

TO PROMOTE THE DEFENSE OF THE UNITED STATES

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JANUARY 30, 1941.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. BLOOM, from the Committee on Foreign Affairs, submitted the following

**R E P O R T**

[To accompany H. R. 1776]

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 1776) further to promote the defense of the United States by supplying material aid to those countries whose defense is vital to the defense of the United States, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 3, line 2, strike out the period and insert in lieu thereof a comma and the following:

but no defense article not manufactured or procured under paragraph (1) shall, in any way be disposed of under this paragraph, except after consultation with the Chief of Staff of the Army or the Chief of Naval Operations of the Navy, or both.

Page 3, after line 18, insert a new subsection as follows:

(c) Neither the President nor the head of any department or agency shall, after June 30, 1943, exercise any of the powers conferred by or pursuant to subsection (a), except to carry out a contract or agreement with such a government made before July 1, 1943.

Page 3, after subsection (c), insert a new subsection as follows:

(d) Nothing in this Act shall be construed to authorize or to permit the authorization of convoying vessels by naval vessels of the United States.

On page 4, line 3, after "Sec. 5." insert "(a)", and on page 4, after line 11, insert a new subsection (b) as follows:

(b) The President from time to time, but not less frequently than once every 90 days, shall transmit to the Congress a report of operations under this Act except such information as he deems incompatible with the public interest to disclose. Reports provided for under this subsection shall be transmitted to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, if the Senate or House of Representatives, as the case may be, is not in session.

## GENERAL STATEMENT

This bill was introduced in the House of Representatives on January 10, 1941. Full and extensive hearings on the bill were held for nearly 2 weeks by your committee. The committee heard, in public session, Secretary of State Cordell Hull, Secretary of the Treasury Henry Morgenthau, Jr., Secretary of War Henry L. Stimson, Secretary of the Navy Frank Knox, the Director of the Office of Production Management, William S. Knudsen, Ambassador Joseph P. Kennedy, Mr. Norman Thomas, Mr. Hanford MacNider, Col. Charles A. Lindbergh, Gen. Hugh S. Johnson, Dr. Brooks Emeny, Mr. William R. Castle, Rev. Gerald Smith, Mr. John Burke, Mr. Benjamin C. Marsh, Mr. William J. Grace, Mr. William C. Dennis, Ambassador William C. Bullitt, Gen. John F. O'Ryan, Miss Dorothy Thompson, Minister to Norway Mrs. J. Borden Harriman, Mr. William Green, Mr. Louis Waldman, and Hon. Ernest W. Gibson. Statements were submitted by many others. The committee also heard, in executive session, Gen. George C. Marshall, Chief of Staff of the Army, Admiral Harold R. Stark, Chief of Naval Operations, and Gen. George H. Brett, Acting Chief of the Air Corps. Also appearances were made by Members of Congress.

From these hearings and the public discussion and debate on the bill, it has been clear to your committee that our national policy is and should be: (a) To keep out of war; and (b) for our own national security, to aid Britain and those other nations whose defense is vital to the defense of the United States by supplying them as quickly and as efficiently as possible with defense articles in a manner consistent with our democratic procedures.

In the considered opinion of your committee, the bill, as amended, squarely meets these objectives of our national policy. It is the considered view of your committee, insofar as human minds can evaluate the situation, that the probable effect of the bill will be to keep us out of war rather than to get us into it. It is also the judgment of your committee that the bill provides the most efficient way of supplying all possible material aid to those countries which are resisting aggression. It accomplishes this objective in a manner which is best for our national defense and wholly consistent with the Constitution and international law.

## ANALYSIS OF THE BILL

Section 1 of the bill contains the short title, "An Act to Promote the Defense of the United States." It requires no comment.

Section 2 of the bill contains the definition of the words "defense article" and "defense information." It should be noted that the term "defense article" includes not only all arms, munitions, and implements of war, but also other articles or commodities such as cotton, wheat, and all other agricultural products which may be necessary for defense purposes. This term does not include men nor does any other provision of the bill deal with the utilization of our armed forces.

The term "defense article" is also by the terms of the bill intended to include not only articles manufactured or procured especially for any foreign country under the bill but also articles to or of which the United States or any foreign country either now has or hereafter acquires title, possession, or control.

