

THE PASSAGE OF THE LEND-LEASE ACT

by

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PREFACE

The Lend-Lease Act was passed March 11, 1941. The Act was an American-made device by which the members of the "United Nations" could aid one another with supplies and services. It was a multilateral world-wide trade program to defeat the aggressor nations, aiming to move supplies to those points of need without tariffs, debts, and the restrictive and entangling factors of peacetime commerce.

From a desire for security and peace, the United States had enacted this new foreign policy to help those who, in fighting for their own security, would add to the security of the United States. In planning this system of assuring the United States security, the president was given more authority to send aid to the allied countries. The passage of the Act made the procedure of sending aid constitutionally legal. Although the president's powers were extended, Congress still kept the power of appropriation and the right to amend or to repeal the Act.

The purpose of this study is to trace the rise of the public demand for the Lend-Lease Act; the arguments for and against the extension of executive power as was proposed in the bill; and the proposed amendments as they evolved in the discussions before Congress.

The writer has restricted the study chiefly to the de-

velopment of the public attitude on the Lend-Lease proposal and the final adoption of Lend-Lease by the Congress of the United States. Sources for the study were very extensive. Chief sources used were newspapers, periodicals, government documents, congressional hearings, and the Congressional Record.

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CHAPTER I
INTRODUCTION

The Lend-Lease proposal was introduced into Congress as "a bill further to promote the defense of the United States, and for other purposes." The act became a law March 11, 1941 with a solid majority of the congress and the people of the United States "backing" its passage.

The purpose of the bill's passage was to give the United States government freer action in aiding Britain and those other nations who were fighting a common enemy. While many people joined the fight against the bill, the greatest majority wished to aid Britain; one of the chief points of disagreement was over the power the president of the United States would receive under such a proposal. There was, also, a difference of opinion as to the title of the bill. The New York Times suggested that the name be changed to "Mutual Aid Plan".¹ Opinions flew "back and forth" as to what the President wished to accomplish by the bill.

When President Franklin D. Roosevelt proposed the Lend-Lease idea, he had informed the press: "What I am trying to do is to eliminate the dollar sign...to get rid of the silly, foolish old dollar sign".² He suggested that there should

¹ Time, XLII (September 6, 1943), p. 25.

² Foreign Affairs, XXI (April, 1943), p. 505.

not be a financial debt, but that there should be a repayment in kind. As an explanation, the president gave the following illustration:

Suppose my neighbor's house catches fire, and I have a length of garden hose four or five hundred feet away. If he can take my garden hose and connect it up with his hydrant, I may help him to put out his fire. Now, what do I do? I don't say to him before that operation, 'Neighbor, my garden hose cost me \$15; you have to pay me \$15 for it'....I don't want \$15 - I want my garden hose back after the fire is over.³

After the President proposed that an act for "lending - and - leasing aid" might be made, the general counsel for the Treasury, Edward H. Feley, went to work on the second day of January, 1941, and drafted the first copy of the Lend-Lease Bill. He and his helpers found that the War Department had already drafted some ideas, so they changed some of the phraseology accordingly. Only thirteen others knew about the bill before it reached Capitol Hill.⁴ From the White House, the president referred it to Cordell Hull, Henry Stimson, Frank Knox, and William Knudsen, to get their approval and signatures. The following day the bill was returned to the president to receive his approval prior to the sending of it to Congress.

After President Roosevelt approved the draft, Hull, Stimson, Knox, and Knudsen decided to present the proposal to the Senate Foreign Relations Committee. To avoid the slow, poky John H. Garner, Vice President, who was full of isolationist's

³ Loc. cit.

⁴ Newsweek, XVII (January 20, 1941), p. 15.

theories, those men decided to "lose" him in attending the first meeting. They did. The idea of having to send the bill to be "kicked around" by the isolationists--Senator Hiram Johnson and Gerald Nye--was dreaded by them; for the proponents thought Johnson and Nye did not realize the critical situation of the nation at the time. To prevent too much controversy, the proponents thought it would be best to bring in some Republicans on the Senate Foreign Relations Committee, like Representative James Wadsworth of New York and Senator Warren Austin of Vermont. Then, the bill was ready for discussion.

Congressional discussions of the bill will be given in the later chapters. However, many interesting statements were made as to the effect, the purpose, and the result of the bill, if it were passed. Several persons and groups gave their thoughts concerning the bill.

The army said the Lend-Lease Bill would give "The right material in the right amount at the right place at the right time."⁵ Three leaders of powerful countries gave their ideas as to the Lend-Lease Act. Winston Churchill spoke out and called the Lend-Lease Act

...a new Magna Charta, which not only has regard to the rights and laws upon which a healthy and advancing civilization can alone be erected, but also proclaims, by precept and example, the duty of free men and free nations, wherever they may be, to share the responsibility and burden of enforcing them....

⁵ Radio News, XXXI (February, 1944), p. 214.

In the name of His Majesty's Government...I offer to the United States our gratitude for her inspiring act of faith.⁶

Canada's Prime Minister, William Lyon Mackenzie King, stated: "The Law will stand throughout time as one of the milestones of freedom. It points the way to ultimate and certain victory."⁷ So that none might be ahead of him, Adolph Hitler paid his respects to the law in a speech commemorating the German dead in World War I by stating: "No power and no support coming from any part of the world can change the outcome of this battle in any respect." He predicted that England would fall, and that international finance and plutocracy wanted to right this war to the finish. Also, according to Hitler, the "end of this war will and must be, its (ie. England) destruction."⁸

The Republican candidate for the presidency in 1940, Wendell L. Willkie, presented his views that America would not be able to stay out of war merely by asserting in brave speeches that it would not go to war. Willkie believed that our supporting Britain would prevent our entering the war, and to carry it out, Congress would have to give the president enlarged powers so that the building of materials and instruments of combat could be accomplished more quickly.⁹

By giving the president power, as stated by Willkie and many others, the discussion arose as to whether it was uncon-

⁶ Time, XXXVII (March 24, 1941), p. 26.

⁷ Loc. cit.

⁸ Loc. cit.

⁹ Vital Speeches, VII (February 1, 1941), p. 250.

stitutional. Also, with a neutral country helping a warring nation, would it be contrary to International Law? Some said they were confident that if the Lend-Lease Act (H. R. 1776) were placed under the eyes of Thomas Jefferson, with the words "United States", "Senate and House", and "the President", blacked out, he would have said, "This must be a grant of power to some Czar."¹⁰

Before the war began, a council of international lawyers met in Budapest, and made the decision that the Kellogg-Briand Pact authorized any neutral state to supply any belligerent state that might be attacked in violation of the Pact with financial and material assistance, including munitions of war. In view of this interpretation of the pact, the United States would be acting within its rights, and it would not be violating International Law by the passage of the Lend-Lease Bill.

There were controversies among the people of the United States as to the rights of the government and the power within the bill. Dr. George Gallup, in taking a poll, released a preliminary survey of sentiment on the Lend-Lease Bill in New York, Philadelphia, and Chicago, that showed 54 per cent of the people were favorable, but one in six of them wanted to see a time limit and specific bans on sending troops or warships abroad.¹¹

¹⁰ Catholic World, CLII (March, 1942), p. 647.

¹¹ Newsweek, XVII (February 3, 1941), p. 14.

Despite the limitations wanted by the people, Lend-Lease was to be a way of admitting formally that trade between Britain and the United States had to be carried on with something other than money. It would simply change our old idea or tradition of trade. It provided for a form of deferred barter. Its purpose was to aid nations fighting aggression.

Lend-Lease, or the bill further to promote the defense of the United States, and for other purposes, was rooted in stark necessity, washed clean of moralistic sentiments, and devoid of muddle-headed confusion. It would save us from wreaking upon the world (and ourselves) that peculiarly pervasive kind of harm which is frequently wrought by "good" men. Here, there was no charity and no suggestion of charity. The United States paid for what it got, and others paid for what they got.¹²

¹² The Atlantic Monthly, XVII (April, 1943), p. 69.

CHAPTER II
THE PEOPLE'S OPINION

The Lend-Lease proposal was denounced by the isolationists and the opponents. Some of the most popular names were the "dictatorship bill", "blank check", "monstrous", "a streamlined modern declaration of war", and "the first step toward dictatorship".¹

The hint of a dictatorship being the result, if the proposal were passed, was probably the most popular claim by the adversaries of the bill. Their general opinion was that the bill would grant the president totalitarian powers. Although the extension of power to the president was one main issue, the other controversial point of greatest prominence was the idea that it would lead us into war. The public seemed to wish for a limit to be made in the president's power and upon his access to the money to be appropriated.

Repeating the accusation that the president's power was being increased by his receiving the use of the appropriated money, the Christian Century magazine went ever further. In an editorial, its interpretation was: "...Congress is asked to abdicate its constitutional responsibility and to leave the nation's orientation in its world relationships subject to the wisdom and discretion of the President...."²

¹ Life, X (February 3, 1941), p. 17.

² Christian Century, LVIII (January 22, 1941), p. 113.

If every point was to be left to the discretion of the president, no compromise would be made to stop the president, once the proposal became law. Some of the opponents relented enough to say that a bill was needed, and one should be passed, but a new one should be made excluding the added powers to the president.

Exclusion of extra powers to the president was Senator Burton K. Wheeler's theme in his radio broadcast. He denounced the bill, and retorted that it was just another "New Deal AAA foreign policy--to plow under every fourth American boy."³ President Roosevelt could not refrain from giving that an answer. He said that's the "rottenest thing that has been said in public life in my generation."⁴ All of those that opposed the bill seemed to be defeating themselves. The opponents gave the radical statements, but they failed to verify them. Several of the leaders of the opponent's group did not stay with either side.

Joseph P. Kennedy, former ambassador to Britain, "let the isolationists down" in a broadcast. He had previously praised Roosevelt's course as the one involving "the least risk for the greatest good", and urged that the Congress should surrender some of its powers to the president.⁵ But the very next week he agreed with Representative Hamilton Fish of New

³ Business Week (March 15, 1941), p. 15.

⁴ Loc. cit.

⁵ Newsweek, XVII (February 3, 1941), p. 13.

York that the sending of convoys would be an act of war, and the power to do so should not be given to the president.

To limit the powers of the president, the board of directors of the United States Chamber of Commerce wanted their program approved by Congress. It provided for all arms, loans, or gifts to be approved by Congress; a stipulation should be made against convoys or others acts that lead to war; a ban should be made on sending any soldiers or sailors below the rank of captain into the war zone without Congress giving its approval.

Instead of using the method of giving Congress more power, many irreconcilables used the proposed bill to attack Roosevelt and Willkie. Several of Willkie's "friends" attacked and accused him of party betrayal.

Some midwesterners spoke of Roosevelt's "party betrayal". The people in many places were expressing the idea that Roosevelt was getting the United States into war, and once the United States won the war, he would then try to get the nation into peace. Arthur Capper, a Senator from Kansas, was one of the spokesmen who believed the proposed bill was nothing but a war bill.

Carter Glass of Virginia gave "heated" arguments for the "war bill". He was ready to declare war on Hitler at any time. A group of women, known later as the Mother's Crusade Against Bill 1776, staged a sit-down strike in the Senate office building in the corridor before the office of Senator

Glass. The group's leader, Mrs. Elizabeth Jane Dilling, called Glass "an average destroyer of American youth."⁶ Glass, in return, had the G-Men to investigate the mothers, and added tartly, "It would be pertinent to inquire whether they are mothers. For the sake of the race, I devoutly hope not."⁷

Just the opposite of the view held by Glass was that taken by Alfred M. Landon in a speech in Kansas City. He said: "The New Dealers are proposing to take our food--our money--away from our own, and hand it over to someone on the other side of the world. And they think we should say 'thanky sir' while they are doing it."⁸

Landon was not the only one that looked at the question from the economic side. The Christian Century thought the Lend-Lease Bill would have a national socialistic trend similar to Germany. When the United States became Socialistic and assumed Britain as its largest creditor, then the basis to our economy would be destroyed. Senator Hugh Butler of Nebraska kept saying that the public did not know the proposed lending program was an outright donation program.

In January, a few weeks before the bill came up for discussion, the real root of the objections began to emerge. Mark Sullivan in the New York Herald Tribune said he favored

⁶ Time, XXXVII (March 10, 1941), p. 14.

⁷ Loc. cit.

⁸ Nation, CLVII (September 11, 1943), p. 283.

sending supplies to England.

Before, statements had been made like Sullivan's, but now, rather basic information averse to the bill came up. The American First Committee obtained 10,000 signatures a day to present against the proposal. It mailed out letters with the heading, "Democracy in Action", and "How to Write Your Congressman."⁹ Their chairman, General Wood, spoke over the radio and started a branch headquarters in New York under John T. Flynn, author and economist. Verne Marshall's No Foreign War Committee and the Reverend Gerald L. K. Smith's so-called Committee of 1,000,000 both circulated petitions, while Marshall also appealed for a letter campaign against the proposal. The American Peace Mobilization, with a high percentage of Communists, staged a march of about 1,000 leftists, that was halted by the police on the capitol steps in Washington.

These happenings were by organized groups, but to "test the temperature" of the nation as a whole, Dr. George Gallup's Institute of Public Opinion released the results of its first nationwide sampling of public sentiment on the Lend-Lease proposed bill. The tabulation was based on the question, "Do you think Congress should pass the President's Lend-Lease Bill?"¹⁰ The results were as follows:¹¹

⁹ Newsweek, VII (February 10, 1941), p. 15.

¹⁰ Newsweek, XVII (February 17, 1941), p. 18.

¹¹ Loc. cit.

	Yes %	No %	Qualified %	Undecided %
New England and Middle Atlantic States	54	21	16	9
East Central States (Ohio, Illinois, Indiana & Michigan)	39	35	17	9
Nationalwide political breakdown				
Democrats	69	13	10	8
Republicans	38	30	23	9
Total average	54	22	15	9

This table gives the poll during the early part of January, 1941, but the percentage shows that a relatively large percent was for the Lend-Lease proposal. The proponents wished to preserve the democratic procedure, but in this time of an emergency, they believed that more power should be given to the executive with competent amendments to revert the power back to Congress after the emergency was passed. It was not the intention of the proponents to add to the constitutional power of the president. Mostly, the proposed bill was believed to give more freedom in using the powers already belonging to the chief executive. The power of foreign and military affairs had already been delegated to the president by the constitution, so this bill would be to determine the instruments the president would have to direct. The proposal would define a new objective for the president which would be "assistance in the defense of certain foreign governments--as a national interest."¹² Listing the "unprecedented powers"

¹² American Journal of International Law, XXXV (April, 1941), p. 308.

the bill supposedly would confer on the president, Herbert Hoover cautiously urged that the powers be clearly defined and possibly restricted.¹³

Norman Thomas, from the beginning, had wanted the president's powers to be restricted, or to have the proposal banned completely. Seven of his leading Socialist supporters in New York failed to follow his leadership. They wired Sol Bloom of the Senate that the "Socialists who opposed American participation in the last war...believe that America cannot be neutral in the present war."¹⁴ William Green, president of the A. F. of L., favored the proposed bill if an adequate time limit and certain other amendments would be added. Mrs. J. Borden Harriman, minister to Norway, urged that the proposed bill be passed "at the earliest moment."¹⁵ Booth Tarkington, the author, wrote Senator Van Nuys of Indiana, about his opinions. He mentioned the fact that every Senator, who now denied that America's security depended on Britain's Fleet, had scurried with haste to vote billions for a two-ocean navy last June when it seemed Britain and her ships might go under.¹⁶ Senator Van Nuys was for the bill.

