit is twenty-five per cent of the award plus the cost of the suit. The balance goes to the Government.

(Title 41, United States Code, Section 119).²⁶ To constitute a cause for action under this section the following elements must exist:

- (1) Any person is liable to suit.
- (2) A claim must be present.
- (3) The claim must be presented, or caused to be presented, to any officer, agent, or employee of any Governmental agency.
- (4) The claim must be false, fraudulent, or fictitious.
- (5) Person or Persons:
 - (a) Have knowledge of the false, fraudulent, or fictitious statement or entry, or
 - (b) Will endeavor to cover up or conceal a material fact, or
 - (c) Shall use or engage in any other fraudulent trick, scheme, or device,
 - (d) For the purpose of benefiting any person in connection with contract procurement, performance, negotiation, cancellation, or termination.

The Contract Settlement Act provides for the Office of Contract Settlement headed by a Director, whose duties and powers are to coordinate the activities of all Government agencies under the Act and to prescribe policies, principles, methods, procedures, and standards to govern the exercise of their authority and discretion.

Termination claims of prime contractors and subcontractors may be settled either by agreement of, or in case an agreement fails to be reached, by determination on the part of the contracting agency. Whenever it may facilitate settlements, the contracting agencies will have power to deal directly with subcontractors or settle all claims of a contractor on an over-all basis. All settlement agreements are to be final except in case of fraud and upon renegotiation to eliminate excessive profits under the Renegotiation Act.

Whenever any war contractor is aggrieved by the findings of a contracting agency on his claim or part thereof he may have at his election:

- (1) Appeal to the Appeal Board.
- (2) Bring suit against the United States for such claim or part thereof in the Court of Claims (or if the amount is below \$10,000 in a United States District Court).
- (3) By arbitration.

The Act specifically provides that when a war contractor has initiated an appeal by one method mentioned above he shall be precluded from initiating proceedings on the same claim by any other method. In other

²⁶ Section 19 of the Contract Settlement Act of 1944, 41 U. S. C. § 101-125 (1946), is applicable to false claims made in connection with contract procurement, performance, payment, settlement and renegotiation matters, as well as in connection with contract termination matters.

words, if he has filed an appeal with the Appeal Board, he is precluded from taking this claim to the Court of Claims. The Act also has criminal provisions.²⁷

Congress has allowed civil actions for false claims in regard to the disposition of surplus property. Title 41, United States Code, Section 239 reads, in part, as follows:²⁸

- "(a) Where any property is transferred or disposed of in accordance with this chapter and any regulations prescribed hereunder, no officer or employee of the Government shall (1) be liable with respect to such transfer or disposition except for his own fraud, or (2) be accountable for the collection of any purchase price for such property which is determined to be uncollectible by the Federal agency responsible therefor.
- "(b) Every person who shall use or engage in, or cause to be used or engaged in, or enter into an agreement, combination, or conspiracy to use or engage in or to cause to be used or engaged in, any fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any payment, property, or other benefits from the United States or any Federal agency in connection with the procurement, transfer, or disposition of property hereunder—
 - (1) shall pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States may have sustained by reason thereof, together with the cost of suit; or
 - (2) shall, if the United States shall so elect, pay to the United States, as liquidated damages, a sum equal to twice the consideration agreed to be given by the United States or any Federal agency to such person or by such person to the United States or any Federal agency, as the case may be; or

27. The criminal provisions of the Contract Settlement Act are 18 U. S. C. §§ 284 and 443 (Cong. Serv. 1948). The functions of the General Accounting Office with respect to termination settlement are:

- (1) The Comptroller General has the function of investigating settlements complained by the contracting agencies for the purpose of reporting to Congress from time to time whether the settlement methods and procedures employed by the agency are adequate to achieve the purposes of this legislation.
- (2) With respect to individual termination settlements, the function of the General Accounting Office is to be confined to determination after final settlement.
 - (a) Whether the settlement payments were made in accordance with the settlement, and
 - (b) Whether the records transmitted to the General Accounting Office warrant a reasonable belief that the settlement was induced by fraud,

Whenever the General Accounting Office believes that any settlement was fraudulent, the Comptroller General is directed to report the facts to the Director of the Office of Contract Settlement (now Administrator of General Services) and the Department of Justice.

