ECONOMIC SANCTIONS
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Colonel Jordan and Gentlemen:

I am delighted that I became a member of the Bar of the United States Supreme Court a few years ago. I might have been too late if I had waited.

To discuss adequately the neutrality problem of the United States would require months not minutes. All we can do this morning is sketch the major factors and hope that we will raise enough points that will make some interesting discussion after the set remarks are finished. Because of the time element some of the statements will have to be rather categorical, but I think I have a fair chance of substantiating most of them on questioning.

Frightened by the continued menace of another general war which might involve the United States, the people of this country have become a unit in their fervent desire to do everything possible to keep out of such conflicts. It is important to remember that neutrality legislation is only one of many steps, and none of these steps taken separately would be sufficient to keep us out of war. All of them taken together may not give us a hundred per cent insurance against war, but most Americans today feel that they might give us a ninety per cent insurance, which

is certainly a tremendous improvement over anything we have had in the past. No intelligent judgment can be reached in this matter without considering all of these policies together.

While we only have time to discuss the neutrality angle today, I think it is well to bear in mind that these other major policies are as follows: First, far reaching revisions of our general foreign policies, renunciation of aggression and intervention, adoption of the good neighbor policy, and a general policy of supporting all practical plans that might help peace while abstaining from impractical ones that might hurt peace. The second point is that realizing finally that military weakness prohibits war and not peace, we have during the past four years embarked on a program of building up our military establishment to a reasonable minimum level. The third point is that we are now considering steps both to take the profits out of war and to provide necessary industrial mobilization planning. Let us remember that these three steps are related to and vitally affect neutrality and neutrality is related to and vitally affects these other three steps.

Now let us jump immediately into the discussion of neutrality legislation as such, with first a word as to the general background. Neutrality involves obligations as well as rights. There are a very limited number of obligations generally recognized which prohibit a neutral government as a government from actively helping one of the belligerents. For example, governments as such cannot sell arms to a belligerent in an international war, nor itself lend any money. It cannot furnish troops. In a civil strife which has not yet reached such

proportions that third nations legally recognize it as war, third nations can give practically any kind of help to the recognized government but it is considered an unfriendly act to give it to the insurrectionists. Hence, at least some of the actions of the European governments in refusing to sell supplies to the Madrid Government and the actions of others indefinitely aiding the Franco Faction could be construed as violations of existing international law. To establish these violations of international law naturally it is necessary to prove specific facts, and sometimes it is not very easy to do.

This brings us down to another fundamental point that involves existing neutrality legislation of the United States. I have remarked that under existing international law governments themselves are prohibited from extending governmental aid to recognized belligerents. However, they have no obligation whatsoever to prevent their citizens from doing so, and it might be said, in a way, that the government has a positive obligation not to prevent its citizens from trading with belligerents under the usual rules of war. This general principle of international law is further buttressed by the fact that existing commercial treaties frequently specify that neither government can put that type of restriction on exports.

I have stated what has been the traditional principle and practice of international law. Since the World War there have been two major exceptions to this principle: The first is a covenant of the League of Nations which provides for such governmental actions through sanctions against the so-called aggressor. It should be noted that for

most nations this could not be considered a violation of international law because most of the nations were members of the League and agreed to this sort of provision. Of course the United States, not being a member, never agreed to it. On certain minor occasions the League has actually put into effect such sanctions and to that extent there is a tacit admission of legality for a departure from the traditional principle of international law when such measures are used primarily to promote or restore peace.

In addition to the League precedent, the United States is the only single nation in the world that by domestic legislation places special prohibitions on its citizens extending certain types of help to belligerents even if they are willing to help them under the usual rules of war. This was first done by the United States in 1935; again in 1936; again in January, 1937; and it will be done again within the space of a few weeks. Therefore, it would be correct to say that our current neutrality legislation violates, at least technically, the established traditions of international law, and in addition it violates certain specific treaties which we now have with various nations. On the other hand, the action of the League and many of its members give us a certain amount of even legal justification. Furthermore, in a number of recent treaties we have directly incorporated clauses which permit us to establish such special prohibitions. But let us not forget that there are still many treaties and important ones, including that with Great Britain, which legally do not permit this. Therefore, at least technically the existing and proposed neutrality legislation violates a number of

treaties and it might have been wiser to include the amendment that was accepted by the administration last year providing for negotiations to modify treaties or to abdicate the treaties in case they conflicted with neutrality legislation. The administration accepted such an amendment last year. Their bill, though, was completely scuttled and the amendment with it. The bills now under discussion as yet make no mention of this matter and the chances are that it will not be incorporated in the act which will be passed in a few weeks.

Independently of the obligations of neutral governments as governments we see that there is no obligation under international law for a government to prevent its private citizens from trading with belligerents - selling them arms, munitions; lending them money; or traveling on their ships. Generally private citizens under international law can sell the belligerents anything they want. While traditionally the neutral government has no obligations to prevent its citizens from indulging in such transactions, it has been universally admitted that the belligerents can restrict such traffic by use of the principles of contraband and blockade, and when the belligerent captures such neutral cargoes through a legitimate implication of the rules of contraband and blockade it is universally recognized that the neutral government has no right to protest on behalf of its citizens. To sum up this matter in another way: the neutral government has no obligation to prevent its citizens from trading but it has no right to protest if the belligerent captures the cargoes under certain rules.

The principles that I have just outlined have been established

by long tradition and practice, but let us remember that while the establishment of a broad general principle is comparatively easy it is extremely difficult to interpret such principles in actual practice in specific cases. This explains most of the extreme confusion existing in reference to that general thing known as the freedom of the seas. This confusion has gone on for more than a century and it is still going on, if the debates of the last few days in the House and the Senate are any criterion. It has been repeatedly stated that this type of legislation destroys the traditional freedom of the seas. There is so much confusion on this point that I think a special word or two would be in order. What is this freedom of the seas? What has it been? What might it be? The general principle is that private citizens of neutral countries can trade with belligerents subject to the right of the belligerents to capture such shipments if they are contraband or if they are violating a blockade. Ostensibly all other shipments from neutrals should be immune from capture by belligerents.