This additional language in section 2 (a) of the bill describing what is included in the definition of "defense article" when read together with the substantive provisions of the bill:

(1) Empowers the President to authorize the disposition of defense articles, subject to the limitations in the bill, whether or not they are defense articles which have been manufactured or procured especially for any country the defense of which is vital to our national security. If the equipment to be so disposed of is equipment which was not manufactured or procured specifically for such a country, then the disposition can only be made after consultation with the Chief of Staff of the Army or the Chief of Naval Operations of the Navy, or both, as provided by your committee's amendment to paragraph (2) of section 3 (a).

(2) Empowers the President, when he deems it in the interest of the national defense, to authorize the Secretary of War, the Secretary of the Navy, or the head of any other governmental agency, to test, inspect, prove, repair, outfit, recondition, or otherwise to place in good working order a vessel or other defense article owned or controlled by a nation whose defense the President deems vital to the defense of the United States. However, this additional language in section 2 (a) of the bill setting forth what is included in the phrase "defense article" is not intended to, and does not, in any way enlarge or modify the powers of the Government to requisition any defense articles such as foreign ships interned in our ports.

The definition in section 2 (b) of "defense information," when read together with the substantive provisions of the bill, means that only those plans, specifications, designs, prototypes, or other information pertaining to defense articles which have been actually transferred, pursuant to the bill, can be communicated to a country the defense of which is vital to the defense of the United States. The bill does not in any way enlarge the powers of the Government or its officers to communicate defense information unless such communication follows after, and is incidental and relates to, a defense article transferred pursuant to the bill. The obvious purpose of authorizing the communication of such defense information is to enable the country to which defense articles are transferred intelligently and effectively to use such defense articles. Obviously, neither this definition nor any of the substantive provisions of the bill would empower the Government or any of its officers to communicate information concerning, for example, the defenses of the Panama Canal or of Fort Knox.

Section 3 is the heart of the bill. Briefly, it empowers the President to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government, to manufacture or procure, dispose of and repair defense articles, and to communicate defense information, to or for the benefit of those nations the defense of which is vital to the defense of the United States, notwithstanding the provisions of any other law.

The expression "notwithstanding the provisions of any other law" has been used by the Congress since shortly after the formation of the Union. In 1794, the Congress granted exemption from customs duties to certain munitions, "anything in any former law to the contrary notwithstanding" (1 Stat. 370). Since that time a similar phrase has been used innumerable times, as, for instance, in the period from 1814 through 1822: 3 Stat. 49, 143, 261, 334, 412, 462, 582, 610, 640,

662. It has also been used many times since then, as for example, in sections 5 (a) and 14 (a) of the Act of June 28, 1940 (Public, No. 671, 76th Cong.).

The phrase "notwithstanding the provisions of any other law" has not only been used many times, but its meaning is clear. When a statute containing this language covers a general subject matter such as the disposition by the Government of military and naval equipment, such a general statute prevails over specific statutes covering part of the field or inconsistent with the general statute. Statutes the application of which would be inconsistent with the provisions of section 3 (a) are not repealed by the bill. The only effect of the phrase "notwithstanding the provisions of any other law" is to suspend the application of such inconsistent laws in order to make possible the effective carrying out of the provisions of section 3 (a). Such laws remain in full force and effect with respect to all other matters to which they now apply. Thus H. R. 1776, insofar as it provides that military equipment can be disposed of on such terms as the President deems satisfactory, would prevail over a statute requiring public advertisement before military equipment can be transferred.

Also, the present bill, by empowering the President to authorize the Secretary of the Navy, for example, to build or procure torpedo boats specifically for a belligerent whose defense is vital to our defense and to release them for export, would prevail over section 3 of the Act of June 15, 1917 (40 Stat. 222), which now makes it unlawful to send out of the United States a vessel of war built for a belligerent.

Similarly, the present bill, as amended, would prevail over the act of July 28, 1892, as amended (27 Stat. 321; 45 Stat. 988) which authorizes the Secretary of War in his discretion, if he deems it to be in the public good, to lease, for a period not exceeding 5 years and revocable at any time, such property of the United States under his control as may not for the time be required for public use. Under the terms of the present bill, the President, after consultation with the Chief of Staff of the Army, in appropriate cases, could authorize the Secretary of War to lease property, over which the Secretary of War has control, which would not be revocable at the option of the Secretary of War.