28. Formerly 50 U. S. C. App. § 1635 (1946) (Surplus Property Act).

- (3) shall, if the United States shall so elect, restore to the United States the money or property thus secured and obtained and the United States shall retain as liquidated damages any property, money, or other consideration given to the United States or any Federal agency for such money or property, as the case may be . . .

"(d) The civil remedies provided in this section shall be in addition to all other criminal penalties and civil remedies provided by law."²⁹

The Surplus Property Act, which became effective October 3, 1944,³⁰ was designed to assure the most effective use of surplus property for war purposes, if needed, and then to facilitate the transition from war to peacetime production. The Government, in the later stages of the war and after the cessation of hostilities, found itself in possession of millions of dollars worth of surplus property. The FBI since 1944 has been called upon to conduct a great number of investigations, both criminal and civil, under this statute.

The War Assets Administration³¹ was established as the agency primarily designated to handle the acquisition and disposition of surplus property. The Compliance Enforcement Division of that agency was set up to enforce, from an administrative point of view, the regulations provided by the Act or as promulgated by the Administrator of the War Assets Administration.

The principal source of complaints of Surplus Property Act violations is the Director, Compliance Enforcement Division, War Assets Administration (now General Services Administration). Complaints coming to the attention of that Division at Washington, D. C., of a criminal nature are referred to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice. The Criminal Division, if investigation is desired, will refer the case to the FBI. The Compliance Enforcement Division Field Offices, outside the Washington area, if they deem the matter of sufficient urgency, frequently refer the violation directly to the appropriate FBI field division office. The FBI will conduct the necessary investigation and maintain close liaison with the appropriate United States Attorney.

In many instances, after the criminal investigation has been completed,

29. It should be noted that a large number of violations arising out of the disposition of surplus property come within the purview of the general Fraud Against the Government Statutes; for example, 18 U. S. C. § 286 (Cong. Serv. 1948) (Conspiracy to Defraud the Government with Respect to Claims); 18 U. S. C. § 287 (Cong. Serv. 1948) (False, Fictitious, or Fraudulent Claims); 18 U. S. C. § 1001 (Cong. Serv. 1948) (Statements or Entries Generally). Most of the criminal cases arising under the Surplus Property Act involve a non-veteran causing a veteran of World War II to make false statements to the Government in order to obtain surplus property to which the non-veteran is not entitled.

30. The Act was to remain in effect three years following the date of cessation of hostilities, *i.e.*, December 31, 1946.

31. Since the liquidation of the War Assets Administration by Congress, surplus property is now being handled by the General Services Administration.

the Department of Justice will authorize a civil investigation. As a general rule, depending on the facts, of course, the criminal phase is investigated before the civil ramifications.

In all these false claims-civil suits investigations the FBI is interested in obtaining, completely and accurately, all available facts, so that the Government will possess full information in order to defend itself against fraudulent and unfair claims. The FBI investigations are aimed to secure among other things, these major points:

- (a) Proof of the fraud involved.
- (b) Aggregate amount of the fraud which can be included in the civil suit.
- (c) Proof of damages suffered by the Government, if any.
- (d) Itemization of individual claims involved.
- (e) Pertinent details regarding contracts and contract specifications including the type of the contract involved.

WAR RISK INSURANCE; NATIONAL SERVICE LIFE INSURANCE

Another phase of the FBI's work in the civil field pertains to the investigation of claims arising under the Government's program of insurance benefits for World War I and World War II service personnel and veterans (World War I insurance was called War Risk Insurance, later Government Life Insurance; World War II, National Service Life Insurance). The FBI has investigated War Risk Insurance claims for many years. If past experience can serve as an accurate guide for future possibility, the FBI, in the years to come, will be called upon to conduct numerous investigations arising out of the Government's insurance program for veterans of the last two wars.

The United States Government is the world's largest insurance company. At the present time the Government has a total liability of approximately \$42,000,000,000, arising from almost seven and one half million policyholders of World War I and World War II.³² This amount, in rough figures, approximates the present yearly operating budget of the entire United States Government.