Wendell Willkie refuted the statements made that the United States, if it became involved with Britain, would go

¹³ Life, X (January 27, 1941), p. 24.

¹⁴ Newsweek, XVII (February 3, 1941), p. 14.

¹⁵ Loc. cit.

¹⁶ Life, X (March 10, 1941), p. 33.

down in defeat. In fact, it was quite a "disgrace" to the Republican party to see its 1940 candidate for the presidency coming out so boldly for the bill. He went even farther by stating he was for the bill, and he would back the president. This was shown by his statement: "It is the history of democracy that under such dire circumstances, extraordinary powers must be granted to the elected executive."¹⁷ He believed that if the Republican party never backed the proposed bill, it would never be powerful nor be able to control the government of America again. It opened the eyes of the Republican party to his attitude when he made a speech in Manhattan, New York, before sailing for England, in which he said:

It is hoped the discussion of the bill does not take the form of opposition to granting power to this Administration just because it is this Administration. We could all wish that this Administration loved power less and that it more readily relinquished it when the purpose for which it was granted had ceased to exist. I think I can say without boast that no man in this country has done more to stress the record of this Administration in this regard or to point the dangers of it. I was, moreover, perfectly serious in my charge that the re-election of this Administration would jeopardize the continuation of the democratic process in the United States. And I believe many of its acts since re-election sustain my position.

Yet the people chose this Administration and we must abide by that choice.¹⁸

Willkie had wanted an amendment offered to the proposed

¹⁷ Life, X (January 27, 1941), p. 24.

¹⁸ Time, XXXVIII (January 20, 1941), p. 14.

bill to grant the benefits only to the British Commonwealth, Greece, and China.

The newspaper, the Midwestern Cleveland Plain Dealer, which had backed Wilkie in the campaign, backed the proposal. Three out of four newspapers, following the Cleveland paper, also backed the bill.

There were a few organizations backing the bill, too. The National League of Women Voters lined up for active support of the proposal. Despite the fact that the president of the University of Chicago, Robert Hutchins, strongly opposed the proposed bill, twenty-five members of the faculty issued a statement in favor of passing it soon. Much of the mail to Congress for the measure was inspired by the Committee to Defend America by Aiding the Allies. It, also, sponsored mass meetings, sent out printed circulars, and mailed weekly mimeographed letters.

These organizations and people worked for the measure, in general, as to its policy for the Allies. Some proponents talked about the economic side of the bill. J. B. Condliffe of the Foreign Affairs magazine spoke of its being an emergency program of economic warfare. From this point of view and from the political point of view, it was rather absurd to think that the United States would subsidize foreign consumers indefinitely, or that foreign consumers would want to exist on subsidy.

The proponents were not advocating a subsidy, although they

were concerned with the dollar problem. Britain could have received loans from us, which seemed simple; but the record of past loans had not been good. During Napoleon's time, that method was used, and later, they were to find that only a fraction of the loans could be paid. Britain did not exactly need dollars; she needed more planes, guns, and ships. Therefore, the resource or supply commitments were to be bilateral between the United States and the several allies. The pooling was to be multilateral, but the obligations were to remain bilateral.

These many controversies among individuals and groups had not merged into a very clear picture in early 1941. The facts of the bill and its exact text had not been before the people as an important problem. The opinions and attitudes were diverse. After the Public Hearings the people's attitude changed.

CHAPTER III
PUBLIC HEARINGS OF THE HOUSE AND SENATE

The proposed Lend-Lease bill was taken by Stimson, Hull, Knudsen, and Morgenthau to the Committee on Foreign Affairs of the House of Representatives to be discussed thoroughly pro and con. The hearings were held from January 15 to January 29. Proponents of the proposal thought the hearings would iron out the disagreements of many points of the bill. It would give the proponents a chance to set forth their reasons for offering the measure. Besides that, the people's opinion could be tested and could be gradually changed to favor the proposal, so that when the time came for the measure to be greeted by Congress, it would have the people's force behind it. In order to have greater force with the people, the Hearings of the House had many leaders in business, government, and other occupations called to Washington to state their criticisms.

The first to testify before the House committee was the Secretary of State, Cordell Hull. He told the committee that the United States "must recognize that this is a movement of world conquest that we are dealing with," and that we must "invoke the law of self-defense while there is time."¹ He explained that there was a time for neutrality, but he thought

¹ Life, X (January 27, 1941), p. 24.

now was the time for self-defense.²

Self-defense was the main "weapon of words" the four leaders used in their fight before the committee. The United States was not prepared for war or defense. If the United States gave Britain aid, it would give the nation time to prepare for defense. Although, it might be years before Hitler would overcome the Allied countries, the United States needed to give Britain aid. If the United States withheld aid to those attacked nations, the war would not result in a peaceful settlement. The only result of the United States' failure to give aid would cause more nations to be invaded and enslaved; then, the "would-be" conquerors might be able to attack this country.

To defend the United States, therefore, the proposed bill would set up machinery that would give the most effective use of its resources for the nations and for its friends. A democracy has always been known to be slow in organizing and in using its strength, but if this bill were passed, it would enable this democracy to attain achievements in the speediest possible way for this emergency.

In such an emergency, some country had to be the leader. The other allied countries had been fighting so long that not one of them was able to serve as a leader. The United States would have to be the leader and the greatest supporting nation at this time of the emergency. The United States, to do

² Loc. cit.

this, must be the only purchasing unit for war materials to be ordered from the manufacturers of this country.

This country would be the "bank" for the other Allies. Britain, especially, was feeling the lack of dollar exchange. Britain's money question had been a big problem of concern for the United States government all during the summer and fall of 1940. A letter from Prime Minister Winston Churchill to President Roosevelt on December 8 stated:

The moment approaches when we shall no longer be able to pay cash for shipping and other supplies. While we do our utmost and shirk from no proper sacrifice to make payments across the exchange, I believe that you will agree that it would be wrong in principle and mutually advantageous in effect...after victory was won with our blood, civilizations saved and time gained for the United States to be fully armed against all eventualities, we should stand stripped to the bone.³

In the effort to help Britain more, this proposed bill would have to be extensive. The president's power would be extended to the degree that he would not have to turn to Congress each time a decision was made in sending help abroad.

Secretary of War Stimson, "the army's Old Man" at the age of 73, was more frank and commanded more respect than either Hull or Morgenthau. He thought that the vesting of any discretionary power in defense legislation would have to be vested in the president of the United States. Stimson believed, also, that any interference with the president would be an uncon-

³ Collier's, CXX (October 18, 1947), p. 72.

stitutional action. The president should have advisers, but to put a check on his power, or to take away some of his power would be overstepping the Constitution and would be ruining a good, safe administration in case of a war.⁴

Some of the opponents believed that the law would cause war immediately. In giving the president quicker action in his powers, a few claimed it would give the president power to commit any and every conceivable act of war except the sending abroad of large armies. Representative George Holden Tinkham of Boston, seventy year old, pot-bellied, with jowl-whiskers like a Russian droshky driver gave the appearance of a ham actor playing prosecutor.⁵ He was the worst heckler of the opponents group, and especially so, since he heckled Hull, Stimson, and Knox, while Representative Hamilton Fish fed him with ideas. Tinkham thought the United States would go even farther, and send armies abroad. He said "there is not a thing that I did not envision as a result of the bill before us if it is ever passed."⁶ Some of the other opponents thought likewise concerning the manpower of the United States. If the material did not prove sufficient to support England and China, the United States' manpower would be uncomparable to any it had had before. It would have to go to Asia, Europe,

⁴ Hearings of the House, First Session on H.R. 1776, 77th Congress (January 17, 1941), p. 153. Hereafter cited as Hearings of the House.

⁵ Time, XXXVII (January 27, 1941), p. 12.

⁶ Hearings of the House (January 17, 1941), p. 167.

and Africa against the overwhelming opposition of the American people. The general feeling was that the nation must arm and it must help Britain, but this brought up another problem. Tinkham gave it very well when he said he could not "see how we can give effective aid to Britain and at the same time arm ourselves, since, ...time is of the essence for Britain."⁷

Since the United States had the intention of helping Britain, but at the same time to arm, the question of appropriations was broached. There was a provision in the Constitution that provided for Congress to control appropriations for war for a longer term than 12 years. The Lend-Lease proposed bill did not break that rule, nor did it provide for the president to take over the appropriation power. The changes made were that the president would decide his financial needs, and then he would send the list to Congress. Congress would pass the appropriation bill for the designated amount, but the president would have the added power to designate each and every use for the money without asking Congress. There were those who did not adhere to this view, but they did believe in helping Britain by a "straight loan plan." This would avoid giving the president the additional power. The opponents, also, did not like the bill because future orders for Britain would be consolidated with this for the United States own defense forces and would carry, then, a lower rate of profit. To the proponents, this seemed an advantage since

⁷ Hearings of the House (January 21, 1941), p. 247.

it permitted the smooth planning of procurement and also made possible a standardization of armaments which would contribute to the economy and speed of the United States' program.

It was generally agreed by all that munitions would be supplied by Lend-Lease, but what else would be included, was a question. When the chairman of the House Foreign Relations Committee, Sol Bloom, solemnly asked Stimson if the bill provided for the purchase of munitions or articles in other countries with the use of American funds, Stimson answered:⁸ "...I think it does permit that. Of course, only when money is appropriated for that purpose...."⁹ This money would be used for the sending of any type of goods that would go towards winning the war. Whether it would be raw materials, machine tools, or uniforms, if they were the needs, they would be sent. Nothing, so the proponents explained, would be sent for civilian use unless it could be proved by our government that it was essential for the fighting of the war.

Most of the persons who appeared before the House committee favored helping Britain with materials, but several brought up the question of how the United States would be repaid for this aid. Several thought Britain should have handed over to the United States many of her assets in South America and elsewhere. They gave as their reasoning that the United States could hold the assets as security and prevent the Nazi's

⁸ Hearings of the House (January 17, 1941), p. 155.

⁹ Loc. cit.

from getting control of them. This brought up the problem of quid pro quo.

The problem of quid pro quo was implied from subsection 3 (B), that called for terms and conditions.¹⁰ In the meantime, it was decided that all defense orders to Britain would be placed by United States government authorities with American producers and the United States government would pay the producers. A part of the Lend-Lease would be paid in reverse Lend-Lease. Another part might be declared surplus when the end came, and it would be sold abroad. No payment was likely to be asked for those Lend-Lease goods which had been used up. The question of what payment in return was a big one, and it was pushed aside to discuss the question: if the United States were to sell, transfer, or lease articles to England, how would the materials get there? The president under the proposed bill would be in control to authorize the Secretary of the Navy and the Secretary of War to sell or transfer the needs. Morgenthau said that the President did not have the power to deliver or ship the needed articles in American ships.¹¹ To care for the criticisms coming from the opponents, the committee finally agreed to make four modifications of the proposed bill concerning the using of the United States' ships to convoy goods. They were:

¹⁰ See Appendix A.

¹¹ Hearings of the House (January 15, 1941), p. 75.

(1) a clause providing that "nothing in this act shall be construed to authorize or to permit the authorization of convoying vessels by naval vessels of the United States," (2) a time limit ending June 30, 1943, (3) a provision that no defense article should be disposed of until after "consultation" with Army and Navy heads, and (4) a stipulation that the President report to Congress on the workings of the bill at intervals of not more than 90 days.¹²

Representative Hamilton Fish of Garrison, New York, of rangy build, headline hungry, with a brazen voice, and a long time suspicion of England, was a bitter opponent of the bill, so he presented a list of seven major amendments to the bill.¹³ They were:

(1) Bar the President's giving away "any part of our Navy without consent of Congress";

(2) Bar his sending convoys into war zones;

(3) Limit operation of the bill to one year;

(4) Restrict the aid-democracies cost to \$2,000,000,000;

(5) Strike out the phrase 'notwithstanding the provisions of any other law';

(6) Bar repairing belligerent warships in American ports;

(7) Require the British to give security.¹⁴

In addition to issuing these amendments, Fish said he was calling as witnesses Wendell L. Willkie, Alf Landon, Herbert Hoover, Colonel Charles A. Lindbergh, Thomas E. Dewey, Joseph P. Kennedy, Colonel Robert R. McCormick, General Charles G.

¹² Newsweek, XVII (February 10, 1941), p. 14.

¹³ Loc. cit.

¹⁴ Newsweek, XVII (January 27, 1941), p. 14.

Dawes, Norman Thomas, General Robert E. Wood, Hanford MacNider, General Hugh Johnson, William Cardinal O'Connell, Dr. Henry N. MacCracken, Edward E. Spafford, Roy W. Howard, William C. Bullitt, and Hugh Wilson; but only Willkie was known to be for the bill.¹⁵

Four amendments were added to the bill by the committee as a group. There was one to limit the president's extra powers to only two years; the president was to give an executive report to Congress at ninety-nine day intervals; he would have to consult with the Army and Navy before he disposed of any military equipment; he would deny that the conveying of merchant vessels by American warships was authorized. But probably the most important amendment change made by the committee was the one that allowed Congress to rescind the entire measure at any time by concurrent resolution. That gave every one the feeling that Congress still had complete control of the situation.

If Congress still had control of the situation, the next question was the inquiry as to how the new proposed bill would affect former laws already passed. On June 16, 1940, Congress gave the Secretary of War and the Secretary of the Navy the right to manufacture in government-owned arsenals or shipyards, or to buy on the open market, munitions of war for

¹⁵ Loc. cit.

direct sale to the government of any American Republic.¹⁶

This law was known as the Pittman Act. It did for the American Republics about what the Lend-Lease proposal was to do for the allied nations. Therefore, the new proposal was not such a radical departure from past legislation.