Now all this seems simple in principle. It is simple in principle. But when we attempt to define the exceptions of contraband and blockade we encounter almost insurmountable difficulties. Admitting that there is some possibility of establishing what is or what is not a legal blockade, it should be noted that there never has been in the entire history of the world any definite international agreement of a practical character specifying what is and what is not contraband. There have been numerous international attempts to define, classify contraband but not a single one of these agreements ever went into a

practical affair. One of the most important things that I could point out to you gentlemen this morning is that there has never been any working practical agreement on what is or what is not contraband. The fact that certain nations, such as the United States, have limited contraband and bilateral treaties does not in any way change the fact that there is no international law on the subject. Practically everything was contraband in the Napoleonic wars and again in the World War. Some of the authorities on international law try to give the impression that the World War was an exception. I do not think history proves that it was an exception at all in this respect, and there are very few serious students of the subject who are not convinced that the same situation will prevail in future large-scale wars - everything contraband. I say future large-scale wars because in future small wars there may not be the same necessity of expanding the contraband list; there may be pressure enough to keep it restricted, but in future large-scale wars, and those are the ones that primarily interest the gentlemen who are putting through this neutrality legislation, belligerents can adhere strictly to the traditional rules of international law and still confiscate practically everything going from a neutral country to their enemy directly or indirectly. I wonder what we have got left of that mythical thing known as freedom of the seas. It has been, and still is, a traditional rule of international law that belligerents can prevent not only direct shipments but indirect shipments. They do this largely through the traditional principles of continuous voyage and ultimate destination. Inasmuch as the old distinctions between absolute and

conditional contraband and non-conbraband have practically disappeared, and even in the past there was never any definite international agreement as to the classification, there is little necessity for a belligerent to argue about the legitimacy of blockades because he can capture the products almost any way on the high seas as long as they are contraband and apparently practically everything is contraband. So neutrals can ship anything except everything.

I make these remarks because so often some of my friends in the Navy have stated that our neutrality policies were abandoning the freedom of the seas principle for which we had already fought several wars. When we realize that the freedom of the seas is subject to the exceptions of contraband and blockade and that blockades are not necessary if you can apply the principle of continuous voyage, then it would seem that the freedom of the seas was never much of a reality. Therefore, when our new neutrality substantially admits that it was not a reality it is difficult to understand wherein we are giving up anything that is real. As a matter of fact, gentlemen, as far as contraband is concerned the very first neutrality proclamation ever issued by our Government, that of President Washington in 1793, could be reissued right at this moment with scarcely the change of a word and practically cover our present policy in admitting that everything is contraband. Let us remember that neutrality problems become of minor importance in small wars, and even in larger wars they are not so important unless great maritime powers are engaged. That might explain why the State Department in issuing the only official compilation

they have made on neutrality put it out under the heading of "The Policy of the United States Towards Maritime Commerce in War". So it is primarily a maritime proposition.

Many students of the subject are convinced that the United States became involved in large wars of the past primarily because we carried on arguments as to what was contraband, right to ship munitions, rights of Americans to travel on belligerent merchant ships, rights of Americans to arm their merchant ships, and through huge loans by American citizens to belligerents. Of course no serious student of the subject thinks that this was the only reason we became involved in those wars but many of them think that it was certainly one of the biggest reasons. Inasmuch as there is fear that we might again be involved in large wars and since we feel that arguments involving this type of neutral rights were in large part responsible for involving us in past wars, in 1935 Congress passed legislation to limit voluntarily the rights of Americans to engage in such trade. International law does not limit it - we do it voluntarily. While students of the subject realize that there is not a whole lot of danger unless there is a large maritime war, they feared just such a type of war and thought the neutrality revision should be designed to meet that primarily; furthermore, that we could not have a neutrality policy that did not work uniformally even including minor wars even if neutrality legislation was not very important in the case of minor wars. They felt that the major war was the main thing they were driving at and that it would be dangerous to have any rule that did not apply to all

wars. This is a point that many of the opponents of the neutrality legislation apparently overlook, because in the Senate and House debates they have repeatedly cited examples of minor wars, hypothetical small wars, or non-maritime wars, etc. The fear that the Ethiopian conflict might lead to a general war caused the hurried enactment in 1935 of the neutrality law designed primarily to prevent the shipments of prime arms and munitions to either belligerent and to warn Americans that they travel on belligerent merchant ships at their own risk. This was temporary legislation; expired in 1936; replaced by another temporary act which retained substantially the terms of the previous act and added another prohibition against loans and credits to all belligerents and anybody acting in their behalf. It added another special provision, exempting the American republics from these restrictions providing that they were not cooperating with non-American states in a war. This latter provision was a reaffirmation of the Monroe doctrine plus a divorcement from League wars. In addition to this specific legislation the President of the United States proclaimed that all transactions with belligerents would be at the risk of the individual citizen. This was a substantial admission that everything was contraband, because that is what contraband means - material that you can ship at your own risk.

The first act, I think, of the present Congress was a hurried piece of legislation to extend neutrality law to cover civil wars primarily because of the civil war in Spain. All of this legislation expires on May 1, and in the meanwhile Congress has been debating

legislation to take its place.

On March 3 the Senate passed the Pittman Bill, which incidentally was labled "The Peace Act of 1937" and not a neutrality act. The House for the past week or so has been debating the bill, known as the Reynolds Bill. It is probable that the House will pass that bill either today or tomorrow. Thereupon, the two bills come to a conference between the Senate and the House. Both bills incorporate substantially the existing legislation and make certain additions to it. There seems to be very little argument by anybody as to the wisdom of keeping the existing legislation. The argument has been in reference to the additions and the ways of handling the additions.

The Senate and the House bills cover substantially the same subject matter. The main difference in subject matter is that the Senate bill prohibits the arming of American merchant ships whereas the House bill ignores this. On the other hand, the House bill provides, in addition to the prohibition against loans and credits, that no one can solicit or receive contributions for the belligerents, whereas the Senate bill makes no mention of this. So there are really only two differences of subject matter between the Senate and the House bills, but the really important difference between the two bills is not the subject matter - it is the extent of the discretion of the President of the United States in putting into operation certain of the major provisions of either bill. The Senate bill is largely mandatory in this respect, allowing only very limited discretions of

the President. The House bill is largely discretionary, giving the President tremendous leeway as to when, if, and how he will apply some of these major provisions. The Pittman Bill passed the Senate by almost unanimous vote. Unless I am a bad prophet, I think the House bill will pass the House by an overwhelming majority today or tomorrow.