For the first time in history, on October 6, 1917, the United States Government decided to provide insurance for members of the military and naval forces.³³ Approximately 90 per cent of the enlisted personnel of World War I availed themselves of the opportunity to obtain protection against the hazards of war by applying for and receiving insurance policies, in most

32. This may be broken down in approximate figures as follows:

World War I	Liability:	\$ 2,153,266,000
	Policyholders	493,900
World War II	Liability	\$40,200,000,000
	Policyholders	6,973,000

33. War Risk Insurance, 38 U. S. C. §§ 511-518 (1946).

instances in the amount of \$10,000. By subsequent legislative enactments and regulations, the holders of these policies were, in the event of becoming totally and permanently disabled, during the life of the policies, entitled to receive from the Government the sum of \$5.75 per month for each \$1,000 of insurance. These payments were to continue for at least 240 months, and as long thereafter as the veteran lived. If the insured died before receiving his full 240 payments, the remaining payments were to be made to his designated beneficiary. Thus, for each \$10,000 insurance policy the Government may be required to pay out a minimum of \$13,800.³⁴

When War Risk Insurance was applied for, premiums were deducted from the monthly service pay, and, upon discharge from the service, the veteran could continue paying premiums to the Government, thus keeping his insurance in force. However, the great majority of them did not avail themselves of this opportunity and their insurance lapsed for non-payment of premiums. Therefore, most of the cases which the FBI is called upon to investigate concern claims that the veterans were rendered totally and permanently disabled by some event which happened prior to the year 1919, because during total and permanent disability premiums were waived and if established would continue the insurance in full force. The majority of cases in recent years involve allegations of insanity as the statute of limitations for filing suits is tolled by mental incapacity.³⁵

Congress, by the enactment of the National Service Life Insurance Act of 1940,³⁶ placed in operation a new system of low-cost life insurance designed for the protection of the dependents of persons inducted into, or examined, accepted, and enrolled in, active service in World War II. This insurance, like War Risk Insurance of World War I, now authorizes the waiver of premiums during continuous total disability and monthly disability benefits (provided an extra premium was paid for this coverage).³⁷

34. On May 29, 1928, Congress authorized total disability benefits (as distinguished from benefits for total and permanent disability) upon payment of an extra premium. The payments to holders of the total disability rider were identical in amount with the payments to insured veterans who were totally and permanently disabled, i.e., \$5.75 per thousand. Thus an insured veteran who had paid an extra premium for a total disability rider was eligible to receive \$5.75 per thousand for total disability and if his disability was considered permanent he was entitled to receive an additional \$5.75 per thousand. As a consequence the Government might be required to pay \$57.50 per month on a policy of \$10,000 and \$57.50 per month on a disability rider, a total of \$115.00 per month for each month the veteran lived after he became totally disabled.

35. The War Risk Insurance originally granted to the veterans during the War was yearly renewable term insurance. Those who kept their insurance in force after the war were required by law to convert it not later than July 2, 1927, into United States government insurance, commonly called converted insurance. In converting the original term insurance, the veterans were allowed to choose among several types of converted policies similar in their provisions to the policies issued by private insurance companies.

36. 38 U. S. C. §§ 801-819 (1946).

37. 38 U. S. C. § 802 (n). Waiver of premiums during continuous total disability; effect on rates and benefits. "Upon application by the insured and under such regulations as the Administrator may promulgate, payment of premiums on such insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability commenced (1) subsequent

Cases arise, therefore, when veterans, or their beneficiaries, file suit in Federal Court claiming benefits. These suits may only be filed after the Veterans Administration has refused to pay a claim. If the suit is filed by the veteran he is generally claiming benefits for disability; if by the beneficiary, the allegation, as a general rule, states that the deceased veteran's policy was in force at the time he died because of waiver of premiums based on disability. The purpose of the FBI investigation, accordingly, is to determine, in reference to the veteran's suit, whether in fact he is disabled: in connection with the beneficiary's claim, whether the veteran actually became totally disabled before his insurance lapsed and continued to be so disabled throughout the balance of his life.

Other types of cases also arise: for example, presumption of death based on seven years' absence, contests between beneficiaries in which the Government is merely a stakeholder, and suits in which the Government refuses to pay the benefits because the beneficiary is seemingly not within the permitted classes of beneficiaries.

In the 1949 fiscal year, in War Risk Insurance and National Service Life Insurance cases investigated by the FBI, total savings for the Government in the amount of \$204,981 were effected.