The expression "notwithstanding the provisions of any other law" when read together with the whole of the bill, as amended, does not in any way modify, repeal, or change such legislation as the Walsh-Healey Act, the Wage-Hour Law, the Eight-Hour Law, the Wagner Act, or other similar provisions of domestic law because there is no inconsistency between them and this bill. These laws continue in full force and effect and are in no way affected by this bill. Insofar as the powers granted by subsection (1) of section 3 (a) are concerned, giving the Secretary of War, the Secretary of the Navy, or the head of any other department or agency, when authorized by the President, the power to manufacture or procure defense articles, no discretion is given to waive domestic legislation of the kind mentioned.

The expression "notwithstanding the provisions of any other law" does not repeal the Johnson Act. By its specific terms and by its spirit, that Act does not apply to this Government, to a public corporation created by special authorization of Congress or to a public corporation controlled by the Government. The Johnson Act only prohibits the extensions of credit by individuals or private corporations to a foreign country which has defaulted on its debt to the United States. This

bill does not in any way authorize the extension of credits by private individuals to any foreign country which has defaulted on its debt to the United States; it simply sets up a method for supplying material aid, in the interests of our national defense, on a straight government-to-government basis.

Nor does this bill repeal the provisions of the Neutrality Act of 1939, which by its terms is applicable to private persons and corporations and not to the Government itself. Section 7 is the only provision of the Neutrality Act which might possibly apply to the Government.

That section is not by its express terms made applicable to this Government, although it does apply to Government corporations such as the Export-Import Bank. It should be noted, however, that in the course of the discussion of that section of the Neutrality Act of 1939 on the floor of the Congress some of the Members of Congress thought that it would apply to the extension of credit by the Government. See (1939) 85 Cong. Rec. 1017; (1939) 85 Cong. Rec. 516. However, even if it should be assumed that the spirit of section 7 of the Neutrality Act makes it applicable to the Government, it would be modified by this bill insofar as extensions of credit by the Government may conceivably be involved and only to that extent.

Paragraph (1) of section 3 (a) of the bill empowers the President, when he deems it in the interest of the national defense, to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government "(1) To manufacture in arsenals, factories, and shipyards under their jurisdiction, or otherwise procure, any defense article for the government of any country whose defense the President deems vital to the defense of the United States."

At the present time, the Government has no statutory authority to manufacture military and naval equipment in its arsenals or to procure such equipment from private manufacturers directly on behalf of any foreign government, except for the American republics pursuant to the Joint Resolution of June 15, 1940 (Public Res. No. 83, 76th Cong.). This paragraph proposes to enlarge the Government's power in this respect to meet the present situation.

This paragraph does not violate international law insofar as the manufacture or procurement of defense articles may be carried on for a belligerent country whose defense is vital to the defense of the United States. In the first place, it is a firmly established principle of international law that a nation is justified in acting in its own self-defense. Secondly, mutuality is an accepted principle of international law as well as of equity, and a nation which violates the basic rules of international law is not in a position to claim that another nation, in the interests of its own defense, is not complying with the less basic rules of international law. Furthermore, the Kellogg-Briand Pact, which is a part of international law, not only was intended to outlaw force as a means of resolving international disputes, but its violation has also been regarded by many distinguished international lawyers as giving any signatory the power—

to decline to observe toward the State violating the Pact the duties prescribed by International Law, apart from the Pact, for a neutral in relation to a belligerent; [and to] Supply the State attacked with financial or material assistance, including munitions of war; \* \* \*.

Germany, Italy, and Japan are parties to the Pact. So, too, are China, Ethiopia, Austria, Czechoslovakia, Poland, Norway, Denmark, Netherlands, Belgium, Albania, and Greece. The United States is also a party to the Pact. The Pact is consistently interpreted by distinguished international law experts to mean that a violator of the Pact, such as Germany, cannot legally renounce the Pact by its violation.

It should also be noted that Hague Convention No. XIII of 1907, which is often erroneously given as a reason in international law for prohibiting the supplying of material aid of the kind in question, is inoperative by its own terms. Article XXVIII of the Hague Convention specifically provides that the Convention shall not apply unless

"All the belligerents are parties to the Convention." Great Britain and Italy are not parties to the Convention.