Since the main point of controversy has been the extent of the discretionary power of the President and as the two bills differ drastically in this respect, some observers feel that it may be impossible to get any agreement in the conference between the Senate and the House and that if there is a deadlock between the two houses there is an alternative that they might scrap both bills and merely continue for a year or more the existing legislation. Inasmuch as there does not seem to be an imminent prospect of a world war at this moment, Congress may feel that there is no immediate need for more extensive legislation and be content, at least temporarily, to continue the present legislation. Of course it is still possible that the two houses can agree, that is on some compromise bill.

I might remark here that the State Department apparently favors the House bill in preference to the Senate bill, primarily because they want broad discretion - the Senate bill does not give them much discretion. Possibly the reason that the Administration did not engender more active opposition against the Senate bill was that they realized that the Senate was overwhelmingly against giving much discretion to the President and there wasn't any sense starting an argument. Possibly the strategic tactics of the thing was to let the House pass

a broad discretionary bill and then let the two of them argue between them and possibly they would not have any bill when they got through.

I think it might be useful if I outlined briefly some of the existing principles of the law, the Senate bill, and the House bill comparatively. All three of them provide a mandatory embargo against a sale or shipment directly or indirectly of implements of war to any belligerent nation, and recently we added also "to any faction in a civil war" provided there was such a large-scale civil war that it might endanger the United States. That is in the existing law; that is in both the Senate bill and the House bill. Chances are that will stay in whatever else is dropped out. Like all the provisions of the existing law and the proposed legislation, this and all the other provisions operate uniformally against all parties to the conflict. Bear in mind that the League of Nations sanctions are supposed to operate only against the so-called aggressor, not against both sides. Our law provides the same action against all parties. It should be noted, however, that the leading nations of Europe today in their so-called Non-Intervention Agreement are practically applying embargoes or restrictions against both sides in the Spanish civil war, officially anyway. But we are the only nation as an individual nation that has established such embargoes and that is a complete embargo against the shipments of arms and munitions. It is doubtful that the rest of the nations will follow this practice of ours. If this theory had been in operation in 1776 we would probably still be singing "God Save the King" because we got practically all of our arms and munitions by

import from France around that historic date. If there had been arms embargoes we would not have gotten them. We might bear in mind also that if the rest of the world adopted this policy of ours, and I do not believe they will, one of the results would probably be that a lot of nations which do not now manufacture any arms and munitions would have to start in the business immediately for their own protection because they could not count on getting them through importation.

Assuming that the rest of the world does not follow our unique precedent in embargoing all arms if and when we get into a war again, the chances are that we shall be able to import arms from foreign nations, although if the case were reversed we would refuse to send them any. However, there is at least a risk that the others will use our policy against us and therefore it might necessitate more careful consideration by our Government, and particularly you gentlemen, to insure that we will have adequate provisions of arms and means of making them although we are cut off from supplies from other nations. So much for the arms embargo, which I think will stay in.

Departing from international law, existing legislation and both of the proposed bills prohibit all loans and credits to all belligerents with the exception of special rules for short-term commercial credits. To what extent those exceptions may nullify the other thing is not quite clear to me. Most people think that it won't. Most Americans feel that this cutting off of loans and credits is not only necessary but wise because even on a strictly business basis expanding artificially our exports on bad credit might result, as it did in the World War, in

a huge net loss to the American people. I, among others, found out that I was paying for some of that profit. You gentlemen also added it in your income taxes, whether you realized it or not. But independently of the business angle, most Americans feel that getting a large vested interest in one of the belligerents is one of the quickest ways to involve the United States in its war. No other nation at the present time has any such restriction and it is doubtful that they will follow our precedent and establish such restriction. But let's assume that they might. I personally cannot see where it would particularly hurt us because comparatively we are very well off for cash and what we lack in cash we more than make up in exportable goods which other nations need and which might be quickly turned into cash or its equivalent.

I have already pointed out that the House bill had this added feature prohibiting any solicitation of funds or contributions to belligerents. The prime reason is because there have been rather active campaigns carried on the last number of months to raise funds for the Spanish Government - I beg your pardon, the Spanish Democracy. That is what the funds are raised for anyway. I do not know whether that provision will be retained. It is not in the Senate bill. It has created quite an uproar and the House Chairman said he put it in there primarily because he wanted to stop raising these funds for the Spaniards.

Both bills restrict the travel of Americans on belligerent vessels. The existing legislation does not go quite as far as either

the Senate or the House proposition of today. The existing legislation authorizes the President to warn Americans that they travel at their own risk on those ships. The Senate bill goes much further - it prohibits the travel; makes it mandatory. The House bill gives the President authority at his own discretion to prohibit such travel. Assuming that we were belligerent and such a policy was used against us, I doubt whether it would have much effect one way or another.

In connection with this embargo against shipping arms, that is against shipping things from the United States - it has nothing to do with shipping them from some other part of the world even if they are owned by America - but there is an additional provision which prevents an American ship from carrying those arms no matter where it gets them. I do not think this would hurt us substantially if we were belligerent provided we have enough ships to carry our own arms and munitions. Note that the Senate bill definitely identifies the articles that are to be included under the list of arms and munitions, whereas the House bill merely says that the President will proclaim a list. However, the House debates assume that the list that the President would proclaim would be almost identical with that given by the Senate, leaving however some leeway in case the ingenuity of man invents some other instruments of destruction. Both bills carry provisions restricting the use of American ports as bases of supplies and their use by the belligerent submarines and armed merchant vessels. In this connection both bills give the President considerable discretion as to when and if he will put these restrictions into effect. I have already noted that the

Senate bill goes further and prohibits the arming of American merchant ships whereas the House bill ignores this matter. You remember that during the World War much of the argument came up because Woodrow Wilson finally authorized the arming of American merchant ships while we were neutral. Many of the authorities on international law feel that this was contrary to traditional international law, and in view of the general trend of legislation and sentiment it is dubious that American ships would be armed in the next war in case we are neutral. If and when we are belligerent we have to face the problem of what treatment foreign neutrals would give our ships if they were armed. They might use the same type of discretion to close their ports to such ships as the proposed legislation provides for the United States. On the other hand, it is not clear that in the future any neutrals are going to arm their merchant ships. They might and they might not.