Investigations in these types of cases are frequently exceedingly difficult. The FBI, in order to obtain the facts concerning the pertinent question, namely, whether the veteran was disabled at a particular time, often must make extensive and detailed inquiries. Frequently, the FBI's investigation is conducted years after the alleged disability occurred: records have been destroyed, witnesses have disappeared, the normal sequence of events com-

to the date of his application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) prior to the insured's sixtieth birthday: Provided, That upon application made within one year after August 1, 1946 the Administrator shall grant waiver of any premium becoming due not more than five years prior to August 1, 1946 which may be waived under the foregoing provisions of this subsection: Provided further, That the Administrator, upon any application made subsequent to one year after August 1, 1946, shall not grant waiver of any premium becoming due more than one year prior to the receipt in the Veterans' Administration of application for the same, except as hereinafter provided. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming benefits under this subsection, and may deny benefits for failure to cooperate. In the event that it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy: Provided further, That in any case in which the Administrator finds that the insured's failure to make timely application for waiver of premiums or his failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond his control, the Administrator may grant waiver or continuance of waiver of premiums: And provided further, That in the event of death of the insured without filing application for waiver, the beneficiary, within one year after the death of the insured or August 1, 1946, whichever be the later, or, if the beneficiary be insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of the waiver of premiums herein provided and no deduction from benefits otherwise payable shall be made on account thereof."

pletely disrupted. An endeavor must be made, piece by piece, to put together, so far as possible, the complete picture.

In one case, for example, a veteran some years ago instituted suit against the Government, alleging that he was totally blind in both eyes and had become permanently and totally disabled before his War Risk Insurance policy lapsed in July, 1918, for non-payment of premium. The Government had reason to believe that the veteran was not acting in good faith. The FBI, therefore, in an effort to elicit the full facts, placed an Agent, under pretext, in the veteran's home as a boarder. The Agent noticed, for example, that the veteran cooked his own meals, acting exactly like an individual with normal eyesight. He served the table, poured coffee from a percolator and moved about the room. In one instance, a little girl had placed a doll in a chair previously occupied by the veteran. Upon returning he noticed the doll, picked it up, and placed it on a nearby table before sitting down. He then glanced at the stove and noticed that it was not in its usual position. He thereupon used his two feet to straighten the stove, constantly watching both his feet and the stove.

Another Agent was assigned to take motion pictures of the veteran's movements and activities. A motion picture camera was installed in an old corrugated sheet iron shed which stood near the plaintiff's home. The Agent saw the veteran leave the rear of his house, walk down the steps, go over to a man working on a car windshield, reach down and pet a puppy police dog, walk over to the fence on the other side of the yard and talk to a man, turn around and reenter the house, walking up the steps without any assistance. Later he came out on the porch again, ran down the steps, and then walked rapidly back up the stairs into the house. The Government presented this evidence in court and a verdict against the veteran was returned.³⁸

In another case, a suit was filed on behalf of a World War I veteran in 1945, claiming that he was insane at the time of his discharge from service (July, 1919) and had continued to be totally incompetent. The Government, if this claim could be substantiated, would be liable for over \$20,000. The FBI's investigation revealed that the veteran, as late as 1943, had worked regularly as a department store supervisor and thereafter secured employ-

³⁸ U. S. C. § 802 (v) (1) Monthly disability payments:
"The Administrator is authorized and directed, upon application by the insured and proof of good health satisfactory to the Administrator and payment of such extra premium as the Administrator shall prescribe, to include in any national service life-insurance policy on the life of the insured provisions whereby an insured who is shown to have become totally disabled for a period of six consecutive months or more commencing after the date of such application and before attaining the age of sixty and while the payment of any premium is not in default, shall be paid monthly disability benefits from the first day of the seventh consecutive month of and during the continuance of such total disability of \$5 for each \$1,000 of such insurance in effect when such benefits become payable: Provided, That in any case in which the applicant while not totally disabled and prior to January 1, 1950, furnishes proof satisfactory to the Administrator that his inability to furnish proof of good health is the result of an actually service-incurred injury or disability, the requirement of proof of good health shall be waived."

³⁸. In another instance the FBI investigated a case wherein a veteran filed suit alleg-

ment as an insurance salesman. His work was regarded as entirely satisfactory. The suit was subsequently dismissed.

The FBI's investigations include many items: for example, employment records, medical data, interviews of friends and relatives, insurance records, tax assessments, drivers' licenses, vocational training data, real estate contracts, marriage certificates, sports activities—any factor which may, directly or indirectly, relate to the case and furnish the Government information upon which to defend the suit properly or, if the facts warrant, to pay the claim.