Paragraph (2) of section 3 (a), as amended by your Committee, empowers the President, when he deems it in the interests of national defense, to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government, "To sell, transfer, exchange, lease, lend, or otherwise dispose of, to any such government any defense article, but no defense article not manufactured or procured under paragraph (1) shall in any way be disposed of under this paragraph, except after consultation with the Chief of Staff of the Army or the Chief of Naval Operations of the Navy, or both."

This, unquestionably, is the most important single provision of the bill. It authorizes the disposition by this Government, to any nation whose defense is vital to the defense of the United States, of any defense article upon those terms and conditions which the President deems satisfactory. As to defense articles which are not specifically manufactured or procured on behalf of such a foreign government, the disposition can only be made after consultation with the Chief of Staff of the Army or the Chief of Naval Operations of the Navy, or both. This provision, in a manner wholly consistent with our Constitution, gives the flexibility necessary to meet the fast-changing situation in the war abroad in order that our own national-defense interests may be served best. It places this power of negotiation and disposition in the President, the Chief Executive and Commander in Chief of the Army and Navy. As Mr. Justice Sutherland said in *United States v. Curtiss-Wright Export Corp.*, 299 U. S. 304, 319-322:

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations \* \* \*. It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation, which is to be made effective through the negotiation and inquiry within the international field, must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. \* \* \*

When the President is to be authorized by legislation to act in respect of a matter intended to affect a situation in foreign territory, the legislator properly bears in mind the important consideration that the form of the President's action—or, indeed, whether he shall act at all—may well depend, among other things, upon the nature of the confidential information which he has or may thereafter receive, or upon the effect which his action may have upon our foreign

relations. This consideration, in connection with what we have already said on the subject, discloses the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed. \* \* \*

Section 3 also empowers the President to require that in return for the disposition of defense articles, any country, for example Britain, shall pay with rubber, tin, the transfer of defense plants owned in this country, or any other direct or indirect benefit to the United States. The compelling need for this provision is the fact that Britain, for example, has only enough assets which can be converted into dollars in both this country and abroad to pay for orders already placed in this country. According to the testimony of the Secretary of the Treasury, Britain does not have available assets convertible into dollars which can be used to place further orders or to acquire further defense articles in this country. The flexibility granted by this provision to the Chief Executive, who is, by the Constitution, the Commander in Chief of the Army and Navy, is intended to enable him to act quickly and decisively in the best interests of this Nation. It is conceivable that our national security may be materially furthered by supplying certain defending countries, such as Britain, for example, with certain war equipment without repayment in kind or property or any benefit other than that Britain actually uses it in the defense of the British Isles, thereby furthering our own national defense. Where the interests of our national defense are consistent with requiring payment for defense articles, for example, in tin, rubber, or other property, the Chief Executive of this Government undoubtedly will make the best bargain possible for this country. Under this bill, this Government would be empowered to transfer to Britain, for example, certain defense articles for use in the defense of the British Isles, resulting in a benefit to the United States in that, if Britain is successful in her gallant defense of our civilization, our defense expenditures are likely to be reduced, or if Britain's ability to hold out is enhanced, we thus obtain valuable time adequately to prepare. In the opinion of your committee, this would be one of the kinds of benefits contemplated by the bill. However, this power is discretionary and not mandatory. In addition to such a benefit, the Government, of course, can require payment in kind or property.

Paragraph (3) of section 3 (a) enables the President to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government, "To test, inspect, prove, repair, outfit, recondition, or otherwise to place in good working order any defense article for any such government." Under this provision, the War Department could, for example, test tanks procured for Britain at its Aberdeen Proving Ground, and the Navy Department could repair the H. M. S. *George V* in the Norfolk Navy Yard, if the President deemed it in the interest of the national defense to do so. Here again the power is permissive, not mandatory.

These permissive powers, if exercised, would not violate international law for the reasons previously given in connection with the discussion of paragraph (1) of section 3 (a).