I might mention that the existing law and both of the pending bills exempt the Latin-American Republics. We should bear this in mind because some of the opponents of this neutrality legislation fear that it will excite reprisals. Certainly there seems to be no good reason why this should happen in the case of the Latin-American Republics because they are exempted from the restrictions of the law. And let us not forget that many of the supplies that we badly need might be gotten in Latin-American countries.

Now we come to the most controversial portion of the entire proposed legislation - characterizes the cash and carry provision; I prefer to call it "The Piggly Wiggly System". I think somebody else

called it "The Come and Get it System - Bring Your Pocket Book". This is a new provision contained in neither the 1935 nor the 1936 Act. That is the one thing which is subject to most of the controversy - cash and carry. We should remember that the restriction against loans and credits to a certain extent might force a cash basis, not completely but substantially. But the House and Senate bills go much further and attempt to prescribe that independently of arms and munitions other products, any other products, cannot be carried from the United States (note that) to belligerents in American ships and planes, nor carried either in foreign ships until the goods have been paid for and title passed before the articles leave our shore. Now that is what they are trying to do. There is much confusion on this point, not only because the Senate and the House bills differ but because there has been considerable loose thinking as to what either of them might mean in practice. I think a word of explanation is particularly important to you gentlemen on this point. The Senate bill states categorically that the moment we proclaim our neutrality no article of any sort whatsoever can be shipped to either belligerent until the title has passed completely to the foreigner, and furthermore that no insurance policy issued on the articles or on the vessel that carries the articles can be made the basis of a claim by the United States Government. In other words, the moment the article gets on the high seas it is no longer American property and presumably we will have lost all interest as to what happens to it from then on; and this provision cannot be abated through insurance policies. The Senate bill originally had a provision

with reference to insurance on the ships carrying the articles but there was much debate in the Senate and finally the bill was amended so the insurance is practically no good, either for the cargo or for the ship. That is the Senate bill - that is mandatory - comes into effect immediately that we admit there is a war going on some place. Do not forget that the title of all articles must pass before they leave this country. The House bill carries a provision about a complete transfer of title to foreigners but specifies that this does not come into effect automatically. They wait until the President finds it either wise or necessary. Secondly, and this is important, the House bill enables the President to use his own discretion as to whether or not he will make certain exceptions.

Now let us remember that this portion of the bill has nothing to do with American ships carrying or not carrying these products. It merely prescribes that the title to the products must be transferred. I have been rather astounded in reading the debates in both the Senate and the House how often these points are misunderstood. This is no embargo in any sense of the word, it is merely a question of title, ownership, payment. There is another section, a most controversial one, which gives the President authority to ban an American shipment on American vessels and planes of any other articles and materials in addition to arms and munitions which he might care to proclaim. Please note again that this is no embargo on the shipment of materials, it merely says that they cannot be shipped on American vessels; there is nothing to prevent them from being shipped on foreign

vessels. The major difference between the Senate and House bills on this point is that under the Senate bill the moment the President proclaims such a list he can not use his own discretion as to what he puts in the list; it goes into effect without any exceptions or limitations, whereas the House bill allows the President to make exceptions and limitations. In other words, under the Senate bill the moment the President proclaims a list none of these articles can be shipped to any belligerent in an American vessel. Under the House bill they might be shipped to one belligerent and not to the other. That is the source of most of the controversy. The House debate shows that one of the major reasons why they wanted this exceptional power was to permit the continuance of the Great Lakes traffic between Canada and the United States although we might be a neutral and Canada a belligerent.

These particular provisions have caused many criticisms both in and out of Congress. It has been alleged (I am talking about the general cash and carry section) that it practically amounts to an alliance with Great Britain and simultaneously it would favor Japan in a far eastern war; that it works undue hardship on smaller powers that are not endowed with a big navy; that it would irritate Germany and Italy and many other countries and would result in reprisals against us when we were either a neutral or a belligerent. They have stated also that it is folly because it runs diametrically opposed to the reciprocal trade policy that we are promoting at this time. Those are the criticisms. Here again I think there has been an extraordinary

amount of loose thinking as to the scope and effect of this type of legislation.

While I am by no means certain that this legislation is going to pass the cash and carry provision, it has a fair chance of passage and I think we ought to clarify a bit what it might mean. These provisions which are well characterized as a cash and carry proposition undoubtedly favor the nations that have the cash and can carry. I understand that Great Britain is by no means disturbed at these provisions, first because she has the cash; second, because she has the merchant marine; and third, she has a navy. While Japan may be somewhat short of cash, she certainly has a first-class merchant marine and a navy. It is important to remember that contrary to much of the debate in the Congress the advantages of Great Britain and Japan do not flow from this neutrality legislation. They flow from entirely independent facts which exist regardless of whether we have any neutrality legislation at all. I think it is important to bear that in mind. In the World War we did not have any such legislation and yet Great Britain, through her control of the seas and her ability to get the cash, was able to import large quantities of goods from the United States while our enemy, Germany, was not able to do so. I again emphasize, gentlemen, a point which is frequently overlooked: that this legislation does not substantially change the practical situation; at the best it merely recognizes an existing situation and there is no way that I have ever heard whereby the United States could or should reduce the comparative advantages that Great Britain has because of her sea power both in the navy and

merchant marine.

Before we get too far, gentlemen, remember that this cash and carry provision probably will not come into effect until the President of the United States finds it wise and necessary. Assuming another war between Great Britain and Germany, there is no reason to believe that even this provision, or the sister provision requiring transference of title, would substantially help Germany or change the situation that existed between her and Great Britain during the World War. At that time, because of the British supremacy on the seas, American ships were unable to deliver goods to Germany even if they were willing to carry them and handle the transaction on a credit basis. Curiously enough, in the rather long debates in the Senate and the House, while everybody saw how the legislation in practice would work out favorable to great sea and merchant marine powers like Great Britain and Japan there was little or no comment as to what it would mean to our merchant marine in case we ever got control. Naturally this type of legislation favors Great Britain because she has a large navy and merchant marine. Provided it was used against us it would favor us, provided we had a large navy and merchant marine. Fortunately, we are getting a first-class navy and I am still hopeful that the new Maritime Commission might move into action before the American Merchant Marine completely disappears from the ocean. However, I do not want to be too pessimistic about our merchant marine because bear in mind that while most of our merchant marine today is almost valueless as a competitive trade factor we still have a large amount of tonnage

of more or less antiquated ships which while they are absolutely no good in peacetime competition might be quite useful in time of war where speed and economy were not vital factors. There has been much criticism of these particular provisions on the ground that they run counter to and are destructive of our present reciprocal trade policy.