The Johnson Act, passed by legislation in the past, would be effected by the new proposal, said many of the opponents. Secretary of State Hull, described as a slender man, stooped, sixty-nine years old, silvery white hair, pale face, sharp brown eyes, and salt and pepper eyebrows, tried to spike the adversaries.¹⁷ He explained that any act passed before this time by the government, that would be effected by the new proposal, would be suspended during the duration of the new proposal. He thought this was the meaning of section 3 (a) of the new proposal that said "notwithstanding the provisions of any other law".¹⁸

International laws became the concern of the group in the discussion. From the international law point of view, the new proposal was of importance in that it asserted the freedom of non-belligerents to discriminate between the participants in foreign disagreements. Hull thought the Hague Convention of 1907 was not applicable to the European war for the reason

¹⁶ Stettinius, Edward Reilly, Lend-Lease, Weapon for Victory (New York: Macmillan Company, 1944), p. 38.

¹⁷ Time, XXXVII (January 27, 1941), p. 12.

¹⁸ Hearings of the House (January 15, 1941), p. 8.

that it provided in article XXVIII that it should not apply unless "all the belligerents are parties to the convention." Britain and Italy were not parties to the convention.¹⁹ Two other long neglected truths of international law arose to the surface at that time. One was the simple right of any nation to take whatever steps were necessary to protect itself against an enemy; in fact - the law of self-defense. Hull explained that "self-defense is and must be the compelling consideration in the determination of wise and prudent national policy."²⁰ The second long neglected truth might have been called the "law of mutuality." If the Nazi nations did not follow the orderly international relations and laws, the United States would not be able to do so and should not be expected to do so.

Following the discussion on international law by the Hearings of the House, the proposed bill was sent on to the Hearings of the Senate for discussions to be heard on many of the same controversial problems. The proposed bill was listed on the Senate calendar as S. 275, so it was oftentimes referred to as that by the Hearings of the Senate, besides using its more usual name, H.R. 1776. The Hearings of the Senate discussed the proposed bill from January 27 through February 11.

When the Senate committee for the Hearings met January 27, it was held in the caucus room of the Senate office build-

¹⁹ Ibid., p. 9.

²⁰ Stettinius, op. cit., p. 80.

ing, and a unanimous decision was made to make Walter F. George, Senator of Georgia, the presiding chairman. Some of the other senators present during the meetings were Harrison, Connally, Thomas of Utah, Van Nuys, Murray, Pepper, Green, Barkley, Cuffey, Gillette, Clark of Missouri, Glass, Byrnes, Johnson of California, Capper, La Follette, Vandenberg, White, and Nye.²¹

Senator Alben Barkley, one of the senators listed above, was a strong advocate for the proposed bill. His first discussion was a trial in answering where the bill originated. He questioned and answered Secretary Morgenthau as to the origin. Barkley brought out the point quite well that no one person could make the sole claim to have been the author of the bill. After the bill had gone back and forth among the groups, Senator Barkley admitted he introduced the bill. He was, also, to be the sponsor of the bill in the Senate and John McCormack would sponsor it in the House. He said he would take full responsibility for whatever influence or implications that would go with the sponsorship of the bill in either House of Congress.²²

Therefore, any advocate for the proposed bill had Barkley's strong influence behind him. Secretary Stimson was one

²¹ Hearings of the Senate, First Session on S. 275, 77th Congress (January 27, 1941), p. 1.

²² Hearings of the Senate (January 28, 1941), p. 57.

of those advocates. Probably the next greatest problem concerning the proposal was brought out by Stimson in his explanation concerning the reasons for the proposed bill. Stimson, speaking before the Hearings, gave his points as follows:

This bill S-275 has two main features. Its other features are subordinate to these.

First, it attempts to create order out of the disorder which has existed for nearly 2 years in the manufacture of munitions in this country,...

The second main feature of the bill is that the consideration which may be given by foreign nations for these weapons may be measured in more flexible and thus to us more valuable terms than in hard cash - in particular that it may be measured in terms of the overall benefit to the United States, direct or indirect.²³

Countries had been trying to buy arms from the United States in the two years' time to which Stimson had referred. They had many purchasing missions here from each country that caused disorder in purchasing all products. Delay was caused even more, because in purchasing in that manner there was competition between the other countries and the United States. As a natural result, it interfered with the United States own preparedness. For those reasons, Stimson probably had a just cause in bringing out his first reason for the bill.

The army, for almost 20 years, had been listing our nation's manufacturers, and making itself familiar with the methods of production and sale. At the time the second reason was given by Stimson, the office of production manage-

²³ Hearings of the Senate (January 29, 1941), p. 85.

ment and the Defense Commission were assisting the army. The foreign nations were unfamiliar with American business methods.

Besides the foreign methods being different, a general opinion of a majority of the advocates was that the centralizing of buying and producing would help to standardize weapons. In the meantime, we could easily decide which weapons would be kept, and which ones would be sent abroad.

Another reason stated in the Senate by the advocates was that the British Empire had very large ultimate resources, but at that time her shortage of exchange was critical. She just had enough left to pay for her existing orders. She had been cut from her former trade with the Scandinavians and Northern Europe. Her main supplies from them had been food and raw materials, and in return, she paid for them with coal, tin, and manufactured articles. Now, she had to get those needs from the Western hemisphere and she had to pay cash here.

Stimson, in trying to explain the proposed bill in caring for that problem, said:

...We are seeking to make a loan to Great Britain. We are really seeking to purchase her aid in our defense. We are buying - not lending. We are buying our own security while we prepare.... We are forced to buy the time necessary to arm and protect ourselves and we are buying time from the only nation which can sell us that time.... Under such circumstances, to try to turn the transaction into an ordinary loan is one of the most short-sighted views that a great nation

could take. It is in our own interest not to try to drive a hard bargain for cash....We have to think also of the consequences and conditions which will follow this war. When that time comes, we shall be directly affected by whether or not those nations, whose ways of life and methods of trade are most like ours, are able to recover from the strain of war.²⁴

In giving these reasons for the proposed bill and the aid to Britain, the advocates naturally thought that Britain would win the war. Colonel Charles A. Lindbergh did not think so.²⁵ He believed the bill would lead the United States into the war. Dr. Herbert Wright gave his idea concerning the bill, and the war. He said the "line of argument presumably behind this bill seems to be that it is less dangerous to incur the probability of war with Germany in the near future, in order to avoid the possibility of war with Germany in the more remote future...."²⁶

Wright's words were only mild in comparison to many other speakers before the Hearings of the Senate. A resolution was sent to the committee from the American Coalition that had met at Washington, D. C. They gave their views as follows:

We regard this bill as a confession by its proponents that democratic processes of government have failed. Therefore, we cannot accept the political philosophy which is the real basis of this bill....If the members of the committee desire, they can find the argument for the administrative principles underlying this bill well set forth on pages 435 and 456 of the first,

²⁴ Ibid., p. 87.

²⁵ Hearings of the Senate (February 5, 1941), p. 490.

²⁶ Ibid., p. 446.

complete expurgated, English edition of Mein Kampf....²⁷

Many other speakers just made frank statements that the proposed bill could not be changed enough by amendments for it to be all right, and they thought an entirely new bill should be made. The theory that our democracy was losing force was a main theme. In fact, just saying the rules of the proposed bill would show that the advocates thought our government was worthless, was the idea of many opponents.

Cordell Hull's answer to this was:

...The great problem of democracy is to organize and use its strength with sufficient speed and completeness. The proposed legislation is an essential measure for that purpose. This bill will make it possible for us to allocate our resources in ways best calculated to provide for the security of this Nation and of this continent in the complex and many-sided conditions of danger with which we are and are likely to be confronted. Above all, it will enable us to do all these things in the speediest possible manner. And, overwhelmingly, speed is our greatest need to-day.²⁸

To give the speed needed in a democracy, it was decided by the advocates of the proposed bill to give the president more power. Senator Tom Connally, an advocate for the proposal, gave his attitude as to giving the president more power when he said: "If you can't trust the President of the United States to execute them under his sworn duty to uphold the Constitution, I don't see any other place to deposit these

²⁷ Hearings of the Senate (February 7, 1941), p. 656.

²⁸ Hearings of the Senate (January 27, 1941), p. 7.

powers for the time being."²⁹

A former ambassador to Germany for the United States, James W. Gerard, made a speech and explained his reasons for extending the president's powers by saying:

...I have read this bill. I favor this bill, because today the Germans have invented for their kind of warfare the term "blitzkrieg" -- the lightning war. The only way we can meet that is by a "blitzdefense" -- a lightning defense. We have to put the power into the hands of the President to act, and act immediately.³⁰

Some of the opponents agreed that definite powers need not be given the president concerning the naming of the countries to receive aid, if Congress would make broad enough powers so the needy countries could receive aid. The way the proposed bill was written, in section 5, that any power of the president over exports was to be disclosed to an agency that was to be defined, so that it would not really be a secret consideration made by the president.³¹

In that way the president's powers would be limited, but then the question concerning the power of the treasury over the appropriations was brought up for consideration. The proponents said the president, through the Treasury, did not have the power to grant credits to Britain as he wished. He could not grant outright appropriations of money, but he could through the Lend-Lease powers, make available to those

²⁹ Hearings of the Senate (January 29, 1941), p. 82.

³⁰ Hearings of the Senate (January 30, 1941), p. 164.

³¹ See Appendix A.

countries who needed munitions of war, the munitions they needed, even if they could not pay cash for them. Many of the opponents opposed that part of the proposed bill, for the president could extend war materials to Russia if he considered them in need.

The opponents, also, said the conferring of added powers to the president let him have the power to act contrary to the canons of international law. Stimson answered the argument very fully in his hearing before the House, when he pointed out that:

...in the world today aggressor nations had, by their threats and actions in violation of international law, produced a situation where a law-abiding nation could not defend itself against their lawless action if it permitted itself to be shackled by rules which they disregard. He pointed out with great clarity and reason that in such a situation the law of self-defense justified freedom of action on the part of the victims of the aggressor nations....³²

Some of the opponents were for most of the "freedom of action" given the president, and they thought the quandary as to international law was baseless, but they did have questions as to the probable effect of the bill on the economic system of the United States. A few believed that giving the president more power would nullify any and all social or labor legislation enacted in the past few years. Some even went so far as to believe it would give him the power to regulate

³² Hearings of the Senate (January 29, 1941), p. 89.

labor, to destroy trade unions, and to take away from the people many of the civil rights they then possessed.

The belief of taking away people's civil rights was rather extreme, but there was an extreme in the connection with the "blank check" idea, as General Robert E. Wood stated: "The bill gives the President a blank check on the American taxpayer's money for the defense of Britain with no safeguards or checks."³³

Speaking of the money powers and the "dictatorial" powers given the president, vivid descriptions were also given comparing him to other countries' dictators. Especially so was Ralph Townsend's description, when he said:

...Some of the proponents of the bill H. R. 1776 are saying that we must pass it to avoid the fate of France. Their comparison seems to me unfortunate for their point. We do not forget that Daladier had dictatorial powers for many months before France entered the war in September of 1939. When France experimented serious fighting for the first time, in May of 1940, Daladier had been dictator for about a year and a half. But as already noted, dictatorship France in this war did not show up nearly as well as free government France in 1914....³⁴

This description sounded as if the president was receiving the powers from the proposal to make him a complete dictator.

Catherine Curtis, chairman of the Women's National Committee to Keep the United States Out of War, in accepting this view, explained the steps a country may go through to lead to those powers. She explained that:

³³ Hearings of the Senate (February 4, 1941), p. 342.

³⁴ Hearings of the Senate (February 10, 1941), p. 796.

...The technique in Europe was first to whip the public into hysteria through propaganda--manufactured threats of invasion. Next came the cry for centralized power for national defense. Then came the demand for dictator powers, and finally war, with all its terrible destruction. To date, in this country, we have had the propaganda--manufactured threats of invasion--the hue and cry for centralized powers to give us national defense. Now we have the demand for the dictator--creating legislation. How can we avoid war?...³⁵

The thought of war brought up the proposed bill's power as to an army. Senator Claude Pepper brought forth the point that the proposed bill did not propose to send men. Even Colonel Lindbergh agreed with this. But Colonel Lindbergh thought that if the United States carried out the provisions of the bill, "we will have to maintain and protect supply lines which stretch two-thirds of the way around the earth...."³⁶

To keep up those supply lines, it would cost our country an immense amount. The United States had been more or less blamed for loaning the European countries money in the last war, but taking the side of the proponents, its government would not be loaning them money this time. The opponents thought it would cause their properties to be bonded more than ever. Money would come indirectly from the people by taxing, but first it would come directly from the Treasury. The opponents wanted to know "what Treasury". Herbert A. O'Brien stated in "section 6... that the President is authorized to appropriate from time to time any money out of the Treas-

³⁵ Ibid., p. 822.

³⁶ Hearings of the Senate (February 5, 1941), p. 492.

ury...."³⁷ Senator Tom Connally and many other proponents brought out the part that none could be taken from the Treasury unless Congress appropriated it. LaGuardia, a proponent for the proposal, said that:

...Under existing law the President, the Secretary of War, and the Secretary of Navy cannot give one single tent away without the authority of Congress. Every year resolutions are passed authorizing the Secretary of War to lend tents to the G. A. R. or the Spanish War Veterans for their annual encampments.³⁸

The proposed bill would prevent so much of the red tape, of each and every point having to be taken before Congress. Congress would retain its appropriation power. After the president had decided a country needed supplies from the United States, the Treasury would have to ascertain whether the country had the dollars to pay for the orders. The government did not want the United States' factories to become cluttered with a lot of unpaid orders that the countries would have. Many questions were asked about this repayment for the orders sent. At the time, the proponents' answer was that they expected repayment in kind, but, of course, they could not judge the value of the safety and security it would give to the United States through sending the orders in the first place.

The president had the power to send these products, but the next question, in many minds, was the inquiry as to whether

³⁷ Hearings of the Senate (February 7, 1941), p. 639.