Paragraph (4) of section 3 (a) enables the President to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government, "To communicate to

any such government any defense information, pertaining to any defense article furnished to such government under paragraph (2) of this subsection." In addition to the explanation about this subject previously given in this report, several other facts should be noted. Within its limitations, this section covers two practical situations. The first is where, for example, a private individual or a firm has a patent on a particular item of military equipment, such as, for instance, the Sperry bomb sight. In such a case—prior to recent legislation—it has been the practice of the War and Navy Departments to obtain a contract obligation from the holder of the patent rights not to disclose the patent or military secret without first obtaining the consent of the War or Navy Department. Normally, after a new sight is developed, the War and Navy Departments consent to the release of the information. Under this section of the bill, read together with section 7, the release, for example, of the Sperry bomb sight to the Chinese Government would carry with it the obligation on the part of the Secretary of War or the Secretary of the Navy to see to it that the patent rights of the American holder were adequately protected.

Another type of case is the one where the Government itself holds the patent to a military or naval invention by reason of a discovery made by an employee of the Government in the scope of his governmental work and transferred pursuant to statute to the Government, or where the Government has otherwise obtained such a patent in its own name. Paragraph (4) of section 3 (a) of the bill enables the President to authorize the Secretary of War or the Secretary of the Navy to communicate the defense information, relating to any such defense article which has been transferred, to a country whose defense is vital to the defense of the United States.

Paragraph (5) of section 3 (a) enables the President to authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government, "To release for export any defense article to any such government." This provision does not in any way modify or enlarge the right to transport or deliver defense articles.

The intent and purpose of this paragraph is essentially twofold: (1) As already indicated, it prevails over existing laws prohibiting the taking out of the United States of vessels of war built for a belligerent; and (2) it makes it possible for the Secretary of War, for example, to release for export defense articles for Greece without requiring a license from the Administrator of Export Control pursuant to section 6 of the act of July 2, 1940 (Public, No. 703, 76th Cong.). However, it should be noted that under section 5 of the bill, as amended by your committee, full and detailed reports of the transactions must be made to the Congress and to the Administrator of Export Control.

Subsection (b) of section 3 has already been discussed in detail.

Subsections (c) and (d) of section 3 are both committee amendments. Subsection (c) fixes June 30, 1943, as the terminal date of the powers granted to the President or the head of any department or agency of the Government, except that contracts entered into before that date, with a government whose defense is vital to the defense of the United States, may be carried out. Thus, by way of illustra-

tion, a contract with such a country made on December 1, 1941, to procure a thousand pursuit planes which would require 19 months to perform could be carried out by delivery of the planes in August of 1943. However, a similar contract with such a country could not be entered into on July 2, 1943. In this connection it should also be noted that in addition to this time limitation provided by this amended subsection (c), the bill cannot be completely carried into effect unless and until Congress appropriates the funds in the usual manner to manufacture or procure defense articles pursuant to paragraph 1 of section 3 (a). This appropriation limitation will be discussed in more detail in connection with section 6 of the bill.

Subsection (d), which is added to this bill by your committee's amendment, speaks for itself. This subsection provides that the bill shall in no way be construed to authorize or to permit the authorizing of convoying by naval vessels of the United States. In fact, without the amendment it was the view of your committee that nothing in the bill in any way enlarged the powers of the Navy to convoy vessels. However, to avoid any doubt on this highly controversial issue, your committee deems it wise to recommend this amendment.

Sections 4 through 8 of H. R. 1776 are substantially the same as sections 3 through 7 of the Aid-to-American-Republics Joint Resolution of June 15, 1940 (Public Res. No. 83, 76th Cong.), except for a committee amendment adding a new subsection (b) to section 5 of this bill, to require reports to the Congress of the details of the transactions disposing of defense articles. The Act of June 15, 1940, does not require such reporting to the Congress.

Section 4 of H. R. 1776 is intended as a limitation upon the powers granted by the bill and as a protection to the Government. It retains part of the control in the United States Government over defense articles transferred to any country whose defense is vital to the defense of the United States. Thus, for example, rifles transferred to Britain for the defense of the British Isles could not be transferred by Britain to any other country without first obtaining the consent of the President of the United States.

Section 5 of the bill requires the keeping of accurate and detailed records showing the quantities, character, value, terms of disposition, and the destination of the defense articles and information transferred to any foreign government. It also requires the reporting of such information to the Congress, insofar as it is compatible with the public interest to do so. It also requires reporting to the Administrator of Export Control.

Section 6 of H. R. 1776 contains an authorization for an appropriation. Such an authorization, of course, does not appropriate funds nor does it make available funds which can be used to manufacture or procure defense articles for disposition pursuant to the bill. Article I, section 9, clause 7 of the Constitution provides that:

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public money shall be published from time to time.