The fear back of these criticisms is that nations which will be cut off from our supplies during war will not be prone to build up a trade with us in time of peace; they will go ahead in the wild race in building up their own industries in time of peace and will not be interested in building them up with us but will divert their trade to other nations upon whom they can count in time of war. That is the criticism. While there is a certain amount of merit to this criticism, I am inclined to agree with the statements made repeatedly in the Senate and the House in the last few days that the State Department feels that this type of legislation would not produce these undesirable effects. Certainly they should not produce such effects in reference to such nations as Great Britain, Japan, and France, to whom this legislation is particularly favorable in time of war. As far as Germany and Italy are concerned, they have already put in the most rigid restrictions on imports from the United States - when there was little prospect of any such neutrality legislation and for entirely independent reasons. So I do not think we would be any worse off there. But let us assume that certain nations might be aggrieved by this type of legislation; let us examine which ones and what effect there might be on our procurement of

strategic raw materials. As I have already pointed out, it is obvious that this legislation would not be disagreeable to Great Britain, France, and Japan, and you gentlemen know better than I do that about ninety per cent of all the strategic raw materials that we badly need are controlled by these nations, with the possible addition of Russia. I am thinking primarily of the essential raw materials, as tin, nickel, rubber, silk, and manganese. I realize that most of the antimony comes from China, but I do not believe that China would be aggrieved by this legislation, or even if she was that they would be in any position to retaliate against us. I understand that most of the mercury comes from Spain and Italy. I am not certain that neither of these countries would be vitally aggrieved by this legislation or that they would be in a position to take reprisals against us in the form of refusing us those products. Certainly I feel that it is extremely dubious that any reprisals that they might take would go to the extent of refusing to sell us goods when we were a belligerent, provided we paid for them. As a matter of fact, the chances are that they would be extremely anxious to promote such sales. If we are neutral and Spain or Italy belligerent they might attempt to penalize us by refusing us supplies of mercury - I doubt it myself.

One other thing that we should all bear in mind (and I think this ought to particularly interest you gentlemen) is that the legislation puts no restriction of any sort on imports, solely on exports. Remember that all of Latin America is exempt from the provisions and that many essential raw materials can be imported from

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Latin America, including I believe a reasonable amount of tin and manganese, not sufficient but substantial. Remember that the really controversial parts of this legislation, if passed, do not automatically come into effect. The President of the United States must take affirmative action on these controversial things, and he takes this action only when in view of existing facts he is convinced that these steps are necessary and proper. It is thoroughly possible that he would never put into effect these controversial sections. And do not forget, gentlemen, that much of the loose thinking as to the baneful effect that this legislation would have in stirring up reprisals is based on propositions that were made a couple of years ago and have been completely discolored. We were talking about embargoes then; we were talking about quotas. We are no longer talking about embargoes; we are no longer talking about quotas. The only embargo is on prime arms and munitions, and I do not think anybody is going to be particularly offended at that. ?

Another most important thing that has been overlooked in the debate is that while Congress at this time may pass an act which it calls a permanent neutrality act, there is absolutely nothing to prevent them from changing it later on when and if they find it wise and necessary to do so. Neutrality laws are no more of a straight jacket than any other law - we can change the law when and if we need it. We cannot only change the neutrality law, gentlemen, but there is nothing in this act that prohibits the United States from becoming a belligerent. If the United States feels that it's vital interests

are being so impaired, so menaced, that the only way to safeguard them is to become a belligerent there is nothing to prevent the Congress from declaring war and putting us in a belligerent status. I point that out because I have read carefully all the debates and I have been astounded how often the criticism has been on the assumption, without any proof at all, that if Congress passes this act it is forever foreclosed from doing anything further about it, which is ridiculous.

I should like to make another remark: it is obvious that from the Congressional debates the prime purpose of this legislation is peace, to keep the United States out of war. That is the reason Pittman said he preferred to call it a peace act, not a neutrality act. The assumption is that few arguments about so-called neutrality rights in the past involved us in war. Some people think we ought to learn a little something from our past history. Remember that these arguments about neutrality rights arose primarily with Great Britain, France, and Germany. I feel as many others, that this type of neutrality legislation removes most of the dangerous arguments about neutrality that partly involved us in the war with Great Britain in 1812; almost put us to war with Great Britain during the Napoleonic period; and almost put us in war with Great Britain in 1915. Most Americans do not know it but Mr. Woodrow Wilson had made a draft of a declaration of war against Great Britain before he changed the word to "Germany". As all of you well know, these dangerous arguments with Great Britain did not produce any satisfaction with regard to our

neutral claims but they did involve us in warfare and came close to involving us in another one. As far as I can see the new neutrality legislation should go very far toward removing (and, gentlemen, I think I am making some significant remarks right now - I might be deluded but if I am right they are important) the potential causes of war with Great Britain, and most of our fighting in the past has been with our English-speaking sister. As far as Germany is concerned, I feel that this neutrality legislation will likewise remove most of the things that led up to the war with Germany.

As far as Japan is concerned, I see no good practical reason why we should ever have a war with Japan. My Navy friends might be a little disappointed with my views in that respect if they pay any attention to them, but I think pretty soon we are going to have a clarification and rather drastic revision of our entire far eastern policy which may go far toward shoving Japan out of the potential war picture. Maybe my prophecy on that is wrong but I see many trends of it now. But even if we did get into war with Japan I do not feel that this neutrality legislation would particularly hamper us. There is more than a good chance that Great Britain would not be on the side of Japan and reasonable chance she would be on our side; also maybe Australia and New Zealand would have something to say about it. In any event, I think we would have an excellent reason for counting on imports from the British Empire as well as the British. As you know, they account for most of these strategic raw materials that we lack.