³⁸ Hearings of the Senate (February 11, 1941), p. 862.

he had the power to send our navy, army, and air force, too, if he decided the countries needed it. Colonel Lindbergh was interested mostly in our air force; therefore, he gave his ideas concerning what our air force could do there. He said:

...regardless of how much assistance we send, it will not be possible for American and British aviation concentrated in the small area of British Isles, to equal the strength of German aviation, with unlimited bases throughout the Continent of Europe....³⁹

The majority of the proponents respected Colonel Lindbergh's judgment as to aviation, but in the question of sending airplanes to the needy countries, they disagreed with him. He had no experience with military aviation. Later, Major Alford J. Williams, a business executive and newspaper man, believed the actions of giving the needy countries airplanes would strip us of our existing aircraft.⁴⁰

Not only the aircraft was discussed, but section 2 of the proposed bill, said, "any weapon, munition, aircraft, vessel, or boat," meaning the army and navy, would be included.⁴¹ There was a past provision made against arming merchant vessels; there was a prohibition against allowing a vessel to enter a harbor to be refitted; there was a prohibition against taking material out of a harbor to a waiting boat. All those

³⁹ Hearings of the Senate (February 5, 1941), p. 491.

⁴⁰ Hearings of the Senate (February 7, 1941), p. 577.

⁴¹ See Appendix A.

promises were made showing that the United States would not interfere with armed vessels nor ships at war, and such problems would by the proposal, be in effect repealed. Alf M. Landon believed the laws would be effected somewhat, as would the Declaration of Panama.⁴² When our navy yards should begin to be used by the English warships, then the Declaration of Panama would be automatically repealed.

If the proposed bill passed, the work would have to be performed swiftly to handle the foreign ships to be repaired in the harbor of the United States. The authority to exercise these powers would be the three defense groups: the Department of War, the Department of the Navy, and the Office of Production Management.

When the discussions began on the problem of administration, the opponents decided the only way to limit the bill would be to make amendments or changes. The proponents were very congenial to this idea for they wished to have the entire support of all the most influential members of Congress to pass the proposed bill and to make it function well. Wendell L. Willkie, being a leading republican, led the group in wishing for changes, although he spoke for the proposal, and he said he would back it even if no amendments were made. His main wish was that the bill would be limited to explain that it would give aid only to England, the British Commonwealth of

⁴² Hearings of the Senate (February 8, 1941), p. 667.

nations, China, and Greece, since they were the countries subject to aggression at that time. Congress should retain the power to decide on other countries to be added.⁴³ Willkie thought the phrase "and for other purposes" might be dropped from the title of the bill. Although that was the legal phraseology to use, many persons were alarmed by the unusual powers in the bill, and he believed that the phrase was unnecessary and tended to increase the alarm.⁴⁴

In order to further lessen the alarm of the opponents, Willkie suggested that the word "facility" in section 2 (A) (2) could be construed to cover all or any section of industry including newspapers and the radio.⁴⁵ To erase the attitude of fear by the adversaries, the word should be changed.⁴⁶ In section 3 (A) (1) the words "or otherwise procure" disturbed some of the adversaries.⁴⁷ They thought that the words would be construed to give the president more powers than were otherwise given.⁴⁸

Senator Bennett Champ Clark of Missouri, a strong opponent of the proposal, especially fought the added powers given the president. Referring to the bill, he made this statement:

⁴³ Hearings of the Senate (February 11, 1941), p. 875.

⁴⁴ Loc. cit.

⁴⁵ See Appendix A.

⁴⁶ Hearings of the Senate (February 11, 1941), p. 876.

⁴⁷ See Appendix A.

⁴⁸ Hearings of the Senate (February 11, 1941), p. 876.

...Now, referring again to section 3 "notwithstanding the provisions of any other law," the President may have authority to otherwise procure any defense article. Of course, "any defense article" means anything, except possibly perfumery...And that includes wheat, it includes corn, and it includes hogs. They are defense articles. At least, I have never known of any soldier having more hog and hominy than he could eat. But under the provisions of this bill, "Notwithstanding the provisions of any other law," the President may otherwise procure these defense articles and fix any prices he pleases on wheat or corn or hogs or anything of that sort....⁴⁹

The president in selling these articles, transferring, exchanging, leasing, or lending them would be performing an undeclared act of war. He would receive that power, according to the opponents, from subsection (2) of section 3.⁵⁰ Extending this farther, Dr. Herbert Wright, Professor of International Law of the Catholic University of America in Washington, D. C., said that:

...Section 3(a), paragraph 2, of S. 275 authorizes the transfer by the Government of the United States of any defense article to a belligerent. This is absolutely contrary to article 6 of Hague Convention XIII of 1907...⁵¹

The opponents were interested in the aspects of the proposal as it applied to international law but they still were more interested in how the law applied to the United States. Queries were being made as to how long the proposed bill would last. On that point, Senator Wallace H. White of Maine started the discussion. The opponents finally concluded

⁴⁹ Hearings of the Senate (February 8, 1941), p. 712.

⁵⁰ See Appendix A.

⁵¹ Hearings of the Senate (February 5, 1941), p. 440.

that the proposal should be limited to two years, with Congress reserving the right to terminate the bill by concurrent resolution, when it decided the bill was not needed. Congress might decide to do so before the two years were up, or it might extend the provisions longer, but it would hold the power of the concurrent resolution as a weapon for Congressional protection.

Of course, there were still some persons that did not wish to limit the proposal's powers, but to ban the proposal altogether. Norman Thomas, the Socialist party leader, was a main advocate of banning it completely.

Banning it completely was not the weapon used in opposing the bill by some of the opponents. They decided to show how the bill was unconstitutional, and it would automatically repeal many of our laws. Edward H. Foley, general counsel to the Treasury, spoke for the provisions of the bill, and tried to explain how it would not repeal the Neutrality Act. He tried to show the differences between the two acts when he said:

I think the provisions of this bill give the President much more flexibility than would be accorded if you merely repealed the credit provisions of the Neutrality Act or permitted loans to countries that are in default to the United States. You simply provide another country with dollars with which to pay for material that it would order here, it would mean that it would be months and months before those materials came off the assembly lines and could be made available. Under the provisions of this bill it would permit the President to make available to a country,

whose defense is vital to our defense, materials that we have on hand now which they might need at any time, and it would permit them to marshal those materials and those supplies and put them in the places where they have to have them when they have to have them. That is the principal difference. I think it is not correct to say that it is simply a difference of credit. It is a difference of speed, expedition, and purpose.⁵²

Secretary Stimson, among many others, did not believe it would effect the Walsh-Healey Act, the Davis-Bacon Act, the Eight-Hour Law, and the Fair Labor Standards Act. They did think that the proposed bill would affect other statutes of law. It was not to repeal the statutes, but merely to suspend their operation while the bill was in existence, if their provisions conflicted with the new proposal's provisions. Some of the laws of the War Department might have been modified by the provisions of the act. The right, to suspend provisions of bills in existence at that time, was gotten from the bill's provision, "notwithstanding the provisions of any other law."⁵³

Taking some of the particular acts in existence, the Johnson Act forbade the extension of credit or financial assistance to any country which was in default in their payments of their obligations growing out of the last war. The new proposed bill would suspend that provision.

The provisions of the Neutrality Act came under observation. Secretary Knox and his followers believed that the Neu-

⁵² Hearings of the Senate (January 29, 1941), p. 26.

⁵³ See Appendix A.

trality Act was not needed any more. It was claimed the proposed bill affected the Neutrality Acts provision that said American vessels were to be armed only with arms and ammunition which the president thought would be necessary to preserve the discipline. Senator Bennett Champ Clark believed the president even had the power to suspend the National Labor Relations Act and the Wages and Hours Act, when he wished. As to the patent laws, there was some adverse criticism to disclosing industrial secrets.

The patent laws would be effected within the United States. More were perturbed by the provisions of the Treaty of Panama that would be violated by the new proposal, if the repair of ships of fighting nations were repaired in our harbors. Norman Thomas said:

Although the South American nations have lived up to that treaty, we now propose to change it, change it suddenly and without consulting them, so as to give England aid which we protested strongly against when England gave aid to the Confederate States....⁵⁴

Continuing on in verifying the international law of treaties, Stimson and others believed that this country had the right to interpret this law in the light of another great treaty, the Kellogg-Briand Pact. Under that treaty, some 63 nations entered into a formal covenant to renounce war as an instrument of national policy. All disputes between and among nations were to be solved by pacific means. Many of

⁵⁴ Hearings of the Senate (February 3, 1941), p. 291.

the provisions in the proposed bill were covered by the Pact.

Cordell Hull tried to state the exact parts of the Johnson Act, the Neutrality Act of 1939, the United States Code, Title 18, and The Hague Convention of 1907, that were under observation in comparison with provisions in the new proposed bill. Hull said the following were concerned with the provisions of section 3 (A):⁵⁵

(1) The Johnson Act

This act would not appear to be involved for the reason that it does not apply to this Government, or to a public corporation created by or in pursuance of special authorization of Congress, or to a corporation in which the Government has or exercises a controlling interest, as for example the Export-Import Bank.

(2) The Neutrality Act of 1939

Section 7 of this act, which prohibits the extension of loans or credits to a belligerent government, is not by its terms made applicable to this Government but it does apply to a corporation such as the Export-Import Bank. In any event the prohibition would be superseded by the new act.

(3) United States Code, Title 18 Section 23 makes it unlawful to fit out or arm in the United States a vessel with intent that it shall be employed in the service of a foreign belligerent against a power or people with which the United States are at peace.

Section 24 makes it unlawful to increase or augment in our ports the force of a ship of war or other armed vessel belonging to a belligerent power.

Section 33 makes it unlawful during a war in which the United States is neutral to send out of our jurisdiction any vessel built, armed, or equipped as a vessel of war for delivery to a

⁵⁵ Hearings of the Senate (January 29, 1941), p. 141.

belligerent nation.

These provisions would be suspended by the new act.

(4) The Hague Convention of 1907

Hague Convention XIII of 1907 states in article VI that 'the supply, in any manner, directly or indirectly, by a neutral power to a belligerent power, of warships, ammunition, or war material of any kind whatever, is forbidden'.

Article XVII states that in neutral ports belligerent warships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force.

Article XVIII states that belligerent warships may not make use of neutral ports for 'replenishing or increasing their supplies of war material or their armament.'

The convention is not applicable to the present European war for the reason that it provides in article XXVIII that it shall not apply unless 'all the belligerents are parties to the convention'. Great Britain and Italy are not parties to the convention.

...Germany and Italy have paid no attention to such provisions, which are representative of international law on the subject, but have at will and without notice occupied by force the territory of neutral countries, and, having subjugated those countries, are using their territories against their adversaries.⁵⁶

After finishing the discussion on the conflicts or non-conflicts with international law, the Hearings of the Senate drew to a close. There were many suggestions made, yet, for changes in the bill, or banning the bill entirely. One of the opponents suggested that instead of the proposed bill, a Joint Congressional Peace Commission should be created. It

⁵⁶ Hearings of the Senate (January 29, 1941), pp. 141-142.

would communicate with all the nations not at war, and work for a world union. Also, before Congress should pass the proposal, it should ask Britain to state her war aims.

After getting Britain's war aims, a composite of reasons for opposing the proposed legislation would be in general that it granted the president too much power; that it repealed the Neutrality Act and the Johnson Act; the United States had limited defense equipment and the president would give it away; it would repeal and stop the Monroe Doctrine; the people feared all European politicians; and England still owed the debt of the last war. Each of these was verified and answered in the discussions in this chapter, although H. R. 1776 or S. 275 was a new foreign policy for the United States.

To show the effect of the proposed new foreign policy on different sections of the country, Newsweek magazine gave a table that showed the following:

	For	Against
South	96	3
Border states	37	6
Northeast	74	44
Midwest	31	91
West	22	21 57

⁵⁷ Newsweek, XVII (February 24, 1941), p. 18.

Probably the best and most clearly stated idea of the new foreign policy, as to the proponents, was given by Dr. James E. Conant, President of Harvard University, when he said:

...The extension of special powers to the Chief Executive in time of emergency has been a recurring element in the successful operation of this country for over 150 years. There is no question in my mind as to the extremity of this emergency. Whether we lose civil liberties does not depend on the grant of necessary powers in an emergency to the President. It depends upon the general spirit and sense of values of the people and their Representatives in Congress....⁵⁸

⁵⁸ Hearings of the Senate (February 11, 1941), pp. 836-837.

CHAPTER IV
THE HOUSE DEBATES

In the House, there was a good illustration of the sense of values of the representatives in Congress. The Time magazine explained that in three days of general debate, one hundred eleven members made speeches; some of them spoke many times. Their tones had been generally quiet. Observers noted that if it were a war Congress, it was not like those of the past. Nearly every speaker on both sides preened himself on his lack of emotion and took pride in his own hardheaded, coldly practical viewpoint. All the tears shed for Britain could have been collected in an eye-dropper; all the hate for Hitler could not have been compressed into enough arsenic to furnish a murder mystery.¹

Several times demonstrators were forced from the chamber. Once a New York pamphleteer, Margaret Russell, interrupted the proceedings by appearing in a black gown and a death's head mask, and wailing: "My Novena! My Novena!"²

Despite the demonstrators, the representatives remained calm, and continued on with their work. The opponents hoped they would not be classed as Hitler's sympathizers, not be counted as disloyal citizens, nor be given the name of "appeaser".

¹ Time, XXXVII (February 17, 1941), p. 16.

² IBID., p. 17.

Probably the calm attitude was shown most by the clear-thinking of the representatives for and against. Representative Joseph O'Hara of Minnesota thought the bill would deal directly or indirectly with three subdivisions. They were:

First, the constitutional guarantees to the people of the United States;

Second, the economic resources of the United States; and

Third, the most precious of all - the very lives of the people of this United States.³

O'Hara's statement was indeed calm in comparison with some of the later opponents' words.

Representative James Oliver of Maine was one of those who believed that H. R. 1776 was a way to an idealistic crusade against world unemployment and poverty. He thought the bill should be amended to read: "A bill to liquidate the world unemployment through war and its mass employment of human cannon fodder."⁴

Representatives Hamilton Fish and James Van Zandt made wordy, heated statements, and an example of their feeling can be gotten from Van Zandt's statement: "Members who vote for this bill will be voting for ... an American Reichstag."⁵ Representative Dewey Short of Missouri seemed to sense that his group was out-numbered, so he thought he would be wise in offering an amendment that seemed ridiculous even to some of

³ Congressional Record, 77 Congress, 1 Session, p. 675. Hereafter cited as Congressional Record.

⁴ Ibid., p. 633.