It is, therefore, illegal to contract or otherwise to commit the Government, unless Congress has appropriated funds therefor, or authorized the commitment.

Paragraph (b) of section 6 provides, in effect, a revolving fund, so that any moneys collected from the disposition of articles pursuant to the bill can be used for two years to manufacture or procure equipment under the bill. This is a customary and valid provision. Article I, section 8, clause 12 of the Constitution provides that Congress shall have the power—

“To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;”

It is well known that the purpose of this constitutional provision is to prevent a large standing army without the constant check and surveillance of the Congress through the means of appropriations. See The Federalist, No. XXVI. It should be noted that this provision of the Constitution, neither by its terms nor its spirit, applies to appropriations for military equipment or defense articles. See (1904) 25 Op. Atty. Gen. 105. It has long been customary for the Congress to provide for revolving funds in connection with military and naval equipment. During the World War there were innumerable statutes making provision for similar revolving funds. A similar provision is contained in the Act of October 10, 1940 (Public Res. No. 829, 76th Cong.—the Requisitioning Act). A provision virtually identical for present purposes was included in the Act of June 15, 1940 (Public Res. No. 83, 76th Cong.). This is the Act authorizing material aid to the American republics.

Section 7 requires the Secretary of War, the Secretary of the Navy, and the head of any other department or agency concerned, to make provision for safeguarding the rights of citizens of the United States who have patent rights in any defense article or defense information transferred to a foreign government.

Section 8 authorizes the Secretaries of War and Navy to purchase or acquire arms, ammunition, and implements of war produced within the jurisdiction of any country whose defense is vital to the defense of the United States, if the President deems such a purchase or acquisition necessary in the defense of the United States. Under this provision, the Secretaries of War and Navy could be authorized, for example, to purchase tin from Bolivia or power-driven turrets from Canada, if the President considered such a purchase or acquisition necessary in the interests of the defense of this country.

Section 9 authorizes the President to formulate rules and regulations which may be necessary to carry out the provisions of the bill, and he may exercise any power or authority conferred upon him by the bill, through such department, agency, or officer as he shall direct.

This is a customary statutory provision. Rules and regulations issued under an Act must, of course, be consistent with the terms and purposes of the Act. Thus, the President cannot, for example, provide by rules and regulations that the patent rights of American citizens in any defense articles which are transferred to a foreign government can be disregarded, since this would be contrary to the provisions of section 7 of the bill.

By his rules and regulations and by the authority vested in him by this section to delegate his authority under the bill, the President can provide that the actual administration shall be handled by those people who know most about the subject matter to be covered. Thus, for

instance, in connection with the formulation of certain standard specifications for both United States and British tanks, the regulations might well provide that the Secretary of War, acting with the advice of the Chief of Staff and the Chief of Ordnance, should determine whether the armor plate should be 1 inch or 2 inches thick. Similar administrative matters can equally well be provided for in the regulations, and the necessary administrative power can be delegated.

#### CONCLUSION

It is the firm opinion of your committee, that taking into consideration existing world conditions, prompt enactment of H. R. 1776 into law is of the highest importance to the vital interests of our country—and even of our civilization.



TO PROMOTE THE DEFENSE OF THE UNITED STATES

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JANUARY 31, 1941.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. FISH, from the Committee on Foreign Affairs, submitted the following

**MINORITY VIEWS**

[To accompany H. R. 1776]

We are for all aid to Britain short of war, and short of sacrificing our own defense and our own freedom. The British, in their valiant struggle which has aroused our deepest sympathy, need planes, guns, and war material.

We are for this objective without delay. We believe this objective can be accomplished without granting enormous power to the President, which the founders of the Republic wisely decreed should remain with Congress as the representatives of the people. If there is any delay in reaching this objective it would be caused by this unprecedented bid for Presidential power.

We would willingly support a straightforward bill which would grant Britain \$2,000,000,000 worth of credit.

This would eliminate the step of giving the President absolute power over every concern in this country manufacturing war materials. This would not permit him to be the director of the war in England, a position which is fraught with great danger to the American people. If we assume the direction of the war, we underwrite the success of the war. The ultimate result must be the American people will pay the full costs of the war and that means we will be obligated to put our material resources and our men into the struggle.

