Mrs Copeland
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4 August 18, 1945

4 MEMORANDUM FOR THE ATTORNEY GENERAL

Intrust of

4 Re: Termination of plant seizures.

As you will recall, I talked with you recently about the matter of speedy termination of seizures of property under the War Labor Disputes Act and other authority.

I have conferred with representatives of the agencies which are now holding and operating property so seized. These agencies are: War Department, Navy Department, Interior Department, Petroleum Administration for War, and Office of Defense Transportation. It is the view of all that the plants and facilities still remaining in the possession of the Government should be turned back to their owners as speedily as possible without regard to the question whether productive efficiency prevailing prior to the interruption of production which led to the seizure has been restored. The War and Navy Departments and the Petroleum Administration are about to make such recommendation to the President through the Office of Economic Stabilization or the Office of War Mobilization and Reconversion. As you may know, a conference is scheduled to be held in the Office of the Director of Economic Stabilization at 11 A.M., Wednesday, August 22d to discuss matters of policy relating to termination of these plant seizures, and the interested agencies have been requested to have their representatives present.

The agencies concerned report that, with few exceptions, they would like to return the property immediately to the owners. In some cases, however, it would not be feasible to do so because the financial condition of the owners is such that production or operation would not be continued. This is true with respect to a number of coal mines taken by the Secretary of the Interior under Executive Order No. 9536 of April 12, 1945, and several motor carrier transportation systems taken by the Director of the Office of Defense Transportation under Executive Order No. 9462 of August 19, 1944. In most of these cases the Government has had to advance funds for the operation of the companies, and there will be no claim against the Government for compensation for use of the property.

There are twenty-five Executive orders under which seizure now outstanding were made. All but four or five of these orders contain the following termination provision or a provision substantially the same:

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"Possession, control, and operation of any plant or facility, or part thereof, taken under this order, shall be terminated by the Secretary of War [or other seizing officer] within sixty days after he determines that the productive efficiency of the plant, facility, or part thereof prevailing prior to the existing interruptions of production referred to in the recitals of this order has been restored."

The War Labor Disputes Act, under which most of the outstanding seizures were made, provides that plants, etc., taken pursuant thereto shall be returned to the owners thereof "as soon as practicable, but in no event more than sixty days after the restoration of the productive efficiency thereof prevailing prior to the taking possession thereof." Since the Executive orders do not, as a rule, provide that termination shall be made as soon as practicable, but only upon restoration of productive efficiency, it is questionable whether the seizing officers have authority at the present time to return the plants to the owners unless they can make a finding that productive efficiency has been restored. I understand that such a finding could be made in only a few cases.

I think a speedy solution of the matter could be found in the issuance of an order by the President authorizing the seizing officers to terminate the seizures "as soon as practicable." This would be in accordance with the War Labor Disputes Act under which practically all of the outstanding seizures were made.

I have had prepared and attach for your consideration a draft of a proposed Executive order which, I think, would permit a speedy termination of seizures as desired by the agencies concerned. I suggest, if you agree that such an order should be issued, that the matter be brought to the attention of the Office of War Mobilization and Reconversion and the Office of Economic Stabilization and a copy of the proposed order furnished them for their consideration. Since an order of this kind would not ordinarily originate in the Department of Justice, but in one of the offices mentioned, the proposed order should be formally

presented by the director of one of those offices through the Bureau of the Budget and this Department.

The Navy Department has indicated that termination of three of the plants which it now holds is a matter of considerable urgency, and as above indicated, the other agencies concerned desire authority for speedy termination. Perhaps you would like to take this matter up with Mr. Snyder or Mr. Davis, but if you prefer that I do so I should be glad to discuss the matter with them.

HAROLD JUDSON
Assistant Solicitor General