INDEX—WAR CONTRACT TERMINATION (PART I)

Accounting Principles (see Cost Determination Principles).

Baruch Report*
summary of main points, 445-7; recommendations on disposition of property, 471, note 119; recognition subcontract problems, 525; position on company settlements, 529.

Company Settlements
nature of, 529; laws in existing procedure, 530-2; should not be mandatory, 532; accounting complexities under existing termination clauses, 533; necessity of formula modification, 533; suggested modifications, 533-4; advantages of company settlements, 534-6; minimizing delays, 534; simplifying accounting and audit, 534; coordination with renegotiation, 534-6; obstacles, 536; lack of privity, 536; offsets, 537; double payments, 537-8; determination of remote government work, 538-9; circumstances in which company settlements are not feasible, 539.

Construction Contracts
application of general termination principles, 495.

Cost Determination Principles*
War Department Termination Accounting Manual (TAM), 450; new uniform Statement of Principles for Determination of Costs (text), 511-4; certain includable and excludable costs, 482-7; certain accounting complexities in separate contract treatment, 533; suggested mandatory formulation coupled with modification of role of G.A.O., 543.

Cost-Plus Contracts
application of termination principles, 497; prorating the contractor’s fee, 497; special problems in disposition of property, 497-8; special problems relative to subcontracts, 499-500; final settlement agreement terms, 500.

Demobilization
general discussion, 436 ff., 554 ff.

Director of Contract Settlement*
suggestion for duties and powers, 556-7.

Disposition of Property*
policy in standard forms of termination articles and administrative directives, 471-2; Baruch Report’s recommendations, 471, note 119; steps, 472; retention or return at less than cost, 472; administrative standards for the contracting officer, 472; loss from excess inventory, 473.

General Accounting Office
position in negotiated settlements, 461; in settlements by formula, 497; views expressed at committee hearings, 501 ff.; no need for negotiated settlement if audit further limited by legislation, 534; statutory modification of G.A.O.’s review coupled with designation of settlement formulas, 545.

Globe Indemnity Co. v. United States, 461.

Interim Financing*
proposals of the Baruch report, 445; the contractor’s dilemma, 477; partial payments, 477; reaching the subcontractor, 478; advance payments, 478; guaranteed loans, 479; V, V-T and T loans and their limitations, 550-3; various types of interim financing and need for legislation, 549-53.

Legislation (see Role of Congress).

Murray-George Bill*
recognition of conclusiveness of contracting officer’s settlements, 507-8; hope for proper solution of subcontract problems, 525; policy statement on compensation and cost principles, 544; policy on providing quick financing, 549.

Negotiated Settlement
legal bases, 459-61; avoiding General Accounting Office audit, 461; difficulties in absence negotiation clause, 462-4; advantages, 464-5; flexibility in amounts payable, 480; formula clauses as a guide, 481; statements constituting contractor’s settlement proposal, 481; essentials of Government “office review” of data, 482; accounting checks, 482; costs and profits on uncompleted portions, 483; post-termination costs, 483; application of Principles of Cost Determination, 483; included and excluded costs, 483-7; profit allowance, 489-90; no need of negotiated settlement if legislative limits put on G.A.O., 534; relationship to formula settlement, 543.

Office of War Mobilization*
recent activities, 444, 445-7 (Baruch Report), 451; suggested responsibilities, 557.

Profits
allowance for anticipated profits on uncompleted work, 487-90; in formula settlement, 491-2; under preliminary contractual instruments, 494; cost-plus contracts, 497; text of uniform and standard clauses, 509, 515.

Renegotiation
relation to problems in contract termination, 485, 508, 534-6.

Right to Terminate
reservation of right as not invalidating contract, 465; distinguished from breach of contract, 467; “termination” not equivalent to legal termination of the contract relationship, 469.