⁵ New Republic, CVI (May 18, 1942), p. 689.

his own group. He said, "...if you cannot kill this bill, then I would like to see you offer an amendment that the Members who vote for this vicious thing will, the day war is declared or we become involved, resign their seats and go in the front contingent...."⁶

Finally, despite the "wild" statements being made, many of the representatives began to find actual flaws, or flaws in their estimation, that would cause trouble when the bill was enacted. The first important problem brought out was that the president was receiving a freer exercise of his powers, so there should be a limit made to the time of the bill. Representative Robert Chiperfield of Illinois gave his reasoning, and that of many, when he said:

I prefer the 2-year limitation from the date of enactment, not because a longer date would violate our Constitution, but as a matter of policy. A 2-year period would be within the principle expressed in the Constitution, article I, section 8, clause 12, ..."⁷

It was generally agreed that the United States would complete its agreements within that two year time, but that the other countries need not do so. Still, the United States could help Britain to the fullest. After July 1, 1943, when the agreements would become valid, the United States could make other agreements with Britain, so she would still receive help. Still others preferred to give Britain aid by handing to her about \$2,000,000,000 in cash and let her buy what she

⁶ Congressional Record, p. 601.

⁷ Ibid., p. 549.

needed. In that way we would not become involved at all.

Some began to think how we would become involved, and they began to get ideas about what we could get in return from Britain for the help we gave. Representative Melvin Mass of Minnesota offered an amendment to that effect:

That the United States purchase all the British possessions in the Western Hemisphere with the exception of Canada and the Province of Nova Scotia, everything in this hemisphere, in both the Atlantic and the Pacific. Figuring it on the basis of what we paid Denmark for the Virgin Islands, it would come to somewhere around \$16,000,000,000 or even more. I propose to charge off against that the British debt to the United States of about \$6,000,000,000, leaving the British a net credit in this country of \$10,000,000,000, which I propose to be placed in the Export-Import Bank to their credit, against which they may make open purchases of anything they like in the United States..."⁸

From the problem of limiting the time of the bill, the next big question was the powers given to the president. The president already had plenary powers according to the constitution, in all matters pertaining to foreign relations. The Supreme Court had interpreted it that way. But how much more power he should have, caused the argument. The opponents were of the opinion that the provision providing for the president to consult his underlings on the problems arising was a useless provision. In so many words, they believed the president would pay no need to the provision. He would not have to abide by the Chief of Staff's judgments. Also, they would know if they disagreed, that their jobs would be in

⁸ Ibid., p. 556.

danger.

Again, the opponents spoke of section 9 of the bill, where the president would promulgate rules and regulations that would be necessary to carry out the act's provisions.⁹ Their opinion was that it was extending to the executive department some of the legislative's powers. This, they claimed, was unconstitutional.

Van Zandt brought out the idea of the constitution and the translating of it, when he said: "...This lend-lease bill contains 872 words and is similar to the vehicle upon which Hitler rode in when he deftly began to translate the meaning of the German Constitution so as to further his own political aims...."¹⁰

Some went so far as to think it would give the president power over Britain to tell Britain what the British needed. The answer was that Britain knew best its own needs. Many proponents believed the president had the power to declare a state of war without Congress passing on the question. Then, when war came, the opponents believed Congress would be blamed for causing the war because it passed the newly proposed bill.

Having decided Congress would be blamed for the mistakes made, the opponents decided that the new proposed bill would go against several acts passed in the past. Especially were they concerned with the effect it would have on the Neutrality

⁹ See Appendix A.

¹⁰ Congressional Record, p. 589.

Act and similar statutes. Representative Herman Eberharter of Pennsylvania pointed out:

...section 3(B) of H. R. 1776 would suspend, pro tanto, section 7 of the Neutrality Act of 1939, since section 3(B) of the lend-lease bill authorizes the transfer of defense articles on such terms as the President deems satisfactory. Such suspension, pro tanto, however, would not affect operation of the provisions of the Neutrality Act of 1939 on the conduct of persons other than the government.... Enactment of the lend-lease bill would, through section 3(A) (b), enable the President temporarily to transfer helium abroad to foreign governments without regard to the formal restrictions of the 1937 statute....section 3(A) (2) of H. R. 1776 suspends the implied requirement of the 1915 statute that cutters sold must be unfit for further service... Under the proposed bill there is no requirement that defense articles to be transferred to foreign governments must be damaged, unsuitable for the public service, surplus, not needed for military purpose, or that there must be no adequate domestic market for their disposition. The implicit limitations of those sections are therefore suspended by section 3(A) (2) of the lend-lease bill....¹¹

Eberharter did not go so far as to say the Lend-Lease bill would revoke the former acts and statutes, but many of the opponents were still more opposed. Said Representative Robert Rich of Pennsylvania: "...we might as well throw the Monroe Doctrine out of the window if we pass this bill. We are just sticking our noses into the business of the people of Europe...."¹²

The opponents thought the president would have new powers, and he could make alliances of defense and offense with any government in the world. They did not think there was any

¹¹ Ibid., p. 603-605.

¹² Ibid., p. 560.

limit to the number of countries with which he could make the alliances. Representative George Dondere of Michigan suggested that section 3 and 9 would confer great powers on the president. According to him, the president would be able to enter into a military alliance with any nation without the Senate's ratification; he could make war on any country; and he could promulgate rules and regulations that would interfere with the new law. The president could waive the provisions of the Bacon-Davis Act, the Eight Hour Act, and other laws that regulated employment in government establishments.¹³

The proponents admitted that the president did receive freer action in using his powers, but it had to be so. Representative Richard Kleberg of Texas tried to explain that in his statement:

The major thing that can be done under this bill immediately is to support, build up, and sustain the morale of that part of Christian civilization which is battling for its rights, its existence, and its freedom against Godless, atheist leadership and the spirit of aggression and conquest....¹⁴

The proponents felt just as strongly that the bill was needed, as the opponents did that the bill was not needed.

Even as the opponents brought up the question of the time limit, so did the proponents: they were not against the two year time limit, but they thought the act would have to be extended after that time.

¹³ Ibid., p. 564.

¹⁴ Ibid., p. 715.

The rival groups answer was that it was another example of the distortions of the truth. The proponents said the bill would not confer any added powers on the president, but it would remove whatever barriers the Congress itself might have in the past erected. He would have to consult with the Chief of Staff of the Army and the Chief of Naval Operations. This amendment, the proponents said, was a mandatory clause and it compelled the president to show evidence to the committee before he carried on. The critics wanted the clause amended so the President would have to receive from both Chiefs of Staff a certificate showing that they approved. Said the advocates, that would be requiring the commander in chief to receive approval from his subordinates. In times of emergency the president had always been given discretionary powers.

Representative John McCormack of Massachusetts said:

The chief discretion given to the President in the bill is the power to decide what we shall take in payment....The bill gives him the power to make it easier to merge the munition orders of the foreign nations with our own in order to make our rearmament program more unified and efficient.¹⁵

In describing the powers of the president in the act, Representative Luther A. Johnson of Texas said:

The only powers the President will have are those limited in section 3, where we give him our general power of attorney to act in this particular instance in granting materials to countries whose defense is

¹⁵ Ibid., p. 515.

vital to our own, upon such terms as may be agreed upon....¹⁶

The power of the president was one of greatest importance. In the bill, in section 3, it said, "notwithstanding any law," and so forth, meaning that the president would have the power to suspend any other law that prevented the Lend-Lease law from functioning at the time.¹⁷ The suspension would only be temporary, or until the newly proposed bill was ended.

Under the proposed bill, the head of any department or agency of the government that would be acting for the president, would by virtue of section 5(A) of the bill, immediately inform the Administrator of Export Control when any defense article or information would be exported.¹⁸ To adequately protect the patent rights of citizens of the United States, the War and Navy Departments would transfer articles in accordance with section 7.¹⁹

Eberhartor explained:

Since Government corporations are excluded from the operation of that act (Johnson Act), a fortiori, the United States is not bound by its limitations. It cannot be maintained, therefore, that H. R. 1778 would suspend or modify the Johnson Act.²⁰

The amendment to section 3, that was approved by the Foreign Affairs Committee, did not limit the president's powers, since nothing in the proposed act authorized such conveying, accord-

¹⁶ Ibid., p. 499.

¹⁷ See Appendix A.

¹⁸ Loc. cit.

¹⁹ Loc. cit.

²⁰ Congressional Record, p. 604.

ing to the proponents.

After the full discussion of the general questions concerning conveying, the president's powers, and the effect on laws, the House took up the discussion of what parts of the new proposed act needed alterations. Immediately, it was decided that 3(A) was the heart of the bill. The Public Hearings had conceded to that. After making the general statement as to the "heart" of the bill, the amendments began to be offered. Representative Jesse Wolcott of Michigan offered one on the wording of the act. He wanted the words, "notwithstanding the provisions of any other law" to be removed from the bill.²¹ He thought it gave the authority to repeal existing and future laws, so that whenever a bill was to be passed in the future, section 3 would have to be considered. Wolcott understood the words would make possible the repeal of section 3709 of the Revised Statutes. That statute provided that no contract would be let unless bids were received, and the contract would have to go to the lowest bidder. That wording, to him, would mean contracts would be let without bids.²² Representative Jacob Davis of Ohio and others gave him an answer. Their reply was that many of the statutes were on the border line, and it would be hard to decide, but if the phrase was stricken from the act, there would be difficulty and legal red tape that would result in

²¹ See Appendix A.

²² Congressional Record, p. 777.

delay, so the phrase should remain. Wolcott's amendment was then rejected.

Still trying to prevent delay, and speaking of the president's power, the clerk read a committee amendment. The following amendment was read and agreed to, and it was inserted into the bill. It stated:

(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 the House of Representatives, as the case may, is not in session.²³

Considering the limiting of the president's powers, the time limit question was of concern. The committee amendment as printed in the bill when it was brought before the House, read thus:

Neither the President nor the head of any department or agency shall, after July 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....²⁴

Most of the members were for the first part of the amendment, but they did object to the last clause. It had been put in to permit contracts made before July 1, 1943 to be carried out. Representative Johnson said it would be changed somewhat, but it was made to permit privileges for the contractors. The amendment, with changes, would then read:

²³ Ibid., p. 804.

²⁴ Ibid., p. 733.

(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 that until July 1, 1946, such powers may be exercised to the extent necessary to carry out a contract or agreement with such a government made before July 1, 1945....²⁵

That meant simply that for a completion of contracts by July 1, 1946, the contract would have to be entered into before July 1, 1945, and it would have to be completed before July 1, 1946. Representative Thomas Jenkins of Ohio said:

...Now, on page 3 is subsection (b). It provides that the President, when he makes these sales, can provide any sort of terms he wishes with reference to return payment. If you let it stand at that, the President could sell what he pleased and take payment in whatever method he pleased at whatever time he pleased....²⁶

The proponents explained that the reason they never put in the conditions, and what property the president would receive, was because it would be a strict limitation. The buying countries might have given us tin, rubber, or a lease on something that would last a long time. They did not want to limit the payments to be made. The limitation was upon what went out and not what was to be brought in. Chipfield and others wanted the date July 1, 1946 changed to January 20, 1945 because there might be a new president. None of the others agreed to this, and when the vote was taken, the amendment was agreed upon as stated by Johnson.

Representative Charles Dewey of Illinois then presented

²⁵ Ido. cit., See Appendix A, section 3(C) (a).
²⁶ Congressional Record, p. 734.

his ideas. He thought the bill made no provision for Congress to be notified of the transfers or sales made under the powers delegated. According to him, it also never made any provision against the possibility that important British assets in this hemisphere might pass into the hands of unfriendly foreign powers if Britain should be defeated. Dewey wanted a custodian or bailer to take over all titles of those assets to keep safely during the period of the war or as long as there was uncertainty as to peace. The United States labor and industry would be fully protected this way.²⁷

McCormack, the representative to introduce the bill in the House, implied that Congress still reserved its power to appropriate 95 per cent jurisdiction over the bill. He meant that Congress would have to appropriate money to carry out 95 per cent of the provisions of the bill.²⁸ Some thought a loan should be made to be secured by collateral, and then the principles of the Johnson Act and the Neutrality Act would be preserved. Representative John Vorys of Ohio thought that collateral or security was "authorized in section 3(B) of H. R. 1776, except that like all the other powers it is made discretionary instead of mandatory...."²⁹

Loaning of the money or letting them buy products, brought the problem of payment to the minds of all. For our

²⁷ Ibid., pp. 511-512.

²⁸ Ibid., p. 595.

²⁹ Ibid., p. 526.

protection and security as to the loans, and in other ways, Maas offered an amendment. He wanted to strike out section 1 and insert the following:

That the President of the United States is hereby authorized to negotiate the purchase, en bloc, of all possessions of the British Empire except the Dominion of Canada and the Province of Nova Scotia, lying west of 40° west longitude and east of 180° east longitude, north of 15° south latitude; Provided, that two island possessions determined by the negotiating nations to have the least military and/or naval value, one in the Atlantic and one in the Pacific, be retained by the British Empire for the permanent residence of such inhabitants of the various possessions so transferred to the United States who may wish to remain under British sovereignty: And provided further, That no fortifications or naval bases shall be established on these two islands except by the United States....³⁰

Other representatives agreed with him and added that a price should be by mutual agreement, and the debt of England would be credited against that. The net amount to be credited would not go over \$10,000,000,000. That would be put in the Export-Import Bank of the United States for England to use. The people in the territories could decide in one year if they wished to pledge allegiance to the United States, and if they did, from then on they would be under the full protection of the United States. Johnson criticized the amendment, and explained that he thought it was not germane to the section to which it was offered nor to any other section of the bill.³¹ Maas stood up for his amendment and argued that Britain would

³⁰ Ibid., p. 726.

³¹ Loc. cit.

have money immediately that way; and the islands would only have military value for the western hemisphere.³² The amendment was finally rejected.

Representative Clifford Hope of Kansas thought the effect would be more within the United States than in the territory surrounding, so he put the question of the effect on agriculture. He offered the following amendment to be inserted after the word "property" (section 3(B)): "...trade concessions and preferences including agreements to resume and continue normal imports of agricultural products from the United States."³³ He explained that Britain got most of our agricultural products, so he thought it would be a good idea to insert a permissive amendment. The permissive amendment would give the president the right to secure concessions from Britain that would put our products on the same basis as the same products of the British Empire.³⁴ The adversaries said the amendment meant nothing for it was covered in the bill. Yet, the opponents held that if England was going to spend the United States taxpayer's money, then the nation should insist that American cotton and farm crops should be given the same status as manufactured goods. McCormack thought the words "normal imports" would be taken as a limitation on the president's powers.³⁵ The main criticism of the opponents to

³² Loc. cit.

³³ Congressional Record, p. 775.

³⁴ Loc. cit.

³⁵ Congressional Record, p. 777.

the amendment was that it did not mean or add anything to the bill. The amendment was rejected.