I do not believe that this neutrality legislation will change much the situation with reference to your industrial mobilization as such. Naturally, large-scale wars elsewhere will certainly dislocate us to a certain extent and it is urgent that we continue with plans for supplies to tide us over an emergency. I am not attempting to discuss industrial mobilization plans with you gentlemen, I merely point out the obvious fact that it has a very definite bearing. As military men who have deeply studied this subject, I am sure that you realize the folly of the remark made several days ago in the House by the distinguished Congressman who broke the front page because the remark was rather amusing, at least to him, who said that the historians of the future would get a hearty chuckle and laugh at the neutrality bill being passed simultaneously with a bill for military appropriation - peace and war simultaneously was his theory. But all of our history shows that we were never able to remain neutral in the past largely because we were too weak to be neutral. There has been a tremendous amount of misstatement on the floor of the Senate and the House quoting the Jeffersonian neutrality laws and Madison neutrality laws and saying they never worked. One of the reasons they never worked was that we never had any navy. We were not strong enough to be neutral. The American people as a whole, apparently profiting from their own past history, have decided that if we want to be neutral we must be strong enough to remain neutral, and regardless of this Congressman that is the reason that simultaneously with the neutrality act we are going to have an expensive national defense appropriation.

Rather than laugh at the so-called inconsistency, my guess, having read some historians, is that the historians of the future will probably note with sober satisfaction that the American people and its government were intelligent enough to see that neutrality and national defense were essential parts of the same thing, the one thing that the American people apparently want above all other things at this time, and that is peace.

Gentlemen, I have talked too long, but it is a broad subject and I have tried to give you a round picture. I hope I have given you something of interest and value.

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Q. The purpose of this legislation, as you indicated, at least one of the major purposes as I understand it, is to prevent the people of this country becoming involved in a conflict by reason of economic interests. In other words, they do not want us to have a big stake in the war on either side. The more we supply either side with munitions or contraband of any kind the more it becomes to our interest to see that the flow of that material does not stop. That is, one of the claims made during the World War was that there was a very serious fear that if we were to shut off the supply of munitions to the Allies there would be very serious repercussions in this country in the way of throwing men out of work and disorganizing the whole economic structure. I am not able to see how the cash and carry scheme, although

it looks good on the face of it, solves the problem because if we permit either side to come over here and buy munitions freely, provided they can pay for them and take them away, it still is possible for our industries to be geared up into high gear supplying those needs; our farmers may be supplying the cotton, wheat, etc., to a point where if those supplies were shut off the economic effect in this country would be serious. In other words, I am afraid the effect psychologically on this country would be to cause the people who are benefiting here to be more and more favorable to that side that they were dealing with, and that is the point that has been bothering me. We were discussing this the other day and it was difficult to see how this present scheme will really solve the matter because of that effect which will still be economically tied to the side that is able to come over here and get our materials.

A. Well, Colonel, I think your question illustrates something that I attempted to bring out: that this subject has innumerable ramifications. Your statement by itself leads up to a plausible thesis. I think if you take into consideration many of the other angles you will find that this type of legislation will hamper building up of trade. Independently of what you pointed out, no business man is going to sell goods unless he sees some cash. The way we built up such a tremendous trade, primarily with Great Britain and France, was because of these loans, at least we thought they were loans. The American people have over thirteen billion dollars of them now that we are paying. It was not business, it was monkey business.

It was monkey business because we were really giving goods away. Now even as a cold-blooded business proposition not even the idealist cotton raiser down in Texas is interested enough in promoting trade if he does not see some cash, and that is the reason this credit and loan restriction, in my estimation, is largely the key to the whole thing, because while Great Britain has a certain amount of cash, as you gentlemen know, studying the cost of operating a large-scale war for a period of even one month, cash would be insignificant. Then, of course, there are other factors to it. I mean this question of shipping at your own risk and the foreigner taking the title. A lot of that business was developed during the World War because we assumed the function of protecting it; that is one of the reasons we got in. But under this legislation we do not assume any function of protecting it and people are not going to ship so freely when they take the risk. I have in mind, gentlemen, a National Foreign Trade Convention that I attended a couple of years ago, three years ago, and Mr. George Peek, who was then President of the Export and Import Bank, came up and talked to all these foreign traders. They were enthusiastic about his speech. They were going to insure all of these exports - oh! there was a wild burst of applause from about a thousand foreign traders, great business! - until he came to the last paragraph. He said: "Gentlemen, of course these exports ought to be insured but the people who are going to profit from them ought to pay the insurance." They thought the United States people and the government were going to pay all the insurance - they lost interest. Now in the past we have allowed

for insurance; the American Government went out and insured the stuff. Where did Government insurance start? It was war risk insurance on American ships. That is the reason a lot of that trade can be built up. I am not attempting in the space of a couple of minutes, Colonel, to give you an answer to a very important and complicated feature of the problem, but I hope I have thrown some light on it; that you cannot ask that question isolated and I cannot answer it an an isolated way. My conviction, after having studied innumerable volumes on this subject, is that taking everything all together the chances of building up a large vested interest through developing trade and gearing up industry, etc., will probably be reduced eighty per cent by this type of legislation. That is my conviction. The only thing that is really worrying me and worrying a lot of the other people is that there is about seven billion dollars of foreign capital invested in this country at the present time and Great Britain and Canada have about half of it or more. Senator Nye said to me: "Healy, even if they just realize that amount they could start an artificial trade union". But apparently the Senator is not now so sure because he is not talking about it so much. It is not so easy to liquidate holdings in a hurry, but even if it is we have various ways of curbing it. To show you again that none of these things are isolated, the United States Government has been figuring out ways and means for the last two or three months to restrict foreign investments in the United States. Just what definite plan they are going to accept I do not know. There have been all sorts of propositions offered

increasing the taxes on it and controlling transfers, and things of that sort. But to give you a point blank answer, I think taking all these things together while you might have some artificial trade boom I do not think it would be more than twenty per cent of what it was during the World War and I do not think it would be enough to be really dangerous.

Q. Does not your approval of the neutrality legislation, sir, that we do not look with favor on peace-time munition manufacturing plants and must go to Government arsenals mean not only a large expenditure of funds but that the country does not feel patriotic, particularly labor not looking with favor on war, and we would undoubtedly not receive sufficient appropriations to keep these arsenals going and there would be a consequent collapse? Will you please give me your views on that?