Many War Risk Insurance cases are terminated without trial.³⁹ Special Agents of the FBI are instructed to call to the attention of the United States Attorney any information obtained in their investigations which indicate a possibility that a nonsuit may be obtained or that the case may be dismissed on a plea in bar. The FBI, at all times, works in the closest possible cooperation with the United States Attorney.

Various other civil investigations,⁴⁰ such as Admiralty Matters and Alien Property Custodian Matters, have arisen as a result of the Government's participation in World War II. The number of cases arising from

ing that his War Risk Insurance was payable because he had been permanently and totally disabled since October, 1918, on account of heart trouble and goiter. The FBI, in its investigation, discovered, among other things, that the plaintiff was operating a farm. A Special Agent drove to the farm and observed the veteran plowing with a team of mules. He was walking behind the plow. Later he was observed carrying, without assistance, several sacks of fertilizer around the field. While the veteran was engaged in spreading the fertilizer, the team of mules broke away. The veteran immediately gave chase to the animals, ran approximately 100 yards in pursuit, and brought them back. He then resumed plowing the field. The Special Agent took several photographs of the plaintiff working in the field.

39. Cases may be terminated in these ways:

- (1) Trial.
- (2) Dismissal on Pleas in Bar.
- (3) Lack of Proper Party Plaintiff: If the veteran is dead suit may be brought by certain close relatives as beneficiaries on the policy, or by the administrator or executor of his estate. It is sometimes found that the person bringing suit as beneficiary, claiming to be the widow of the veteran, was never married to him. The beneficiary claiming as his child may not really be his child. The beneficiary may not be within the close degree of relationship prescribed by the World War Veterans' Act as entitled to recover. If suit is brought by an administrator, there may be no one rightfully entitled to the estate under the escheat laws. In any case in which it is found that the plaintiff has died and suit has not been revived within two years it may be dismissed with prejudice.

(4) Lack of Prosecution.

It is the usual rule of Federal courts that where a case has been at issue and the court and the government attorney have been ready to proceed with the trial for at least one year, but the plaintiff's attorney has delayed action, the case may be dismissed on motion of the Government for lack of prosecution.

(5) Disposition by Nonsuit.

40. The Department of Justice, coincidental with the discontinuance of the Office of Price Administration, assumed (June, 1947) a number of that agency's pending suits. The FBI will accept for investigation requests by United States Attorneys for investigative assistance in cases in which the Government, as plaintiff, has filed action for treble damages against persons and concerns which have violated OPA regulations, provided the amount in the aggregate involves \$1500 or more. No investigations of a criminal nature are conducted.

these matters, compared with the statutes previously discussed, however, require a relatively small percentage of the FBI's investigative time.

ADMIRALTY MATTERS

Admiralty Matter investigations spring from the Government's operation, during World War II, of a number of vessels. The War Shipping Administration directly operated the Government's ships, many of which were leased from private companies. As to be expected, many incidents, perhaps an explosion or a collision occurred, which opened the possibility of suits directed against the Government. The FBI's investigations in Admiralty Matter cases are designed to determine the full facts surrounding the plaintiff's claim so that the interests of the Government can be protected.

In one instance during the war a terrific explosion completely demolished two War Shipping Administration vessels, one of which was loading ammunition, the other standing by waiting to be loaded, adjacent railroad cars, and a major portion of the pier. Many individuals, civilians and Navy personnel, were killed and great property damage was sustained. Total suits in the amount of \$2,475,000 were filed against the Government by the relatives of the deceased members of the crew. The FBI, in investigating these claims, was interested, among other things, in verifying the accuracy of dependency relationships, determining the financial background of each family, and clarifying rival claims or disputes concerning the estates of the deceased.

The Department of Justice, after receiving the results of the FBI's investigation, discussed the matter with the Attorneys representing the claimants. Eventually the suits were settled for \$289,600, or a savings to the Government of \$2,185,400.

ALIEN PROPERTY CUSTODIAN MATTERS

Alien Property Custodian matters, in fact, originated in World War I. The Trading with the Enemy Act provided that authority under the Act should be placed in the Alien Property Custodian. The outbreak of World War II and the seizing of millions of dollars worth of property belonging to enemy aliens by the United States Government placed tremendous responsibilities on the Government. The duties and functions of the Office of Alien Property and the Alien Property Custodian, by Executive Order No. 9788, dated October 15, 1946, were transferred to the Department of Justice.