Representative John Tabor of New York then presented his amendment. It was to be inserted following the committee amendment (section 3(D) (1)) and stated: "The total original cost price of all defense articles not manufactured or procured under paragraph (1) and disposed of in any way under this paragraph, shall not exceed \$500,000,000."³⁶ He explained his amendment was made because there might be a ceiling upon the things that would be sold, traded, or given away that belonged to the Army, the Navy, and the Marine Corps.³⁷ Representative Karl Mundt of South Dakota was strongly in favor of the amendment, and believed it would prevent the bill being an appropriation bill of unlimited extension.³⁸ Since Representative Bloom was not quite pleased with the Tabor amendment, he offered a substitute. He said that at the same place in the bill there should be another sentence inserted that would read as follows:

The value of defense articles disposed of in any way under authority of this paragraph and procured from funds heretofore appropriated shall not exceed 10 percent of the total amount appropriated for defense articles for the fiscal year ending June 30, 1941.³⁹

³⁶ Ibid., p. 780.

³⁷ Loc. cit.

³⁸ Loc. cit.

³⁹ Loc. cit.

An amendment like the one here would provide a limitation, so that the opponents could not say the act authorized the whole army and navy to be given away. Bloom's substitute amendment would amount to approximately \$1,300,000,000. It was not quite pleasing to Taber but he agreed to go along with the substitute. Taber's amendment and Bloom's substitutions were accepted.

Immediately following the acceptance of the Taber amendment, McCormack offered one, to be put in the place of section (2) under 3(a). It would read as follows:

(2) To sell, transfer, exchange, lease, lend, or otherwise dispose of to any such government any defense articles, whether manufactured or procured under paragraph (1) or otherwise acquired, 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. The value of defense articles disposed of in any way under authority of this paragraph, and procured from funds heretofore appropriated, shall not exceed \$1,300,000,000.⁴⁰

Representative Sam Rayburn of Texas was not pleased with this amendment, so he offered a substitute. He wanted to strike out the language of "whether manufactured or procured under paragraph (1) or otherwise acquired."⁴¹ If Rayburn's suggestion had been accepted, it would have left the bill the same as before except for the 10 per cent authority the specific amount of \$1,300,000,000 that would be used. McCormack's

⁴⁰ Ibid., p. 737.

⁴¹ Ibid., p. 738.

amendment would limit the transfer of boats, and it would relate to the transfer of any articles that were produced as a result of appropriations that were made. Mundt then offered an amendment to the McCormack amendment which said to strike out the word "value" and insert "The total original cost price."⁴² Representative Johnson said:

As I understand the amendment the gentleman has offered, its effect would be to make the determination of the value of the articles we let these governments have dependent on the original cost price. That is the key word in the gentleman's amendment.... In other words, if an average destroyer we let them have cost, say, \$1,000,000, we would charge it up at \$1,000,000, although it would be worth only \$100,000 now.⁴³

If a limitation of \$1,300,000,000 should be made, a way of determining values would have to be written in. Representative Johnson and others believed that Mundt's amendment would prevent England from getting the aid that the bill was started for in the first place. Mundt's amendment to McCormack's amendment was rejected.

Representative John Costello, of California, then offered an amendment to McCormack's. His wish was that at the end of the amendment there would be the following:

Provided, That not more than one-third of each of the tactical types and models of aircraft now in service, under construction, or on order for the War or Navy Departments may be so disposed of under the provisions of this section.⁴⁴

⁴² Loc. cit.

⁴³ Congressional Record, p. 789.

⁴⁴ Ibid., p. 790.

The purpose of his amendment seemed to be that not more than one-third of each of the tactical types of models of aircraft might be for disposal. The opponents of the amendment believed it destroyed the purpose of the act. Costello's amendment was rejected.

Representative Charles Eaton of New Jersey then offered an amendment. He wanted to strike out all of section 3, and insert the following: "The President is authorized to grant credits to Great Britain in a total amount not to exceed \$2,000,000,000, to be used for the purchase in the United States of defense articles, requiring collateral security if available."⁴⁵ His amendment seemed to limit the act too much in favor of the proponent's views. If some other country entered the war the next day, the amendment would prevent that aid from being given to them. The minority had said all along that the bill was an English bill, and the proponents said the amendment would give them grounds for such ideas. The amendment was rejected.

Representative Edith W. Rogers of Massachusetts offered an amendment to be inserted as a new section at the end of section 3.⁴⁶ It was stated thus: "Sec. 4. The President shall, in return for effective aid we furnish other nations, demand that these nations, through a solemn covenant, pledge themselves to a cooperative arrangement which would assure an outlet for American goods in the peacetime world markets."⁴⁷

⁴⁵ Ibid., p. 798.

⁴⁶ See Appendix A.

⁴⁷ Congressional Record, p. 801.

Her amendment was immediately rejected.

The question of convoying came up next as a big problem to receive amendments for limited alterations. The committee had formed an amendment to be added in section 3 to be known as (D) to be stated thus: "(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...."⁴⁸ Mundt was not quite pleased with the amendment, so he wanted to change some of the phrases. He wished to strike out the period after "States," insert a comma, and to add: "and it is the sense of this Congress that the convoying of such vessels to belligerent ports or through belligerent waters should not be undertaken...."⁴⁹ The advocates with Mundt in wanting this amendment, believed the amendment would prevent an act of war from being committed. They believed it would strengthen the position of Congress. Eberharter thought the amendment was a way of getting around the constitution, and to take away the power of the president. He thought it was so broad it would interfere with convoying between New York City and the Panama Canal.⁵⁰ The advocates of the amendment wanted it to prevent additional power of convoy from being granted. The proponents of the bill were powerful, so the amendment was rejected.

⁴⁸ Ibid., p. 742

⁴⁹ Loc. cit.

⁵⁰ Congressional Record, p. 744.

Bloom thought, to please both sides, he would add another amendment that he wanted inserted as a new subsection under section 3. It read: "(e) Nothing in this act shall be construed to authorize or permit the authorization of the entry of any American vessel into a combat area in violation of section 3 of the Neutrality Act of 1939."⁵¹ Bloom and his friends thought the bill did not provide for a change in section 3 of the Neutrality Act as to the movement of ships to a combat zone. The adversaries to the amendment said they were doing the same things they had done when they passed the Neutrality Act. They had to back up and reconsider. Besides, they thought the amendment was meaningless. The amendment would close the door on much freedom that might be needed later, for no one knew how far the United States would have to go in helping the Allies.

Since Representative Mott saw that not much was being accomplished, he offered a substitute amendment for the committee amendment. He suggested that after the words "United States," there should be inserted the following:

Nothing in this act shall be construed to repeal or suspend any of the provisions of section 2 or 3 of the Neutrality Act approved November 4, 1939, and all of such provisions shall remain in full force and effect until repealed or modified by Act of Congress. Neither the President nor any governmental agency under authority of this act or otherwise shall send or cause to be sent any American merchant ship to any belligerent nation or into or through any combat area,

⁵¹ Ibid., p. 753.

unless the President by proclamation shall have declared that such nation has in fact ceased to be a belligerent or that such area has in fact ceased to be a combat area...⁵²

Bloom made the point of order that the amendment would change the Neutrality Act, and that it was not germane to that section. The main objection of the rival group to the amendment was that the amendment went farther than the Neutrality Law, and, therefore, the Neutrality Law would be changed. Representative Cooper of Tennessee, the chairman of the group at the time, referred the discussion back to Bloom's amendment. Bloom's amendment was then agreed upon.

The chairman directed the discussion back to Mott's amendment. The proponents of the Mott amendment believed the amendment would give a guarantee that no American ship would be sent to a belligerent nation or into a combat zone, if the president had declared it as such. Bloom's amendment would be more effective if the Mott amendment was passed. Johnson opposed Mott's amendment because he thought it was a duplication of what was already in the bill. Because of Johnson's disagreement, the bill was rejected.

Fish kept suggesting amendments, but as fast as he would suggest them, Johnson would defeat his argument. Probably one of the most important amendments ever to come up for discussion was the Dirksen amendment. The amendment was offered by Representative Everett Dirksen of Texas to be added to the com-

⁵² Ibid., p. 757.

mittee amendment within the bill. He wanted inserted in section 3(C) "nor shall such powers be exercised if terminated by a concurrent resolution by both Houses of the Congress..."⁵³ To change the bill, the bill would have to be referred back to the president. If he disapproved it would have to go through the whole process again of two-thirds of each House. To prevent that, the concurrent resolution would keep that long procedure from being used. The legislative power of Congress that had been delegated by the bill to the executive for a temporary time, could be retrieved at any time. The Dirksen amendment was accepted.

Fish gave the next important amendment in section 3, to insert the following: "Provided, That no vessels of the United States Navy shall be disposed of to any belligerent nation without the consent of the Congress."⁵⁴ He thought that Congress was losing its power, and that the president had the right to give the navy away. Fish's rivals said his amendment would make the Dirksen amendment futile. They thought it was an insult to the president. The great presidents of the United States had used their power to send the navy any place at any time, so that power should not be changed now. Representative Vito Marcantino of New York said the president "has the power conferred on him" by a part of the constitution that made him "Commander of the armed forces." Marcantino explained that there was a distinction between "command" and

⁵³ Ibid., p. 735.

⁵⁴ Ibid., p. 769.

"transfer", and the power to command did not confer the power to transfer.⁵⁵ Then the suggestion was that the part "no vessel of the United States" would apply to every kind of vessel in the United States navy. The president by existing law had the authority to transfer vessels that were obsolete or unnecessary in our own defense if the Chief of Naval Operations certified it to be. Therefore, the Fish amendment was rejected.

Representative Jeanette Rankin of Montana than offered an amendment to be inserted following the so-called Bloom amendment. It would read thus:

Subsection (f). Nothing in this act shall be construed to authorize or permit the President to order, transfer, exchange, lease, lend, or employ any soldier, sailor, marine, or aircraft pilot outside of the territorial waters of the Western Hemisphere without specific authorization by the Congress of the United States.⁵⁶

Rankin's friends explained that no one had the intention of sending American boys overseas, but it would be a safer and surer method if it were inserted in the bill. The rivals said the amendment would require the United States to move the Asiatic Fleet back from the Pacific and to relinquish our position in the East. Rankin's friends did not agree, for they said Congress could care for that problem quickly when it was needed. Bloom objected so much to the amendment that Rankin withdrew the entire amendment.

⁵⁵ Ibid., p. 773.

⁵⁶ Ibid., p. 791.

When Rankin's amendment was banished by the author from the discussion, Van Zandt issued an amendment that he wanted inserted following the Bloom amendment. It stated:

Nothing in this act shall be construed to authorize or permit the President to order, transfer, exchange, lease, lend, or employ any soldier outside of the territorial waters of the Western Hemisphere, except the Philippine Islands, without specific authorization by the Congress of the United States.⁵⁷

The amendment was similar to Rankin's but it contained no restrictions to the United States Navy nor the United States Marine Corps or our troops in any of the territorial possessions. Some rivals believed the amendment would prevent the United States from sending any of the armed forces out of the western hemisphere. The general thoughts were that he was willing to send the marines and the naval forces. It was rejected.

Fish did not give up. Again, he offered an amendment to be inserted in section 3, to read: "Provided, That nothing in this section shall be construed to authorize the suspension of the Eight Hour Act, the Wage and Hour Act, or any other similar legislation affecting the rights of labor."⁵⁸ The amendment had been proposed by William Green, president of the American Federation of Labor, before the Committee on Foreign Affairs when it had met. McCormack, the leader of the proponent group, gave the same answer; that the amendment was

⁵⁷ Ibid., p. 793.

⁵⁸ Ibid., p. 779.

unnecessary, so the rest followed his lead and rejected it.

Of course, after the question of national laws were considered, the international law question would arise. Representative Everett Dworshak of Idaho wanted to insert an entire new section to be called section 10. It would read thus: "Sec. 10. Nothing in this act shall be construed as authorizing or permitting the authorization of any violation of international law."⁵⁹ The same answer was given as was stated for Fish's amendment; it was not needed.

The opponents of the bill still held to the line that some statements should be put in the bill concerning the countries to receive aid. The heckler, Representative George Tinkham of Massachusetts wanted in section 3 after the words "any country" to insert "other than the Union of Soviet Socialist Republic."⁶⁰ Tinkham's friends thought Russia was an equal aggressor with Germany. Tinkham declared it was the "intention of homicidal, communistic Soviet Russia to establish communism all over the world."⁶¹ The rivals of Tinkham said the amendment reflected the sentiments of Tinkham, and the amendment would affect the peace of the world and the security of the United States to pass it at that time. When Johnson and his friends arose against it, it was rejected.

⁵⁹ Ibid., p. 814.

⁶⁰ Ibid., p. 781.

⁶¹ Ibid., p. 762.

The subject changed from the eastern hemisphere to the western hemisphere when Representative John Costello of California offered his amendment. In section 3(B) after the word "property", he wanted inserted the following words: "or by transfer of sovereignty over territorial possessions in the Western Hemisphere, or by purchase for present or future delivery of strategic material."⁶² The language of the amendment was not meant to be mandatory, but permissive instead, and the amendment was meant to care for part of the problem of repayment. Opponents of the amendment stated the House did not want to put into the bill such suggestions that were entirely redundant. Representative Fred Crawford of Michigan thought the amendment would help in enforcing the Monroe Doctrine and to carry out hemisphere defense here.⁶³ When Eberharter and his followers renounced the amendment, it was rejected.

Since Crawford's amendment was rejected, Representative Charles Dewey of Illinois thought he would try at getting his amendment through for gaining some repayment for what the United States would be giving away through the act. He wanted an entire new subsection inserted following section 3(D). It would read thus:

(e) To protect the economic welfare of the United States and to provide for the common defense of the Western Hemisphere, the President is authorized to

⁶² Ibid., p. 766.

⁶³ Ibid., p. 768.

negotiate the transfer to the custodianship of the United States, for the duration of the wars abroad and such time thereafter as he may deem necessary, the stocks, bonds, shares, land titles, contracts, or agreements representing any rights or interests in or ownership of any national or private enterprise located within what is geographically known as the Western Hemisphere, which are owned or controlled by or subject to the disposition of any such foreign government or any of its nationals.⁶⁴

The rival group thought it sought to confer authority upon the United government to take jurisdiction over the property of private individuals who would be subject to another government. Dewey's group seemed to have the idea that the United States would not take over the securities as collateral or to affect debts, but it would simply serve as a custodian to safeguard them during the emergency. That would prevent the securities from falling into the hands of the Germans. A legal formula would have to be made to arrange a basis for transferring the custodianship. The rival group also believed it would cause more misunderstanding between the United States and Argentina just at the time when friendly relations were trying to be made. Bloom and Johnson made a point of order against the amendment to Chairman Cooper, that they believed it was not germane to that section of the bill, so it should be rejected.⁶⁵ Chairman Cooper believed it was too broad, and that the amendment had been offered mostly to protect private enterprise and nationals of the

⁶⁴ Ibid., p. 785.