A. I hope that no one here will assume, as you possibly have assumed, that I think this is perfect legislation - not by any means. I can see all sorts of flaws in it. I think it is probably the best legislation we can get at the present time. Originally I was against any embargo on arms and munitions on the ground that if you made title pass and made foreign ships carry it it did not make much difference, but there again you have to take the psychological factor into consideration. There is no question at all that while cotton is just as important war material as T.N.T. (it is a part of T.N.T. if I am not mistaken) psychologically the fact that Germans were killed by shells that had an American trademark on them enraged

the people but they did not get so enraged if bales of cotton come over although the bales of cotton will produce the same ultimate effect. It is the psychology you have to take into consideration. As to the status of the munitions industry, I am by no means optimistic except that I am optimistic to the extent that I do not think any other nation is going to follow our policy on embargoing arms and munitions. If they do I think we will be sunk. Of course Senator Nye's theory is to take the whole thing over and run it by the Government, and I think, as General Johnson said, that is the quickest way to commit suicide. I do not think Nye is going to get away with that. Our munitions industry is by no means as big as some people think, but as long as the rest of the nations do not follow our embargo principle the chances are that plenty of them will be willing to sell arms and munitions. Possibly I have answered your question, I do not know.

Q. Yes sir.

Q. May I ask, Dr. Healy, if you would say a few words about the probable effects of this peace legislation on our merchant marine?

A. That is a serious question, Colonel. I am sorry I did not mention it in the sketch. There has been a lot of talk both in the House and the Senate that one of the real effects of this will be to scuttle the American Merchant Marine. Well, incidentally we haven't got much of one right now - it would not take much to scuttle it. We are hoping to get one later on but Senator Pittman, and this

again, Colonel, shows you how all these things enter in, has given a promise that if and when this legislation passes he is going to propose another bill to compensate the American Merchant Marine for any losses incurred by it through the operation of this act. Whether that will pass I do not know, but Pittman realizes the question that you brought out. If you prevent American ships from carrying the stuff they are losing some of the business. Well, he says he is willing to have them subsidized for any loss. However, I would go much further than Pittman. In my estimation the American Merchant Marine is not to lose a nickel, and furthermore the American Merchant Marine, even with this sort of thing in operation, will have twice the business that it can handle, because, from the experience of the World War, the big maritime nations had to take their merchant marine out of the ordinary trade routes because they were primarily inadequate in furnishing them with war supplies and the like and there was a tremendous scarcity of merchant marines. The British, Italians, Germans, and the rest of them sending ships down to South America, chances are they will have to take them out - we step in. We may have to dislocate the trade routes for a while but my guess is that there will be plenty of business for the American Merchant Marine. However, Pittman says in case there isn't he is going to try to get through a bill to compensate them in dollars and cents so they can tide over the emergency.

Colonel Jordan: Are you in favor of the mandatory provisions of the Senate bill or are you in favor of discretionary power being

left to the President?

A. Colonel, you brought up a very ticklish subject.

Colonel Jordan: That is the reason I asked it, sir.

A. I am strongly in favor of the mandatory section for this reason (and I am talking in complete confidence) there is very little question that both Mr. Roosevelt and Mr. Hull have still in the back of their minds sanctions of some sort. They have in back of their minds that they would prefer to retain the balance of power and that they would penalize one and help the other. Well, that is just exactly what the American people are not going to stand for. That is the reason the Senate by an overwhelming vote practically unanimously passed the Senate bill. Incidentally, the few votes that were against it in the Senate were primarily those who said that the Senate bill gave the President too much discretion. I personally have never felt that the League of Nations' idea of applying sanctions against a so-called aggressor is either workable or produces peace. I have the distinct impression, and many students have also, that Mr. Hull and Mr. Roosevelt still have a hankering after that sanction idea and that if they had discretion they would probably use it with that in mind. Now, that is what the American people as a whole are afraid of and that is the reason the Senate was adamant on this thing. It is only because Mr. Roosevelt can sway the House any way he likes that they are going to vote this other thing. Does that answer your question, Colonel?

Colonel Jordan: Yes sir.

A. That again is psychology. Mr. Roosevelt may not have

those things in mind but most people think he has and they do not want any league of nations system even if we operate it.

Q. You stated, in discussing the Neutrality Act with relation to Japan, that our far eastern policy was due for a change, removing Japan as a potential enemy, in your opinion. Would you mind stating what those major changes are going to be?

A. That is a long story. All I can tell you in the space of a couple of minutes is this: in the view of many students of the matter our whole far eastern policy has been based on fallacies and myths; that we haven't anything of any sort in the extreme far east that would even warrant a tenth-class war. That is, as a matter of fact, our interest, real interest, was friendship with Japan and not antagonism. I am talking about dollars and cents. Many Americans feel that our far eastern policy never was an American policy. You gentlemen probably know that the open door which was always tacked on the name of John Hay was not invented in the United States at all, it was invented over in Great Britain. This question of preserving the territorial integrity of China, Great Britain, France, and Germany - that is not an American thing. We have no interest in stopping Japan, no fundamental interest, no dollars and cents interest, and many Americans have come to this conclusion: that we are playing a British game, which is a very dangerous game. You gentlemen probably know this although I got it in confidence (I talked it over with a number of officials of our military establishment) when it looked like Stimpson's peace moves would have you gentlemen in uniform moving towards

California in a hurry, they estimated confidentially that any scrap with Japan would probably cost us fifty billion dollars. Now where have we got fifty billion dollars worth out there? We have practically no interest in China, and (you have heard a lot of talk about the necessity of building up this wonderful South American market) normally we sell as much to Japan alone as we sell to all South America. When it comes to investments, we have more than twice as much money invested in Japan as we have in China. We are a rank outsider in China. Great Britain, France, and the rest of them - that is their baby, not our baby. For the benefit of some of our naval friends, one high official summed it up to me the other day; he said: "The British policy is all in favor of a very close cooperation between the United States and Great Britain and particularly in naval matters, the cooperation to take this form: that the British very kindly would use the British fleet to protect the British interests in the Atlantic and that we would use the American fleet to protect the British interests in the Pacific". You brought out an important point because there is a lot going on under cover right now and part of it involves the possibility of establishing an expanded naval base in the Philippines at the modest little cost of about half billion dollars. I believe that the General Staff of the Army have some ideas on that subject which might not square entirely with those of the General Staff of the Navy. There is a trend in this country, gentlemen that we have been deluded for nearly a century, thinking that we had something really worth

fighting for out in China, and the American people I do not think are going to stand for it. There have been numerous indications that the trend is getting more and more away from that sort of a policy. My guess is that not many years are going to pass before there is a general reorientation on our oriental policies and it is going to mean that the menace of Japan will practically disappear. Those are side remarks and confidential. It will take a long time to prove all of that but there are plenty of figures back of it and facts.