The FBI presently conducts investigations requested by the Office of Alien Property. These investigations concern the ownership and control of unvested property and of vested property subject to claims and litigation. In addition, investigations are made concerning the misuse or misapplication of property, such as trusts, patents, copyrights, and assets of vested business establishments, under the jurisdiction of the Office of Alien Property.

The suits brought against the Government by persons attempting to recover property vested by the Alien Property Custodian during World War II involve thousands and even millions of dollars. In the 1949 fiscal year, for example, in cases investigated by the FBI the Government effected a total savings of \$3,002,621.

ASCERTAINING FINANCIAL ABILITY INVESTIGATIONS

The FBI has conducted, for many years, investigations of a civil nature designed to ascertain a person's financial ability to pay a claim, fine, or a judgment which has been obtained against him by the United States Government. Many cases of this type will arise from the forfeiture of a criminal bail bond and the failure of the surety to pay his obligations to the Government.⁴¹ In other instances, the debtor will simply plead that he is financially unable to pay the fine or judgment.

In cases where the amount of the fine or other obligation to the United States is \$250.00 or more, and the United States Attorney has exhausted all action at his disposal to collect the debt, the FBI will institute an investigation to determine financial ability. These investigations have one purpose: to determine whether the debtor is or is not financially able to pay his obligations to the Government.

Special Agents, to determine financial ability, frequently are required to conduct extensive investigations. For example, these investigative steps might be necessary: obtaining a record of all property, both real and personal, owned by the defendant; securing a record of all exemptions, homesteads or otherwise as allowed by the laws of the State; knowledge of all business or income from occupation such as salaries, dividends, commissions, earnings from private business ventures or partnerships; inquiries through local credit agencies and banks. Any transfer of property shortly prior to the obtaining of the claim will be thoroughly investigated for the purpose of determining whether the transfer was fraudulent and, in particular, whether the defendant retained any equitable interest in the property.

The results of the investigations are furnished by report to the United States Attorney. Special Agents do not undertake to effect a settlement with the defendant—that is the sole responsibility of the United States Attorney. The FBI, as an investigative agency, is interested only in making available to the United States Attorney the pertinent facts for his use. In the 1949 fiscal year, in ascertaining financial ability cases investigated by the FBI, the Government recovered a total of \$228,072.⁴²

41. If there is an allegation that the forfeited bond was also fraudulent the matter will be investigated as a Bondsman and Surety case.

42. The FBI also assists the Department of Justice in the expediting and handling of Lands Division litigations by supplying technical information and assistance in accounting, auditing, documentary analysis, etc. In addition, the FBI, at the request of the Department of Justice, will perform investigatory services in connection with the location of

The United States Government is today a large entity, interested in many phases of human activity. The exigencies of World War II, the supplying of munitions and equipment for millions of armed personnel scattered around the world, compelled the Government necessarily, in some form or other, to have contact with many private individuals and firms. Naturally, as a result of the Government's manifold activities, both in war and peace time, many suits of a civil (as well as criminal) nature arise. These suits, filed for many reasons, both against and by the Government, should be settled in a fair and equitable manner, to the best interests of both parties.

The Government has many interests to protect. Unless these interests are zealously guarded, it would stand to lose many millions of dollars each year. The Department of Justice and the FBI might be likened, in this connection, to a vast shield, attempting to protect the best interests of the Government. The FBI is the investigative agency—interested solely and exclusively in obtaining the complete and accurate facts concerning each case. The Department of Justice is the prosecutive agency—deciding, on the basis of the facts furnished by the FBI, what action, if any, should be taken. This arrangement, of close and constant teamwork, based on law, carrying out the mandates of the Congress and the President, truly is symbolic of the very best in the democratic tradition of this nation.

parents, witnesses, heirs, etc., and general discovery of facts in condemnation or other civil cases handled by the Lands Division Attorneys or the various United States Attorneys.

The FBI also will conduct investigations in cases where the Government institutes civil suits, acting like a private person, for recovery of damages, etc. These suits, for example, an action instituted by the Government against a person who has damaged a Government vehicle, are miscellaneous and varied in nature. Some may be small and not involved; others extremely complicated and drawn out.