⁶⁵ Ibid., p. 787.

foreign government. Therefore, the Chair declared the amendment was not germane, and he sustained the point of order.⁶⁶

A call for a vote on the bill, as amended, was made by the Chair, following the discussion of repayment, which was "left in the air" without any final decisions. The vote was 260 yeas, 165 nays, and 6 not voting.⁶⁷ All of the independent members of the House voted against the bill. There were three Progressives, one Farmer-Laborite, and one member of the American Labor party.⁶⁸ But, as could be seen from the total vote, the opinion of the people inclined more and more to favor the bill.

⁶⁶ Loc. cit.

⁶⁷ Congressional Record, p. 815.

⁶⁸ Christian Century, LVIII (February 19, 1941), p. 246.

CHAPTER V
THE SENATE DEBATES

After seeing the vote of the House and the attitude of the nation toward the bill, the Senate started its debate. The Senate started with the same calm and dignified air that the House had used. Leaders who spoke, tried to hunt for classic words, and their speeches were delivered from written manuscripts. Exchanges were sparse. The administration's strategy to permit the lengthy orators to wear themselves out unanswered worked quite well.

The Senate setting for the quiet dignified group was similar to a scene in Shakespeare. In the foreground, surrounding the Senate group, were the restless and murmuring citizens who observed. The room was high, musty, ill-lighted, and full of rococo carvings and decorations. When a person entered the room, all they could see was the crowding together of the citizens. There were about 1200 of them in a room built to hold 500.¹

Quite unlike the House, was the rule of the Senate that no demonstrations or applause were to be made while the citizens were in the Senate room. The Senators themselves tried to keep the arguments on the plane of "what-is-best-for-the-United States", and they used the same policy of slow, patient thinking.

¹ Time, XXXVII (February 24, 1941), p. 16.

The advocates were led by one of the most thoughtful senators, Alben W. Barkley of Kentucky. Following Barkley's introductory speech, Senator Warren Austin of Texas gave his set speech. He said that by the bill the United States was saying to the world that, "We have no faith in Hitler. We are opposed to his system of slavery. Therefore, we will not consent to efforts at a treaty of peace while Hitler has the power of dictating the terms. No more appeasement for us...."² Austin and his friends thought of the bill as a way of consolidating strength to protect the United States from sabotage, sedition, and other disloyalties. It was a way of forming a defensive from within.

Senator Robert Reynolds of North Carolina digressed from the defensive attributes of the bill, and compared it with the past. To him the bill had a double significance, for it had the same number 1776 as the year of the United States Declaration of Independence. Austin stated the bill number 1776 admitted and signified our dependence upon the British Empire.³

The advocates suggested we were not depending on Britain, but the nation must begin to give aid to the allies, and to build up its own defense, for Britain had waited too long to do so. The same was true of France. The supporters of the

² Congressional Record, 77 Congress, 1 Session, p. 1040. Hereafter cited as Congressional Record.

³ Ibid., p. 1210.

bill believed they were the guardians of the peace, and that the United States was going to have to take the bill's practical way of providing for the defense of this country.

To provide for a speedier defense, the proponents had advocated the president be given freer use of his powers. The same claims were made in the Senate as were made in the House concerning the powers being conferred on the president, but the Senate tried harder to give an explanation. The proponents stated the bill did not give the president any additional law-making power, but it did enlarge the chief executives constitutional defense powers. Limitations had been made to prevent too great a use of the defense powers. One of the strongest limitations was that of money. Congress still held its appropriation power. Another limitation was inserted in the bill by the House - the concurrent resolution. Also, information limitations were made possible. That was the answer given by the advocates to the rivals concerning the president assuming the powers of a dictator from the bill.

Senator Tom Connally of Texas went to the trouble to define the word dictator. Quoting from Webster's dictionary, he said it means to the majority of people, that a dictator had supreme authority. To him, after studying the bill, every power conferred in the bill was granted in the constitution.⁴ Since the courts were still functioning and the

⁴ Ibid., p. 1152.

constitution survived, people would still have their liberty, therefore, the bill could not give dictatorship powers. To get money, the Congress of the United States would have to sanction it. The issues of the bill lay within the realm of foreign affairs and, according to the constitution, those tasks were to be under the jurisdiction of the president. These issues were the important ones brought forth by the proponents in vindicating the bill.

The president had the power, from the bill, to extend aid to any country that needed it, if he decided the defense of that country was vital to the United States. He would be limited in this power, for he would be given only \$1,300,000,000 worth of munitions and supplies. But there was a limitation on that, for only 10 percent of that amount could be transferred by the president.

Senator James Byrnes of South Carolina, helped by Barkley, had made an amendment to the effect that the president could not spend a cent more than the \$1,300,000,000 without going to Congress to secure an authorization.⁵ Another limitation mentioned by the advocates was that of the time limit that was set, June 30, 1943, or the entire bill could be withdrawn by the concurrent resolution.

Following the discussion of the proponents as to limitations of the bill, they began considering the parts that were

⁵ Ibid., p. 1155.

under discussion that pertained to constitutional and international law. Speaking of the constitutional law and the contentions of the new school of thought, Senator Burton K. Wheeler of Montana, a main adversary, said:

...first, that the President's power as Commander in Chief of the Army and the Navy is plenary and knows no bounds; and second, that the President has a very broad power in the control of foreign relations. I cannot fathom just what this second contention means or what it has to do with the issue....⁶

Wheeler and his friends believed the president sought the power to impose terms and conditions on the foreign countries. His powers would expire, with the bill, said the opponents, but he would still carry those powers, and he would have no right, for such arrangements by law have to be made by treaties ratified by the Senate.

Then, Wheeler began on the bill itself, tearing it apart piece by piece. He said that: "...Under subsection (b) the President may decide to inaugurate a superbarter system, overriding our reciprocal treaties and the statute which authorized them, that will make Hitler's barter system look pale and insignificant...."⁷ In subsection (a) of section 3, he believed the government could operate and control the factories whichever way the president wished.⁸

Senator Walter George of Georgia and the other advocates stated that they could not understand the reason for the House

⁶ Ibid., p. 1603.

⁷ Ibid., p. 1531.

⁸ Loc. cit.

putting in subsection (e) in section 3, when there was the limitation already given in subsection (d).⁹

When the adversaries seemed to be losing the battle as to limitations inserted in the bill, they began on the problem concerning the navy and the use of its ships. Some of the opponents thought the president could give away a large portion of the United States fleet or two-thirds of its aircraft. Senator Gerald Nye of North Dakota was more concerned that the international laws might be in opposition. He said the president had the power to seize ships of other countries in the nation's harbors and to turn them over to a belligerent. Section 2(A) (4), he said, gave that power.¹⁰

Nye and his friends thought that the president, through the bill's powers, could govern through administrative proclamation. They believed that the power was secured by section 9.¹¹

The discussion of international power was given a new slant when Senator Arthur Capper of Kansas spoke of the president taking the power of spreading the four freedoms everywhere in the world.¹² Wheeler suggested that section 9 was delegating legislative power, in fact, it conferred power on the president to legislate for the whole wide world.¹³

⁹ See Appendix A.
¹⁰ Congressional Record, p. 110. See Appendix A.
¹¹ See Appendix A.
¹² Congressional Record, p. 1274.
¹³ Ibid., p. 1599.

The granting of discretionary power in the field of foreign relations and national defense had been recognized for many years by both the judicial and legislative branch of the government, said the proponents. Austin and the other advocates brought out the question of the primary powers that were delegated to the president. The president had always had the primary powers - the power to raise armies, provide an army, and to declare war with congressional approval. The bill, the proponents said, had only secondary powers, and they believed that no primary powers were delegated in the bill.

Secondary powers for the president from the bill, brought up the question whether the appropriation power was a secondary power. The adversaries expressed their views rather strongly. Some of them thought England would take the dollars from the United States and pay Canada cash for the supplies they got from them. Senator Robert Taft of Ohio was concerned with how the United States would pay its bills after giving Britain aid. He claimed the United States would have a deficit of \$10,000,000,000 the next year without the bill, and \$15,000,000,000 with it. The way the United States would finance Britain would be by borrowing money from the United States banks and institutions.¹⁴

The question of value was the next big problem following the question of the money to lend, and the products to be given. How the value of the exchange products would be de-

¹⁴ Ibid., p. 1280.

cided was important. Wheeler and his followers believed the bill contained nothing to establish an agency to fix values on products. The proponents said they did have a standard way of setting a value. The war department had a standard in that its ordnance department lists every piece of ordnance; it keeps the list up to date, so the proponents said the war and naval departments would serve as agencies to evaluate the values of the Lend-Lease products.

Wheeler still clung to his belief concerning value. He said of the limitations of the president's powers:

...limiting his power to dispose of "defense articles" procured from funds heretofore appropriated to a "value" of \$1,300,000,000 does not mean much when the President is left free to use any yardstick of value he chooses, including junk value; but it could be made to mean something if "value" had to be calculated on the basis of cost to the United States, or on the basis of replacement to the United States.¹⁵

Wheeler's friends took up the discussion immediately with the demand of what was meant by "contracts". Would the contracts be used to procure defense articles?

Barkley explained the question first. He said that the president was given the appropriation to spend, and the authority to contract for another amount that would be fixed by Congress. That would prevent the president from having to go to Congress with each contract.¹⁶

The purpose of the contracts was to limit the president

¹⁵ Ibid., p. 1588.

¹⁶ Ibid., p. 1595.

in the amount he could obligate. The idea was that if Congress would appropriate in a bill \$2,000,000,000, and then it would authorize contracts for another million, the president could not spend more than the \$2,000,000,000, and he could not make contracts for more than \$1,000,000,000 without asking Congress for additional authority.

Then, the opponents said, the United States should back its loans by collateral, letting Britain's South American collateral be the backing. In the general discussion of appropriations, George offered an amendment to be inserted after the figures \$1,300,000,000 in section 3(A)(2). He stated the amendment did not decide on the value of the products, but he thought the amendment would help designate the agencies that would decide values. The amendment said:

The value of such defense articles shall be determined by the head of the department or agency concerned or such other department, agency or officer as shall be designated in the manner provided in the rules and regulations issued hereunder.¹⁷

The amendment was accepted.

The big problem of constitutional and international law came to the front in the discussion, after discussing the "value" problem. What intervention meant was a subject discussed by many of the senator-lawyers. Senator Josiah Bailey of North Carolina was one of those, and he defined intervention thus:

¹⁷ Ibid., p. 1803.

Two nations being at war, and a third nation being neutral at the outset of the war, if the third nation so changes or alters its policy as to aid one of the nations at war, or to become a disadvantage to a nation at war, that is intervention; but that is not war....Armed intervention is war. Aid is intervention, but it is not war....¹⁸

Intervention would interfere with the Neutrality Act.

Senator Arthur Vandenberg of Michigan and his followers suggested it would not help the amendment to strike out subsection 3(A)(5) and amend subsection 3(A)(2) to read "...to sell, transfer, exchange, lease, lend, release for export, or otherwise dispose of...."¹⁹ Subsection (5) seemed to be in the bill for the purpose to release for export, because of the provision in the Neutrality Act which required the passing of title and payment in cash for things sold to a foreign government. It did free some articles that might be needed for the defense of another country, but it did not extend the power of the president. Others believed that subsection (5) referred to those defense articles to be exported that were not before within the category of the government. The amendment was agreed to but subsection (5) remained.

George realized the rather technical wording they lacked in the subsection, so he offered another wording of subsection (5) that was accepted. The amendment would read: "...disposed of in any way under this subsection...."²⁰

¹⁸ Ibid., pp. 1299-1300.
¹⁹ Ibid., p. 1804.
²⁰ Ibid., p. 1806.

Another international agreement, as to obeying its principles, was discussed, in addition to the general problem of intervention. The opponents believed it would add a new series of obligations to the Kellogg-Briand Treaty. A new beginning point would be made in international law. The bill according to the opposition would repeal statutes dealing with subjects over which Congress should not relinquish control. It would violate the treaties made formerly under the constitutional powers. The advocates of the bill held to the fact that since Germany was a signer of the Kellogg-Briand Pact, and Germany had broken her promise, that according to the international laws, the United States did not have to adhere to it any longer.

The Neutrality Act came to the foreground of the discussion since the topics of discussion had turned to international laws. Taft believed the law would set aside the entire Neutrality Act.²¹ Connally stood up for the bill in contradicting Wheeler's statements. Connally explained that he did not think there was anything said in the bill to modify the Neutrality Act concerning merchant vessels going into combat or war zones. The Neutrality Act was to remain in full use, unless some part of it prevented a part of the Lend-Lease law from being carried out. Then, that part would be suspended while the new law was in force.²²

²¹Ibid., pp. 1280-1281.

²²Ibid., p. 1158.

The proponents explained to the adversaries at that point why they thought the new law only modified the Neutrality Act. One reason given was that the British government would not have to pay cash for what they got. The point of convoying vessels was mentioned and it was explained that the House had put in a provision that the bill would not permit convoy. Under the Neutrality Law the president, if he saw that it was needed, could lift the war zone and abolish it. George and others gave their views that nowhere in the bill was there a statement saying an American ship could enter the port of any belligerent country.

Senator Wallace White of Maine said it modified the Neutrality Act very little. He explained this in his speech when he said:

...The fifth paragraph of this section (para. 2, sec. 3) authorizes the President to release any defense articles for export. In this is the purpose to lift the provisions of present law providing a licensing system and the required possession of a license for the exportation of certain articles. It does not otherwise modify the Neutrality Act....²⁵

The new law, to this group of proponents, would affect the payment upon passing of title. Both sides were in doubt, though, whether the new law liberalized or restricted the cash-and-carry section of the Neutrality Act.

Following the discussions as to international laws, both

²⁵ Ibid., p. 1799.

groups offered more changes to the bill. Byrnes offered a substitute to one of the committee amendments. He wanted inserted in section 3(A)(1) after the word "procure", "to the extent to which funds are made available therefore, or contracts are authorized from time to time by the Congress, or both." Also after the word "order" in section 3(A)(3), he wanted inserted the words "to the extent to which funds are made available therefor, or contracts are authorized from time to time by the Congress, or both."²⁴ The substitute was offered to make sure that any spent for repairs would be limited to the appropriations hereafter made by Congress, or the contracts hereafter authorized. That would not apply for the first set appropriation given under the bill. The amendment was accepted.