* See, also, Index to Part II of this Symposium.
ROLE OF CONGRESS
probable control over policies, 444; piece-meal legislation, 444; the swing toward congressional assertiveness, 540; acceleration in termination interest, 541; bills introduced, 541; impetus from the Comptroller General's stand, 541-2; four major problems, 542; basic contract settlement questions needing legislative answers, 543-9; determination of amount payable, 543; legislative modification of role of G.A.O., 543; responsibility toward subcontractors and suppliers, 544; decentralization of settlements, 546-7; achievement of uniformity and simplicity, 547; providing an appeals system, 548; protection against overpayment and fraud, 548; records and checks, 548; status of informal commitments, 549; financing needs and legislation, 549; role of the R.F.C. and other agencies, 552-3; putting released resources back to work, 553-4; pattern of terminations, 554-5; present lack of authoritative demobilization machinery, 554; areas of friction, 555-6; administrative machinery and suggested function of Director of Contract Settlement, 556-7; suggested role of Office of War Mobilization, 557-8; continuous Congressional vigilance, 558.

SETTLEMENT BY FORMULA
basis of settlement, 456-7, 490-1; agency audit and General Accounting Office audit, 491, 492; recourse in disagreement over factual determinations of costs or profits, 491.

SUBCONTRACTS
notice to prime contractor requiring termination of subcontracts, 474; official form of notice prime-to-sub contractor, 474; settlement as the sphere of prime contractor, not of Government, 474, 536, 544; contracting officer's approval of prime-sub settlements, 474-5; damages for breach of subcontract by termination, 475; prime contractor's responsibility in scrutiny of subcontractor's cost statements, 476; withholdings, 477; general discussion, 518-28; difficulty in absence of contractual relationship government-to-subcontractor, 519; problems confronting subcontractor, 519; problem of the weak link in the chain of debtors, 520; limitations on the escrow device, 520; subcontractor's risk in prime cancellations for default, 520; lessened risk in new uniform termination article, 521; need for subcontractor reassurance irrespective of prime's solvency, 521; bases of settlement, 521; absence of termination clauses in subcontracts, 521; importance of contracting officer's approval of subcontract claims, 522; subcontractor's risk and the common law damages rule, 522; importance of time element in payments, 523; prime's financing methods and jeopardy to subcontractors, 524; need of industry preparedness, 524; group settlements, 525; need for financing techniques, 527; blank check vs. penny pinching, 528.

TERMINATION CONTRACTUAL CLAUSES
new uniform termination article for fixed price supply contracts (text), 509-11; former standard War Department termination articles still prevailing in many existing contracts (text), 514-7; analyses of provisions in old and new termination clauses, 515-9; necessity for modification and suggested modifications to meet problems of company settlement, 533-4.

TERMINATION POLICIES AND PROCEDURES
general discussion, 449-517; Joint Contract Termination Board and problems under consideration, 451; goals of termination policy and procedure, 452; development of contractual termination clauses, 452-9; termination clauses in contracts before Feb. 20, 1944, 453-4; brief analysis of new uniform termination clause and comparison with older clauses, 454-5; negotiated settlements—legal bases, 459-61; —side-stepping the General Accounting Office, 461; —difficulties in absence negotiated settlement clause, 462-4; —advantages, 464-5; right to terminate, 465-7; choice of contract to be terminated, 467-8; notice of termination and preliminary procedures, 468; instructions to contractors, 469; points covered in preliminary conference, 470; disposition of property, 471-3; subcontract termination, 472-7; interim financing, 477-9; standards and procedure in negotiating settlement, 480-90; formula settlement, 490-2; equitable adjustments under "changes" clauses, 492; terminations under letter purchase orders, letters of intent and other preliminary instruments, 493-5; lump sum construction contracts, 495-6; cost-plus contracts, 496-500; terminations and Congress, 500-8.

United States v. Corliss Steam Engine Co., 460.

WAR ADJUSTMENT PROBLEM
early postwar planning, 430; avoidance of publicity for fear of adverse propaganda, 430-1; problems of transition, 432 ff.; magnitude of the reconversion job, 432; development of industrial mobilization, 433-4; results of industrial mobilization, 434-5; conversion and reconversion of plants, 435-6; industrial demobilization, 436; problem of synchronizing cancellations with lifting of controls, 436; amount of contract terminations, 437; global war stage, 437; Pacific war stage, 438; military requirements, 438; selection of companies to make civilian goods, 438; relative efficiency of concerns, 439; efficiency in use of natural resources, 440; consistency with economic pattern for the future, 440; considerations regarding competitive position, 441; problems of competitive position, 441; variations of competitive issues, 443; establishing general policies, 444; necessity for correlating the taxation program, 444; and pricing policies, 445; main points of the Baruch Report, 445-7; execution of policies, 447; role of business leadership, 448.