Granting credits, which England needs, will fully meet the situation of today and it will lessen materially the likelihood of our going into the war. Our naval and military experts agree that our Nation is in no danger of attack; that with our vast resources and geographical position our situation is not comparable to that of nations of Continental Europe.

This power requested is too much to give any man at a time when the country is at peace. As Secretary Cordell Hull once said:

This is too much power for a bad man to have, or for a good man to want.

## WHAT IS NEEDED

We have been given two reasons for new laws: (1) Britain is running short, not of money, not of assets, but of dollar exchange. (2) We need to coordinate British procurement with our own defense efforts.

## WHAT THIS BILL DOES NOT DO

This bill does not provide dollar exchange for Britain, and is not needed to procure coordination of our defense efforts.

This bill will not provide any additional war supplies for aid to Britain within the 60 or 90 days of her alleged crisis, unless the President uses the power provided to dispose of part of our arms or our Navy, which he and his Cabinet officers have specifically denied they could spare.

There has been much talk of "restrictive" committee amendments. The amendments adopted do not prohibit our convoying merchantmen; do not require our Army or Navy officers to determine our own defense needs; do not place a constitutional 2-year limitation on the life of the bill.

## WHAT THIS BILL DOES

Using the slogan of "Aid to Britain," and under the title of "Promoting defense," this bill gives the President unlimited, unprecedented, and unpredictable powers—literally to seize anything in this country and to give it to any other country, without limit in law. He may sell or give away our Navy, our planes, our arms, our secrets, and use any proceeds from such sales for similar purposes; he need come to Congress only for appropriations to restore our Navy, our planes, our arms.

John Bassett Moore, world-famous authority on international and constitutional law, says:

The pending bill assumes to transfer the war-making power from the Congress where the Constitution lodges it, to the Executive. \* \* \* The tide of totalitarianism in government \* \* \* has not only reached our shores, but has gone far to destroy constitutional barriers, which, once broken down, are not likely to be restored.

Remember, we cannot repeal war; we cannot repeal bankruptcy; and we cannot repeal dictatorship. Under this bill we surrender our democratic way of life now, for fear of a future threat to our democratic way of life. The oldest and last constitutional democracy surrenders its freedom under the pretext of avoiding war, with the probable result that the newest dictatorship will soon go to war.

## OUR PROPOSAL

We have offered in committee, and will offer again on the floor, the following constructive, democratic program to aid Britain and to keep us out of war:

1. A \$2,000,000,000 credit to Britain, to be used in this country for purchasing arms when her dollar balance for this purpose is exhausted, requiring reasonable collateral security if available.

2. Permit the sale by our Government of arms to Britain only when our highest Army and Navy officers certify in writing such arms are not necessary for our national defense.

3. A 1-year time limit on all extraordinary powers. Congress meets again next year and can easily extend the time limit if our interests require it.

4. Provide that no vessels of the United States Navy shall be disposed of without the consent of Congress.

5. Prohibit the use of our ports for repair bases for belligerent ships. We must not bring the war to American ports.

6. Prohibit the use of American vessels to transfer exports to belligerents.

7. Prohibit the convoying of merchantmen by our Navy. One sunken ship might plunge us into war.

Our program would permit the coordination of all foreign purchases through the Office of Production Management, instead of making the President the director-general of the war in Europe. Our Government now has power to fix priorities and forbid exports, so no additional powers are needed to enforce coordination. At our hearings, Mr. Knudsen was asked: "You have sufficient power now to coordinate the procurement of materials?" Mr. Knudsen answered: "Yes." If instead of coordination we demand domination; if we assume what Secretary Stimson called the general strategy of the war, we assume the responsibility for its outcome—and that leads to sending an expeditionary force overseas.

Congress should specify the nations to receive aid. To leave it wide open would mean the President could, now that we have lifted the moral embargo, give aid to Russia, by sending planes and war materials. Congress is to be in session for some months. It can extend aid to other countries if it is necessary.

#### CONCLUSION

This is the most important and far-reaching bill this House has ever considered. It involves a complete change in the way of life of our Republic, both internal and in our foreign relations. We should face this legislation calmly and courageously as intelligent patriots, without panic or partisanship. We do not solve these problems merely by passing them all on to one man. Control of the purse and control of the war-making power belong to Congress. The safety and security of the American people demand they remain with Congress.

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