The passing of the bill would make a larger number of testing and inspection facilities be added to the government, especially since appropriations and contracts would cause so much technicality. Therefore, Senator James Davis of Pennsylvania offered an amendment to take the place of section 3(A)(3). It read as follows:

(3) To test, inspect, prove, repair, outfit, recondition, or otherwise to place in good working order any defense article for any such government, or to procure any or all such service or services by contracting with commercial organizations customarily engaged in such work.²⁵

The amendment was rejected.

²⁴ Ibid., p. 1800.

²⁵ Ibid., l. 1233.

Reynolds then offered his amendment to prohibit the United States from providing aid to Soviet Russia. The amendment read, "Nothing in this act...shall be construed to authorize or permit the authorization or the granting of any aid to the Union of Soviet Socialist Republics."²⁶ It was rejected.

George then offered his amendment in which he wanted (C) in section 3 struck out, and to insert in place of (C) the following:

(C) After June 30, 1943, or after the passage of a concurrent resolution by the two Houses before June 30, 1943, which declares that the powers conferred by or pursuant to subsections (a) are no longer necessary to promote the defense of the United States, neither the President nor the head of any department or agency shall exercise any of the powers conferred by or pursuant to subsection (a); except that until July 1, 1946, any of such powers may be exercised to the extent necessary to carry out a contract or agreement with such foreign government made before July 1, 1943, or before the passage of such concurrent resolution, whichever is the earlier.²⁷

The amendment was to make the Dirksen amendment more effective. It was accepted.

An amendment of the committee was brought before the group, then, which was agreed on. In section 6(B) after the word "year", it was proposed to insert a semicolon and the words "but in no event shall any funds so received be available for expenditure after June 30, 1946."²⁸

²⁶ Ibid., p. 1645.

²⁷ Ibid., p. 1797.

²⁸ Ibid., p. 1798.

Senator Allen Ellender of Louisiana then proposed a new amendment to be added to the end of the bill. Ellender gave as his reason for proposing the amendment, that the same principles that prevailed under the Neutrality Act would be enforced under the new bill. The clerk read it thus:

Sec. 10. Nothing contained in this act shall be deemed to confer any additional powers to authorize the employment or use of persons in the land or naval forces of the United States at any place beyond the limits of the Western Hemisphere, except in the Territories and possessions of the United States, including the Philippine Islands.²⁹

The president's lieutenants out-maneuvered the opponents on the amendment. The administration forces sent Senator Josh Lee of Oklahoma to the floor with an impromptu speech to hold the senators' attention, while George and Byrnes cornered Ellender. There they coaxed Ellender, a staunch New Dealer, to accept a substitute which provided merely, that:

...nothing in this act shall be construed to change existing law relating to the use of land and naval forces of the United States, except insofar as such use relates to the manufacture, procurement, and repair of defense articles and communication of information, and other non-combatant purposes enumerated in this act.³⁰

The proponents thought the first amendment would have prevented the president of the United States from doing the things which presidents have been doing for 150 years. Ellender's amendment with the substituted changes was accepted.

²⁹ Ibid., p. 1806.

³⁰ Newsweek, XVII (March 17, 1941), p. 17.

The question of agriculture and the products to be sent by Lend-Lease had been bothering many of the opponents, so Barkley tried to quell that when he offered his amendment changes. In section 2(A)(3) after the word "any", he proposed to insert "agricultural, industrial, or."³¹ It was accepted.

The last amendment was offered by George, and it was agreed to by the group. It was inserted as the first part of section 10, and read as follows:

If any provision of this act or the application of such provision to any circumstance shall be held invalid, the validity of the remainder of the act and the applicability of such provision to other circumstances shall not be affected thereby.³²

Following George's amendment, the bill was ready for the Senate to vote. March 8, nearly 58 days after Congress had received it, the Senate voted to pass the Lend-Lease bill. The vote was 60 for and 31 against. There were 49 Democrats, 10 Republicans, and 1 Independent for, and 13 Democrats, 17 Republicans, and 1 Progressive against the bill.³³ All senators from Kansas, Wisconsin, North Dakota, Idaho, and Colorado voted against the bill. One each from South Dakota, Missouri, Iowa, Nebraska, Illinois, Indiana, Minnesota, Michigan, and Ohio voted against it. The states of the Far West, and all the states of New England, except

³¹ Congressional Record, p. 2050.

³² Ibid., p. 1798.

³³ The World Almanac, 1942, pp. 86-87.

Maine, cast one vote against the bill. Only Reynolds from the South and "Puddler Jim" Davis from the industrial East voted against the bill.³⁴

After the voting by the Senate, the bill was returned to the House to receive its final approval. Its final vote was 317 to 71. There were 41 that never voted.³⁵ From the House the bill was passed on to the president to receive his signature, and it became effective as a law, March 11, 1941.

³⁴ Nation, CLII (March 15, 1941), p. 283.

³⁵ Congressional Record, p. 2178.

CHAPTER VI

SUMMARY

The Lend-Lease bill was a procurement program that affected millions of American producers. It was a huge system of cooperation of neutrality of joining economically and internationally. Nations of almost two-thirds of the earth's surface and population shared in its usefulness.

The bill was the United States' answer to the world that to keep its security, the Axis must be defeated. Therefore, the United States would help the nations fighting the Axis, and since those nations could not pay for the goods they needed, this nation would lend or lease materials to them.

Speaking on the bill and the parts that made it function, Congressmen suggested eight amendments to the bill to make it function more wisely. Briefly, the amendments offered and passed by the House and Senate were simple limitations. The first required the president to consult the Chief of Staff of the Army or the Chief of Naval Operations of the Navy, or both, before leasing, lending or disposing of any defense article. The second limited the president's powers to lease, lend and sell defense articles somewhat more precisely. He could dispose of articles only to a certain limit of funds. He could spend up to \$1,300,000,000, and then he would need Congress' advice thereafter. Under the third amendment, the funds received from the countries would be used in Lend-Lease

again - revolving fund - until June 30, 1946 when it would all stop. By the fourth, the two year limit would be put on the powers conferred by the bill. And according to the fifth, Dirksen's amendment provided that if Congress passed a concurrent resolution declaring that the powers conferred by the bill "are no longer necessary to promote the defense of the United States", the president would no longer exercise such powers. In the sixth amendment, it was stated that there was nothing in the bill authorizing or permitting the conveying of vessels. The president had the power to authorize convoys, so the amendment simply stated Congress was not for it. By the seventh, the part of the Neutrality Act was reaffirmed that prohibited the entry of any American vessel into a combat area. The concluding amendment, the eighth, required that the president had to report to Congress every ninety days.¹

The opposing group that caused the amendments to be made were of a small minority in both Houses. Their main argument was that the bill augmented the president's powers to a great degree in military and foreign affairs, and that the bill permitted the United States departure from the duties of international law that would eventually involve the nation in war.

There were foreign comments made as to the United States

¹ Newsweek, XVII (February 24, 1941), p. 72.

entering the war, and comments made on the passing of the bill itself. Argentina hailed the vote as "the greatest step taken to date in the defense of democracy and the Western Hemisphere." Brazil hoped "it was not too late"; Greece expressed "deep satisfaction"; the Chinese were "related"; Britain was encouraged to carry on; but Virginia Gayda, Mussolini's mouth piece, fulminated against "a deliberate, unprovoked move toward war which will bring about European retaliation against America."²

After all temperatures were cooled, both sides began to reason as to the true purpose of the bill. The conclusions were drawn that it was passed to make the most effective use of the United States resources for its own needs, and for the needs of those whom the United States were to give aid. The bill would make this democracy function in the speediest possible way.

The functions to carry forth the work of Lend-Lease speedily, was a system of allocation. If a government were eligible for Lend-Lease aid, and that meant the president had declared a nation's defense was needed for the United States, the nation would make a request to the United States government. The needs might be tanks, armor plate, copper wire, or evaporated milk. Before meeting the request, the United States government would find out if the supplies were needed

² Ibid., (March 17, 1941), p. 18.

to carry forth the war. They would have to decide if the United States had a sufficient amount of the goods to send; also, the inquirer would find if the country needed them more than the United States did. If the country requesting had the dollars to pay for the supplies, the transfer would be made for cash under another part of Lend-Lease, and the payment would be made on delivery.

These goods needed would fall into three categories: military items, industrial materials, and agricultural commodities. About 60 per cent was thought to be fighting equipment.

The sending of the supplies would be decided under the president's jurisdiction. There would be five agencies over the procurement of supplies. They would be the War Department, Navy Department, Maritime Commission, Treasury Department and the Department of Agriculture.

Summing up the answers to the work of these agencies, the new "foreign policy" would, through the Lend-Lease, bring the other nations to accept the "American economic principles." American money and resources would be used to save, reconstruct, and rehabilitate the world. A political association would be formed of the "like-minded" nations that would be dominated by the United States and Great Britain. The new foreign policy, Lend-Lease, would be used to help save the democracies, and lead the democracies to a new free cooperating world.

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APPENDIX A

The Text of the Lend-Lease Act

The Senate and House bill read thus:¹

An Act further to promote the defense of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, that this act may be cited as "an act to promote the defense of the United States.

Section 2

As used in this act

(A) The term "defense article" means:

(1) Any weapon, munition, aircraft, vessel, or boat;

(2) Any machinery, facility, tool, material or supply necessary for the manufacture, production, processing, repair, serving, or operation of any article described in this subsection;

(3) Any component material or part of or equipment for any agricultural, industrial or other article described in this subsection;

(4) Any other commodity or article for defense. Such term "defense article" includes any article described in this subsection; manufactured or procured pursuant to Section 3, or to which the United States or any foreign government has or hereafter acquires title, possession, or control.

(5) The term "defense information" means any plan, specification, design, prototype, or information pertaining to any defense article.

¹ United States Statutes At Large, LV, p. 31-33.

Section 3

(A) Notwithstanding the provisions of any other law, the President may, from time to time, when he deems it in the interest of national defense, 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 to the extent to which funds are made available therefor, or contracts are authorized from time to time by the Congress, or both, any defense article for the government of any country whose defense the President deems vital to the defense of the United States.

(2) To sell, transfer title, 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. The value of defense articles disposed of in any way under authority of this paragraph, and procured from funds heretofore appropriated, shall not exceed \$1,300,000,000. The value of such defense articles shall be determined by the head of the department or agency concerned or such other department, agency or officer as shall be designated in the manner provided in the rules and regulations issued hereunder. Defense articles procured from funds hereafter appropriated to any department or agency of the government, other than from funds authorized to be appropriated under this act, shall not be disposed of in any way under authority of this paragraph except to the extent hereafter authorized by the Congress in the acts appropriating such funds or otherwise.

(3) To test, inspect, prove, repair, outfit, recondition, or otherwise to place in good working order to the extent to which funds are made available therefor, or contracts were authorized from time to time by the Congress, or both any defense article for any such government or to procure any or all such services by private contract.

(4) To communicate to any such government any defense information, pertaining to any defense article furnished to such government under paragraph (2) of this subsection.

(5) To release for export any defense article disposed of in any way under this subsection to any such government.

(B) The terms and conditions upon which any such foreign government receives any aid authorized under subsection (2) shall be those which the President deems satisfactory, and the benefit to the United States may be payment or repayment in kind or property, or any other direct or indirect benefit which the President deems satisfactory.

(C) After June 30, 1943, or after the passage of a concurrent resolution by the two houses before June 30, 1943, which declared that the powers conferred by or pursuant to subsection (A) are no longer necessary to promote the defense of the United States, neither the President nor the head of any department or agency shall exercise any of the powers conferred by or pursuant to subsection (A); except that until July 1, 1946, any of such powers may be exercised to the extent necessary to carry out a contract or agreement with such a foreign government made before July 1, 1943, or before the passage of such concurrent resolution whichever is the earlier.

(D) Nothing in this act shall be construed to authorize or to permit the authorization of conveying vessels by naval vessels of the United States.

(E) Nothing in this act shall be construed to authorize or to permit the authorization of the entry of any American vessel into a combat area in violation of Section 3 of the Neutrality Act of 1939.

Section 4

All contracts or agreements made for the disposition of any defense for the disposition of any defense article or defense information pursuant to Section 3 shall contain a clause by which the foreign government undertakes that it will not, without the consent of the President, transfer title to or possession of such defense article or defense information by gift, sale, or otherwise, or permit its use by any one not an officer, employee, or agent of such foreign government.

Section 5

(A) The Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the government involved shall, when any such defense article or defense information is exported, immediately inform the department or agency designated by the President to administer Section 6 of the act of July 2, 1940 (54 Stat. 714), of the qualities, character, value, terms of disposition, and destination of the article and information so exported.

(B) The President from time to time, but not less frequently than once every ninety 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 the House of Representatives, as the case may be, is not in session.

Section 6

(A) There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purpose of this act.

(B) All money and all property which is converted into money received under Section 3 from any government shall, with the approval of the Director of the Budget, revert to the respective appropriation or appropriations out of which funds were expended with respect to the defense article or defense information for which such consideration is received, and shall be available for expenditure for the purpose for which such expended funds were appropriated by law, during the fiscal year in which such funds are received and the ensuing fiscal year but in no event shall any funds so received be available for expenditure after June 30, 1946.

Section 7

The Secretary of War, the Secretary of the Navy, and the head of the department or agency shall in all contracts or agreements for the disposition of any defense article or defense information fully protect the rights of all citizens of the United States who have patent rights in and to any such article or information which is hereby authorized to be disposed of and the payments collected for royalties on such patents shall be paid to the owners and holders of such patents.

Section 8

The Secretaries of War and of the Navy are hereby authorized to purchase or otherwise acquire arms, ammunition, and implements of war produced within the jurisdiction of any country to which Section 3 is applicable, whenever the President deems such purchase or acquisition to be necessary in the interests of the defense of the United States.

Section 9

The President may, from time to time, promulgate such rules and regulations as may be necessary and proper to carry out any of the provisions of this act; and he may exercise any power or authority conferred on him by this act through such department, agency, or officer as he shall direct.

Section 10

If any provision of this act or the application of such provision to any circumstance shall be held invalid, the validity of the remainder of the act and the applicability of such provision to other circumstances shall not be affected thereby.

Nothing in this act shall be construed to change existing law relating to the use of the land and naval forces of the United States, except in so far as such use relates to the manufacture, procurement, and repair of defense articles, the communication of information and other noncombatant purposes enumerated in

this act.

Section 11

If any provision of this Act or the application of such provision to any circumstance shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances shall not be affected thereby.

Approved, March 11, 1941.