Q. Dr. Healy, recently Mr. Bernard Baruch, who, as you know, is a sort of godfather of this institution --

A. Isn't he the gentleman who won the World War? You know I have been looking for a long time to find out who won that war.

Q. After we get through with our course here I think we will agree that he helped win it for England, too, possibly. He has written a serious article in the Atlantic Monthly on the question of the cash and carry policy and I wondered if you had looked that over?

A. Yes.

Q. Do you agree?

A. I have read practically everything that Baruch has said and that means that I have read the same thing about a thousand times. As a matter of fact, he claims he is the father of this cash and carry slogan, among other things. However, in the Senate I think they misuse Barney a bit because they keep on attributing to him this scuttle and run, but cash and carry is his baby. I think he is largely in favor of this legislation, but whether he is in favor or

not makes no difference. We have certain concrete facts in front of us; we are intelligent and can form our own opinions without having the winner of the World War form them for us. Let me tell you this, gentlemen: that regardless of what any high official of this Government thinks it is astounding the almost complete unanimity of the American people that they are going to have rigid neutrality legislation, and there is nobody around Washington can overlook that. That is the reason both the House and the Senate have to pass these bills. A lot of them do not agree with a portion of this bill but they know the people back home insist on it and they are going to get some neutrality legislation. It is by no means perfect but most of us consider that it is a wise step forward, and in international affairs of peace and war if you can make at least one little step forward that is something. Very rarely can you bridge the gap by just one leap. Nobody who is intelligent claims that this bill will do it, or that any of the bills will do it. I say that if you take all these things together: revision of foreign policy, building up national defense, things to take the profits out of war (incidentally, I think even Mr. Nye got on to the fact that S-25 was not designed solely to take the profits out of war - it has some bearing on industrial mobilization) I think they are going to give us a pretty good chance of staying out of trouble. And most Americans feel that way about it. Naturally you step on somebody's toes but it depends on how many toes are not stepped on and how loud their voices are, and they are not going to let the fellow whose toes they step on run the

show. There is a tremendous amount of public interest and sentiment on this thing. I think Mr. Roosevelt was astounded. That is one time where his press service slipped up on him. He was utterly opposed to any neutrality legislation. When that very weak neutrality act was passed in 1935 he was dead set against it. They practically had to force it on him. But suddenly there was such a unanimous outburst of applause throughout the United States that Mr. Roosevelt practically was the father of the neutrality idea. He fought a great hand by saying "This is another phase of our peace policy." I am telling you I have traveled all through the country and talked to people who are interested in peace, war, and national defense, etc., and if there is one thing on which they are a unit it is on neutrality legislation. They do not know all the technical details but they know what they want generally, even if it costs something.

Major Best: Since we are going to keep all American-owned contraband off the high seas--------

A. Wait a minute - there is nothing about keeping contraband off the high seas except arms.

Major Best: American-owned contraband?

A. American-owned contraband - yes.

Major Best: If we are going to keep American-owned contraband off the high seas will we then continue to recognize the right of visit and search, when we have nothing on the high seas?

A. Naturally, but then you come into a most complicated phase of it that I could not even touch here because it would take

three weeks to explain the laws and practices with reference to continuous voyage, ultimate destination, and visit and search because it is not always clear as to whether a product is going to a belligerent. These laws have nothing to do with products going to a neutral for use of a neutral, but very frequently shipments to a belligerent are camouflaged for shipments to a neutral and that is where visit and search comes in. Incidentally, that is one reason we need a navy: so nobody will get too careless on the visit and search proposition of trade that is really neutral trade. I am glad you brought that up because that is, in my estimation, the most important phase of the whole problem and there has been no discussion on it in any of the Congressional debates. Talking about trade with belligerents they say "direct or indirect or for the use of" but all you have to do is read this thing here (indicating article) and I hope all of you have taken a look at it because it is most astounding, "The Policy of the United States Toward Maritime Commerce During the World War", and read the operations of the War Trade Board, you will find one of the most significant things (I am not quoting it merely as an amusing thing - this is the official publication of the United States Government) in the section headed "Christmas Concessions to Denmark and Sweden". Do you know what the Christmas concessions were? In the Christmas spirit we decided that maybe we would let Denmark and Sweden have a carload of coffee for the Christmas spirit and also a cargo or two of oil so they could burn some lamps and sit up on Christmas night. Now the oil isn't so significant, but doesn't it intrigue your curiosity

that we give Sweden permission to get a cargo of coffee? We do not produce any coffee. We were controlling shipments from Brazil. Now Brazil was neutral and Sweden was neutral, but we were telling Sweden whether or not she could have a cup of coffee at Christmas time. Christmas Concessions! I am telling you the Christmas spirit is a marvelous thing (we are all grateful for Santa Claus even when he is operating outside of Christmas time) but you read these official documents. The War Trade Board said: "Well naturally, while we are loosening up a bit because of the Christmas spirit we want some concessions from the Swedes so they will have to agree to allocate certain ships for our use". Gentlemen, that is the big part of the subject and the public discussion has not even touched it. I suggest you read this with a great deal of care as to controlling trade between neutrals that had no aspect on belligerent trade at all. And that is the reason you need a navy. If you have a navy and if you have a merchant marine no belligerent is going to get too careless on stopping strictly neutral trade. Without a navy and without a merchant marine they will have you at their mercy just like they had them all during the World War, and that was not belligerent trade - strictly a hundred per cent neutral trade.

Colonel Jordan: I am not going to let you gentlemen ask any more questions but I would like to hear from a distinguished visitor this morning - General Roberts. Do you have something to say, sir?

General Roberts: No, sir. I have nothing to say. I have

been listening to this with a great deal of interest. The first question asked was the one I had most in mind.

Dr. Healy: Well, General, I do not think I answered that completely I will tell you right now, but I think it can be answered over a period of time.

Colonel Jordan: Colonel Dunn, would you care to say anything, sir?

Colonel Dunn: No sir. The field has been covered thoroughly from my point of view.

Colonel Jordan: Dr. Healy, I want to express the appreciation of the College for your address. It is certainly one that we are going to remember and we are going to be guided by what you have said, sir. There is no question but that it is going to play a part in our studies here. Thank you very much.

Dr. Healy: It has been a pleasure to be here, gentlemen. I hope to come around sometime again if I have anything of interest.